No. 480

POLAND
and
CZECHOSLOVAKIA

Agreement concerning mutual legal relations in civil and criminal cases (with additional protocol). Signed at Warsaw, on 21 January 1949

Polish and Czech official texts communicated by the Permanent Representative of Poland to the United Nations. The registration took place on 8 June 1949.

POLOGNE
et
TCHECOSLOVAQUIE

Convention relative aux rapports judiciaires mutuels en matière civile et pénale (avec protocole additionnel). Signés à Varsovie, le 21 janvier 1949

Textes officiels polonais et tchécoslovaque communiqués par le représentant permanent de la Pologne auprès de l'Organisation des Nations Unies. L'enregistrement a eu lieu le 8 juin 1949.

TRANSLATION — TRADUCTION

No. 480. CONVENTION[1] BETWEEN THE REPUBLIC OF POLAND AND THE CZECHOSLOVAK REPUBLIC CONCERNING THEIR MUTUAL LEGAL RELATION IN CIVIL AND CRIMINAL CASES. SIGNED AT WARSAW, ON 21 JANUARY 1949

THE PRESIDENT OF THE POLISH REPUBLIC

and

THE PRESIDENT OF THE CZECHOSLOVAK REPUBLIC

being desirous that the lasting and genuine friendship and the mutual confidence existing between their two countries should find expression also in a closer conformity of legal procedures in the two allied countries, especially in judicial matters and in the strengthening and harmonizing of their mutual legal relations, have decided to conclude the following convention.

For this purpose they have appointed as their plenipotentiaries:

The President of the Polish Republic:

Professor Henryk ŚWIATKOWSKI, Minister of Justice of the Polish Republic;

The President of the Czechoslovak Republic:

Dr. Alexej ČEPIČKA, Minister of Justice of the Czechoslovak Republic,

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

PART I

CIVIL CASES

CHAPTER I

Legal safeguards in civil cases

Article 1

(1) Nationals of either Contracting Party will enjoy in the territory of the other Party the same legal and judicial protection for their persons and property as nationals of the other Party.

[1] Came into force on 10 April 1949, in accordance with article 89, the exchange of the instruments of ratification having taken place at Prague on 10 March 1949.

(2) They will have free and unrestricted access to the courts of the other Party and may appear before them on the same conditions as the nationals of the other Party.

Exemption from security

Article 2

Security shall not be demanded in any form from the nationals of either Party who appear before the courts of the other Party as plaintiffs, applicants or interveners, on the ground that they are aliens or have no domicile or residence in the territory of the other Party. This provision shall apply in particular to the deposit of security to cover costs incurred incidentally to the action.

Legal assistance to indigent persons

Article 3

Nationals of either Party shall be ensured free legal assistance in the territory of the other Party on the same conditions and to the same extent as nationals of the other Party.

Certificate required for the grant of legal assistance to indigent persons

Article 4

(1) The certificate required for the grant of free legal assistance will be issued by the courts and authorities of the Party in whose territory the applicant is domiciled, or, in default of such domicile, where he is resident.

(2) Should the applicant not be domiciled or resident in the territory of either Party, a certificate issued or confirmed by the appropriate diplomatic or consular official shall suffice.

(3) The court of the Party which has to adjudicate on the grant of free legal assistance may, within the limits of its competence, verify the particulars stated in the certificate submitted. For this purpose it may request information from the authorities of the other Party.

Extent of legal assistance to indigent persons

Article 5

The grant of legal assistance by a court of either Party to a national of the other Party shall cover proceedings of every kind, including enforcement proceedings, and a special application shall not be necessary.

Legal assistance in securing the rights of indigent persons

Article 6

(1) Nationals of either Party may file with the court an application for the grant of free legal assistance by the court of the other Party and also an application for the appointment of counsel to conduct the case free of charge; in the Polish Republic, in the district courts (*sądy grądzkie*) of their domicile or residence and in the Czechoslovak Republic in the district courts (*soudy okresni*) of their domicile or residence. A request for the appointment of unpaid counsel must be the subject of a special application. The court with which such formal application has been lodged shall forward it to the competent court of the other Party. If the court which received the application is not competent, it shall forward it to the court which is competent to decide respecting the application for the grant of free legal assistance and shall notify the court of the other Party which sent the application accordingly.

(2) A translation in the language of the Party in whose territory the free legal assistance is to be granted need not be annexed to the formal application.

