

N° 4088.

**POLOGNE
ET TCHÉCOSLOVAQUIE**

Convention sur la réciprocité en
matière de successions, et proto-
cole additionnel. Signés à Praha,
le 25 janvier 1934.

**POLAND
AND CZECHOSLOVAKIA**

Convention on Reciprocity in the
Matter of Succession, and Addi-
tional Protocol. Signed at Praha,
January 25th, 1934.

TEXTE TCHÉCOSLOVAQUE. — CZECHOSLOVAK TEXT.

N^o 4088. — ÚMLUVA¹ MEZI REPUBLIKOU ČESKOSLOVENSKOU A REPUBLIKOU POLSKOU O VZÁJEMNOSTI VE VĚCÍCH POZŮSTALOSTNÍCH. PODEPSANÁ V PRAZE DNE 25. LEDNA 1934.

Textes officiels polonais et tchécoslovaque communiqués par le délégué permanent de la République tchécoslovaque près la Société des Nations. L'enregistrement de cette convention a eu lieu le 6 avril 1937.

REPUBLIKA ČESKOSLOVENSKÁ a REPUBLIKA POLSKÁ pokládajíce za účelno zajistiti si vzájemnost ve věcech pozůstalostních, rozhodly se, že sjednají o tom úmluvu. K tomu cíli jmenovali svými zmocněnci :

PRESIDENT REPUBLIKY ČESKOSLOVENSKÉ :

pana Bohdana PAVLŮ, mimořádného vyslance a zplnomocněného ministra, a
pana Dra Antonína KOUKALA, vrchního odborového radu ministerstva spravedlnosti,

PRESIDENT REPUBLIKY POLSKÉ :

pana Dra Wacława GRZYBOWSKIEGO, mimořádného vyslance a zplnomocněného ministra, a
pana Dra Juljusza RENCKIEGO, právního radu v ministerstvu spravedlnosti,

kteří vyměnivše si své plné moci a shledavše je v dobré a náležitě formě, shodli se na těchto ustanoveních :

ČÁST PRVNÍ.

O POZŮSTALOSTECH PO PŘÍSLUŠNÍCÍCH JEDNOHO STÁTU NA ÚZEMÍ DRUHÉHO STÁTU.

ODDÍL PRVNÍ.

MATERIELNĚ-PŘÁVNÍ USTANOVENÍ.

Článek I.

Použití do-
movského
práva §§
zůstavitelova.

(1) Pozůstalostní jmění ať movité či nemovité, které zanechal na území jednoho Státu příslušník Státu druhého, nabývá se pro případ smrti podle práva Státu, jemuž náležel zůstavitel v době smrti.

¹ L'échange des ratifications a eu lieu à Varsovie, le 24 février 1937.

TEXTE POLONAIS. — POLISH TEXT.

N^o 4088. — UMOWA¹ MIĘDZY REPUBLIKĄ CZESKOSŁOWACKĄ A RZECZĄPOSPOLITĄ POLSKĄ O WZAJEMNOŚCI W SPRAWACH SPADKOWYCH, PODPISANA W PRADZE, DNIA 25. STYCZNIA 1934 ROKU.

Polish and Czechoslovak official texts communicated by the Permanent Delegate of the Czechoslovak Republic accredited to the League of Nations. The registration of this Convention took place April 6th, 1937.

REPUBLIKA CZESKOSŁOWACKA i RZECZPOSPOLITA POLSKA, uznając za pożądane zapewnić sobie wzajemność w sprawach spadkowych, postanowiły zawrzeć w tym przedmiocie umowę. W tym celu zamianowali Swymi pełnomocnikami :

PREZYDENT REPUBLIKI CZESKOSŁOWACKIEJ :

pana Bohdana PAVLŮ, Posła Nadzwyczajnego i Ministra Pełnomocnego, i
pana Dra Antonína KOUKALA, Starszego Radcę Ministerstwa Sprawiedliwości,

PREZYDENT RZECZYPOSPOLITEJ POLSKIEJ :

pana Dra Wacława GRZYBOWSKIEGO, Posła Nadzwyczajnego i Ministra Pełnomocnego, i
pana Dra Juljusza RENCKIEGO, Radcę Prawnego w Ministerstwie Sprawiedliwości,

którzy po wymianie swych pełnomocnictw, uznanych za dobre i sporządzone w należytej formie, zgodzili się na następujące postanowienia :

CZĘŚĆ PIERWSZA.

O SPADKACH POZOSTAŁYCH PO OBYWATELACH JEDNEGO PAŃSTWA W DRUGIM PAŃSTWIE.

ROZDZIAŁ PIERWSZY.

POSTANOWIENIA MATERJALNO-PRAWNE.

Artykuł I.

(1) Majątek spadkowy, ruchomy i nieruchomy, pozostały po obywatelu jednego z Państw na obszarze drugiego Państwa, przechodzi na spadkobierców na zasadzie ustaw Państwa, którego obywatelem był spadkodawca w chwili śmierci.

Stosowanie
prawa
ojczyzno-
spadkodawcy.

¹ The exchange of ratifications took place at Warsaw, February 24th, 1937.

Artykuł 27.

Umowa¹ niniejsza nie uchybia postanowieniom umowy pomiędzy Republiką Czesko-słowacką a Rzeczpospolitą Polską w sprawie zapobieżenia dwukrotnemu opodatkowaniu w dziedzinie podatków spadkowych, podpisanej w Warszawie dnia 23 kwietnia 1925.

Artykuł 28.

(1) Umowę niniejszą zawiera się z zastrzeżeniem ratyfikacji ; dokumenty ratyfikacyjne będą wymienione w Warszawie możliwie jaknajprędzej. Umowa wejdzie w życie po upływie miesiąca po wymianie dokumentów ratyfikacyjnych i będzie obowiązywała do upływu jednego roku od dnia, w którym jedno z Państw, zawierających umowę, wypowie ją.

(2) Sporządzono w dwóch oryginałach, każdy w języku czeskosłowackim i polskim; oba teksty są autentyczne.

W dowód czego wyżej wymienieni Pełnomocnicy podpisali niniejszą umowę i zaopatrzyli ją w swe pieczęcie.

W Pradze, dnia 25. stycznia 1934 roku.

(L. S.) W. GRZYBOWSKI.

Dr Juljusz RENCKI.

PROTOKÓŁ DODATKOWY.

Przy podpisaniu umowy o wzajemności w sprawach spadkowych Pełnomocnicy obu umawiających się Stron złożyli zgodnie następujące oświadczenia :

Kwestja dalszego zatrzymania majątku, nabytego w drodze spadku, nie należy do zakresu zagadnień prawa spadkowego i temsamem umowa jej nie dotyczy ; wobec tego uregulowanie tej kwestji wewnętrznem ustawodawstwem jednego z obu Państw nie może być uważane za naruszenie tej umowy.

Protokół niniejszy stanowi część składową wspomnianej umowy.

W dowód czego Pełnomocnicy obu Stron podpisali protokół dodatkowy.

W Pradze, dnia 25. stycznia 1934 roku.

W. GRZYBOWSKI.

Dr Juljusz RENCKI.

Copie certifiée conforme :

Praha, le 10 mars 1937.

Dr Jaroslav Papoušek,
Directeur des Archives.

¹ Vol. XLIV, page 271, of this Series.

¹ TRANSLATION.

No. 4088. — CONVENTION BETWEEN THE REPUBLIC OF POLAND AND THE CZECHOSLOVAK REPUBLIC ON RECIPROCITY IN THE MATTER OF SUCCESSION. SIGNED AT PRAHA, JANUARY 25TH, 1934.

THE CZECHOSLOVAK REPUBLIC and THE REPUBLIC OF POLAND, being desirous of ensuring reciprocity in the matter of succession, have decided to conclude a Convention for that purpose and have appointed as their Plenipotentiaries :

THE PRESIDENT OF THE CZECHOSLOVAK REPUBLIC :

M. Bohdan PAVLŮ, Envoy Extraordinary and Minister Plenipotentiary, and Dr. Antonin KOUKAL, Chief Adviser to the Ministry of Justice ;

THE PRESIDENT OF THE REPUBLIC OF POLAND :

Dr. Waclaw GRZYBOWSKI, Envoy Extraordinary and Minister Plenipotentiary, and
Dr. Juljusz RENCKI, Legal Adviser to the Ministry of Justice ;

Who, having communicated their full powers, found in good and due form, have agreed upon the following provisions :

PART I.

SUCCESSION TO THE ESTATES OF DECEASED PERSONS NATIONALS OF THE ONE STATE LEFT IN THE TERRITORY OF THE OTHER.

CHAPTER I.

GENERAL RULES.

Article I.

1. The movable and immovable property left by a national of either State in the territory of the other State shall pass to the heirs in accordance with the laws of the State of which the deceased was at death a national.