Chapter II

Legal assistance in civil cases
Method of procedure

Article 7

(1) In matters concerning applications for the service of documents or for other forms of legal assistance in civil, contentious or non-contentious cases, the courts of both Parties will communicate with one another direct.

(2) Courts of all instances in which the need for legal assistance has arisen shall be competent to transmit applications in the territories of both Parties.

(3) In the territory of the Polish Republic, district courts (*sądy grodzkie*) and in the territory of the Czechoslovak Republic, likewise district courts (*soudy okresni*) shall be competent to accept and give effect to judicial applications, and, in cases where an application has been made for transmission of acts or other documents or copies thereof, the court in which the case was initiated shall be competent in the territory of either Party.

(4) If the court applied to is not competent, the application shall be referred officially to the competent court and the court making the application shall be informed accordingly.

Language of applications

Article 8

(1) Applications for the service of documents or for any other legal assistance shall be drawn up in the national language of the Party making the application. The application must bear the seal of the court.

(2) The court applied to shall give effect to the application of its own national language and shall affix the seal of the court to its own document.

Contents of applications

Article 9

Applications must contain particulars of the case in respect of which legal assistance is required, indicating the parties concerned, their place of domicile or residence and their defending counsel, and state briefly the extent of the legal assistance requested. Applications for the service of documents must give the address of the recipient and the nature of the document to be served. If the exact address of the recipient is unknown, or if the address given proves to be incorrect, and there is a possibility of ascertaining the address, the court applied to shall take the necessary steps to ascertain the address.

Compliance with applications for the service of documents

Article 10

(1) The court applied to shall take the steps called for under its domestic law to serve the document transmitted on the recipient.

(2) Pursuant to an application from the court asking for a document to be served in the manner prescribed by the domestic legislation of the State to which application is made for the service of documents of the same kind, the court applied to shall carry out such service if the document is drawn up in the national language of the Party applied to or if it is accompanied by a translation made by a sworn translator of either Party.

(3) If a document is to be served as indicated in paragraph 2, on a national of the Party making the application, the court of the Party applied to shall carry out such service, even if the document is drawn up in the national language of the Party making the application and no translation is attached. The court making the application shall state in its application that the document is to be served on a national of its State.

(4) In other cases the court applied to shall confine itself to serving the document on the addressee, if he agrees to accept it.

Proof of service of documents

Article 11

An acknowledgement of the recipient, dated and signed by the authority serving the document and sealed with the seal of the court or administrative authority, or a certificate from the court or administrative authority that service of the document has been effected, stating how and when this was done, or a record drawn up by the court certifying that the recipient has accepted the document, shall be deemed to constitute proof of service of the documents.

Article 12

In the case of the service of an instrument through a representative or of compulsory service, an acknowledgement of receipt of the instrument or an attestation drawn up in accordance with the law of the State applied to shall constitute proof of service.

Refusal to serve documents

Article 13

Service of documents may be refused, if the Party in whose territory the document is to be served considers that such service might endanger its sovereign rights or its security.

Compliance with applications for the grant of other legal assistance

Article 14

(1) The court applied to must comply with an application for the grant of other legal assistance and, in doing so, apply the provisions of its domestic law regarding the effect to be given to applications for grant of legal assistance lodged at the request of a court of its own State or of an interested party. At the request of the court making the application, the court applied to may adopt a procedure other than that prescribed by its legislation if the required procedure does not conflict with the compulsory provisions of the Party applied to.

(2) The court applied to shall notify the court making the application, at its request, of the time and place of the act for giving effect to the application, in order that the parties concerned may be informed in good time.

Refusal of legal assistance

Article 15

Apart from the cases referred to in article 13, an application may be refused if performance of the action requested does not fall within the competence of the court. Nevertheless, the court applied to may not refuse legal assistance if performance thereof involves making an appeal at the request of the applicant court to the administrative authority on the case in question. Should the administrative authority refuse to act, the court applied to shall notify such refusal to the court making the application.

Article 16

The court applied to may refuse a request for the transmission of acts and other documents if it requires them itself or if the Ministry of Justice of the State applied to confirms the refusal for other special reasons.

Cost of legal assistance

Article 17

(1) No payment of any dues or refund of any amounts whatsoever spent on effecting service of documents or on executing applications for other legal assistance, and in particular no amounts paid to witnesses or experts will be claimed by the court applied to. Such costs shall be borne by the State in which the court applied to is situated.

(2) Postal charges shall be defrayed by the State in whose territory the charges were incurred.