2. The said laws shall likewise govern the responsibility of the heirs for the liabilities of the estate ; nevertheless, to obtain the limitation of such responsibility, recourse may be had to the remedies provided by the laws of the State proceeding to the settlement of the succession.

**Application
of the
national law
of the
deceased.**

¹ Translated by the Secretariat of the League of Nations, for information.

3. All persons claiming rights of succession must be capable of inheriting both under the national law of the deceased and under the laws of their own country.

Article 2.

1. All matters relating to succession rights in respect of property of which the deceased, under the laws of the place in which such property is situated, could not freely dispose by testament (majorats, etc.) shall be governed by the laws of the State in which the said property is situated.

Property governed by special rules: restrictions under public law.

2. The acquisition by inheritance of property which, under the laws of the State in which it is situated, is the subject of special succession rules (heritable indivisible peasant holdings, etc.) shall be governed by the laws of the State in which such property is situated.

3. The present Convention shall not affect the restrictions to which, under public law, the property forming the estate of a deceased person is subject in the place in which it is situated.

Article 3.

The question whether an estate shall be deemed to lapse for default of heirs shall be determined by the law of the country of which the deceased was at death a national. Property so lapsing shall revert, when movable, to the State of which the deceased was at death a national and, when immovable, to the State in which it is situated.

Property lapsing for default of heirs.

Article 4.

1. Testamentary dispositions, including contracts of inheritance, shall be governed by the law of the State of which the deceased was a national when the said dispositions were made. In form, such dispositions need only comply with the laws of the place in which they are made.

Testamentary dispositions

2. The foregoing rules shall likewise apply to the revocation of testamentary dispositions.

3. Any change in the law applicable to the deceased at the time when the testamentary dispositions were made shall remain without effect on his ability to revoke such dispositions.

Article 5.

Testamentary dispositions made by the nationals of either State before the consul and in the forms prescribed by the laws of that State shall be recognised as valid in the other State and regarded as having the same force as dispositions made before one of its own notaries public. The foregoing provisions shall likewise apply to the revocation of testamentary dispositions.

CHAPTER II.

COMPETENCE. PROCEDURE.

Article 6.

1. The authorities competent to take measures relating to the settlement of estates of deceased persons, to distribute property among the heirs, and to take decisions regarding the mode of succession, legacies and reserved portions, shall be, in the case of movable property, the authorities of the State of which the deceased was at death a national, and, in the case of immovable property, the authorities of the State in which such property is situated.

Competence of the authorities responsible for the settlement of estates of deceased persons.

2. Nothing in the present Convention shall affect the competence of the local authorities in the matter of claims brought against the estate on other grounds.

3. In the cases mentioned in Article 2, paragraphs 1 and 2, the competent authorities shall be those of the State by whose laws the conditions of succession are governed.

Article 7.

1. Should the movable property of a deceased person be entirely situated in the State of which such person was not a national, the authorities of that State may, at the request of any beneficiary under the succession, being a national of such State or resident in its territory, themselves take the measures which, under the foregoing Article, lie within the competence of the national authorities, and proceed in regard to the estate as if it had been left by one of their own nationals. Nevertheless, all matters relating to the succession shall in this case also be governed by the national law of the deceased (Article 1).

2. Such requests shall only be entertained if, having been duly notified, none of the beneficiaries take exception to such a course. The assent of the consular authorities of the State of which the deceased was a national shall also be required in respect of all judicial decisions of a non-contentious character.

Article 8.

1. In cases in which the settlement of the estate rests with the national authorities of the deceased (Article 6, paragraph 1), the local authorities shall take all such urgent conservatory measures as may be necessary for the protection of the estate. In case of need, they shall also be empowered to appoint a curator or other person to represent the estate before the judicial and extra-judicial authorities, in which case they shall at the same time inform the consular authority.

Rights and obligations of the local authorities.

2. The local authorities shall, without delay, notify the consular authority of the death of the owner of the estate and of the opening of the succession, while at the same time communicating such information as they may possess regarding the heirs, their places of residence, the existence of a will, and the estate itself, together with particulars of any conservatory measures which they may have taken.

3. The measures taken by the local authorities under paragraph 1 shall be rescinded at the request of the consular authority.

4. Should it be the consular authority which is first informed of the death, it shall address a similar communication (paragraph 2) to the local authorities.

Article 9.

1. The local authorities shall be empowered to open a disposition made by the national of another State ; in such case they shall communicate a certified copy of the *procès-verbal* recording such opening to the national authorities. At the request of the latter, the local authorities shall take the steps prescribed by their own laws to transmit the testamentary disposition thus found within their territory to the national authorities of the deceased.

Procedure to be followed with regard to testamentary dispositions.

2. National authorities in possession of a testamentary disposition shall, at the request of the local authorities, authorise the latter to take cognisance and obtain a certified copy of such disposition.

Article 10.

1. In cases in which the local authorities have adopted conservatory measures (Article 8), a consular authority shall be entitled to take possession of the movable property in so far as the deceased himself was entitled to such possession ; in such cases it shall be responsible for the proper administration of the property.

Rights and obligations of the consular authorities.

2. The consular authority may also appoint a curator or other person to represent the estate before the judicial or extra-judicial authorities.

3. The consular authority shall furthermore be empowered to take statements regarding the estate from the beneficiaries under the succession, to have such statements authenticated or confirmed in writing, and to act as intermediary between the beneficiaries, with their consent, in matters relating to the settlement of the estate.

4. Save in cases of extreme urgency, the consular authority and the local authorities shall afford each other an opportunity of being present at the affixing of the seals on the property of the deceased, the taking of the inventory, and the removal of the seals.

5. The consular authority shall be entitled to require the assistance of the local authorities in the exercise of its powers under the present Article.

Article 11.

Execution may be performed on the property of a deceased person, even when such property has been placed in the custody of the consular authorities. Nevertheless, no direct compulsion may be brought to bear upon the consul himself or upon any of the officials or employees of the consulate. The consular authority shall, at the request of the local authorities, release any of the property of the deceased person on which execution is to be performed.

Article 12.

1. The consular authority shall retain the custody of the estate of which he has taken possession during a period of three months as from the death of the owner. Nevertheless, it may at any time pay out of such property, as prior charges, the cost of the last illness and interment of the deceased, the half-yearly rent, the remuneration of the persons employed in the deceased's household, the costs of legal proceedings, consular and other similar costs and, in case of need, the subsistence expenses of the deceased's family.

2. The consular authority shall not authorise the export of any part of the estate or the delivery thereof to the heirs or executor of the will until the succession duties and claims notified to the said consular authority shall have been paid or secured. In so far as such claims are concerned, the aforementioned obligation shall terminate if the consular authority has not been informed, within a further period of six months, that the claims have been legally recognised or contested.

Article 13.

The consular authority shall, at the request of the local authority, inform the latter of any circumstances which may affect the assessment of the succession duties.

Article 14.

In cases in which the consular authority has not taken possession of the property forming the deceased person's estate, the local authorities, on the expiry of a period of three months as from his death, shall deliver possession of the said property to his heirs or the executor of his will, or alternatively, if by that date none of the heirs or the executor have attempted to establish their rights, to the national authorities of the deceased. On

Delivery of possession of the estate by the local authorities.

the expiry of this period, the local authorities may only retain the custody of the deceased person's property, for a further period not exceeding six months, as security for the payment of succession duties or claims brought against the estate ; on the expiry of the second period, the local authorities shall in any case deliver the estate to the national authorities save, in so far as the claims are concerned, in the event of their having been legally recognised or contested.

Article 15.

The attestations issued in accordance with their own laws by the authorities of either State under Article 6, paragraph 1, and Article 7, in regard to matters relating to the law of succession, and in particular to the rights of the heirs or the executor of the will, shall be accepted as conclusive in the other State also.

Recognition by the other State of attestations concerning the law of succession.

Article 16.

1. The decisions rendered by the competent authorities of either State under Article 6, paragraph 1, and Article 7 shall be recognised in the other State.

Reciprocal recognition of decisions.

2. Nevertheless, the latter shall not be required to recognise decisions contrary to the intentions of its own legislation.

Article 17.

1. To secure claims against the estate of a deceased person (Article 6, paragraph 1), the courts of the State in which the property is situated may also order immediately enforceable measures in accordance with the laws of that State (attachment, provisional execution, etc.).

2. Such measure shall be rescinded at the request of any interested party in the following cases :

(1) If the court competent under Article 6, paragraph 1, finally decides that the claim secured is unfounded, and if such decision is also to be recognised in the territory of the other State under Article 16 ;

(2) If a period of six months has elapsed as from the date on which the measure was ordered, and if at the time of its rescission it has not been established that proceedings have been instituted in the competent court under Article 6, paragraph 1 ;

(3) If the court which, under Article 6, paragraph 1, has jurisdiction in the main action has rendered a decision, taking immediate effect, that the measure previously ordered should be rescinded.

Article 18.

1. At the request of any of the beneficiaries under the succession or of the executor of the will, the local authority may institute bankruptcy proceedings in respect of the estate under its own legislation. Nevertheless, such proceedings shall only concern such of the deceased's property as is situated in the State the authorities of which have instituted the bankruptcy proceedings.

Bankruptcy of the estate.

2. In the event of the institution of bankruptcy proceedings, the consular authorities shall deliver to the competent local authority or to the receiver all such property of the deceased as under the bankruptcy laws is deemed to form part of the assets of the estate.

Article 19.

1. Should a national of either State die while travelling in the other State and if at the time of his death he has no place of residence or permanent abode in that State, the property which he has with him shall, without further formality, be placed at the disposal of the consular authority.

**Estates of
travellers.**

2. The consular authority, after settling the debts contracted by the deceased during his temporary stay in the other State, shall deal with such property in the manner prescribed by the laws of his own country.

PART II.

POSITION OF THE NATIONALS OF THE ONE STATE IN REGARD TO
SUCCESSIONS OPENED IN THE OTHER STATE.*Article 20.*

1. The nationals of either contracting State shall, in the territory of the other State, receive the same treatment as the nationals of that State in all matters relating to the laws of succession.

**Equality of
treatment of
nationals of
both States.**

2. This principle shall also apply to juridical persons unless otherwise provided in the laws of either State.

3. A national of either State claiming succession rights in the other State must also be capable of inheriting under the laws of his own country.

Article 21.

In all matters relating to successions opened in the territory of either State, the consular authority of the other State shall be legally qualified to represent its nationals in their dealings with local authorities whenever such nationals are not present in person and have not appointed another representative.

**Right
of consular
authorities
to represent
their
nationals.**

PART III.]

FINAL PROVISIONS.

Article 22.

The expression "beneficiaries under the succession" shall be deemed to mean persons who, under the laws of their own country concerning the procedure in the matter of successions, are regarded as heirs, legatees or persons entitled to the reserved portions of the estate.

Article 23.

The expression "national authorities" shall be deemed to mean the authorities of the State of which the deceased was at death a national. The expression "local authorities" shall be deemed to mean the authorities of the other State in which the deceased person's estate is situated.

Article 24.

For the purposes of the present Convention, the expression " national laws " shall be deemed to mean the succession laws which in either State are applicable to the person concerned.

Article 25.

The present Convention shall not affect the application in either State of provisions of a peremptory character.

Article 26.

The present Convention shall apply to the estates of all persons deceased after its entry into force.

Article 27.

Nothing in the present Convention shall affect the provisions of the Convention concluded between the Czechoslovak Republic and the Republic of Poland for the purpose of preventing double taxation in respects of death duties, signed at Warsaw on April 23rd, 1925.

Article 28.

1. The present Convention has been concluded subject to ratification ; the instruments of ratification shall be exchanged at Warsaw at the earliest possible moment. The Convention shall come into force one month after the exchange of the instruments of ratification and shall remain in force until the expiry of the period of one year as from its denunciation by either of the contracting States.

2. Done in duplicate in both the Czechoslovak and Polish languages, both texts being equally authentic.

In faith whereof the above-mentioned Plenipotentiaries have signed the present Convention and have thereto affixed their seals.

Done in Praha, the twenty-fifth day of January, one thousand nine hundred and thirty-four.

(L. S.) B. PAVLŮ.

(L. S.) W. GRZYBOWSKI.

(L. S.) Dr. KOUKAL.

Dr. Juljusz RENCKI.

ADDITIONAL PROTOCOL.

On proceeding to sign the Convention on Reciprocity in the Matter of Succession, the two Contracting Parties make the following joint declaration :

The question of the subsequent custody of property acquired by inheritance is not a matter governed by succession law and hence is not affected by the Convention ; consequently each of the two States may settle this question by its municipal law without such settlement being regarded as an infringement of the Convention.

The present Protocol forms an integral part of the said Convention.

In faith whereof the Plenipotentiaries of the two Parties have signed the present Additional Protocol.

Done at Praha, this 25th day of January, 1934.

B. PAVLŮ.

W. GRZYBOWSKI.

Dr. KOUKAL.

Dr. Juljusz RENCKI.