(3) Nevertheless, the court applied to will inform the court making the application of the amount of payments and costs incurred under paragraph 1 of the present article, so that they can be refunded by or recovered from the party liable to defray them. The amounts refunded or collected shall accrue to the State in which the court making the application is situated.

Service of documents on nationals by their own courts

Article 18

Both Parties reserve the right to serve legal judicial documents on their own nationals through their own diplomatic or consular representatives. If service of documents is effected in this manner, no compulsion may be used.

Chapter III

Other civil cases
Guardianship and trusteeship

Article 19

(1) The courts of the Party of which the minor is a national shall be competent to exercise the guardianship of minors.

(2) If the minor is domiciled or resides in the territory of the other Party, the courts of such other Party may set up guardianship, if the minor's welfare so requires, provided always that a guardian has not already been appointed in the State of which the minor is a national. The appropriate court of the Party of which the minor is a national should be notified of the establishment of guardianship, such notification being accompanied by a brief statement of the circumstances of the case.

(3) The court of the Party of which the minor is a national may request the court of the other Party either to assign the guardianship to it or to continue exercising such guardianship.

(4) If the court of one Party sets up guardianship over a minor who is a national of one or the other Party and if the place of domicile or residence of the minor is transferred to the territory of the other Party, the court which has hitherto exercised such guardianship may ask the court of the other Party to take over and exercise the guardianship further.

(5) If a minor for whom guardianship has been set up by the court of one Party owns property in the territory of the other Party, the court exercising guardianship may ask the competent court of the other Party to appoint a trustee to administer such property.

Article 20

(1) Guardianship shall involve supervision over the person and all the movable and immovable property of the ward, irrespective of the place of residence of the ward or the situation of the property, without prejudice to the provisions of article 19, paragraph 5.

(2) The legal relation between the guardian and the ward shall be determined in accordance with the laws of the Party in whose territory the court of guardianship (the authority) has its seat.

(3) The liability to accept and exercise guardianship shall be determined in accordance with the laws of the Party of which the guardian is a national.

Article 21

The provisions of articles 19 and 20 shall apply, *mutatis mutandis*, to other tutelary (guardianship) functions, including guardianship over persons of full age, trusteeship, or generally to tutelary functions of that kind.

Pronouncement of incapacity to act

Article 22

The court of the Party of which the person who is to be declared incapable is a national shall be the court qualified to pronounce on such incapacity to act.

Article 23

If the court of one Party finds that there are grounds for declaring the incapacity of a national of the other Party who is domiciled or resident in the district served by that court, it shall notify the competent court of the other Party accordingly. If the court thus notified intimates that it wishes to leave it to the court of the place of domicile or residence of the person concerned to take further action, or if it fails to reply within three months, the court of the place of domicile or residence may conduct proceedings for declaration of incapacity to act in accordance with the laws of its own State, provided that this measure is justified also in accordance with the laws of the Party of which the person concerned is a national. The decision to pronounce incapacity to act should be communicated to the court which was notified in accordance with the provisions of the present article, or to the court which left it to the court of the place of domicile or residence to take further action.

Article 24

In urgent cases the court of the place of domicile or residence of a person who has to be deprived of normal rights, but is a national of the other Party, may make any provisional arrangements necessary for the protection of that person or of his property. The court of the Party of which the person is a national must be informed of such arrangements; the latter must be revoked if the court of the said Party adopts a different ruling.

Article 25

The provisions of article 23 shall also apply to the revocation of a pronouncement of incapacity.

Declaration of death

Article 26

(1) Declaration of death shall be made by the court of the Party of which the person was a national at the time he disappeared.

(2) In case of necessity, the Polish courts may, pursuant to the regulations in force in Poland, presume a Czechoslovak national to be dead, such declaration to have legal effect in the Polish Republic. Under similar conditions and with similar effects the Czechoslovak courts shall have the same right in respect of Polish nationals.

(3) A decision with respect to a declaration of death, given under the provisions of paragraph 2, may be revoked or amended by a court of the Party which took the decision, if in the territory of the Party of which the lost person was a national the said person has been presumed to be dead by a court of that Party, a different date being given for the presumed death, or if the application for a declaration of death was validly dismissed or rejected by a court of that Party.

Adoption

Article 27

(1) The courts of the Party of which the adopter is a national shall be those competent to give final confirmation to the instrument of adoption.

(2) If the person adopted is a national of the other Party and his consent or that of his legal representative or guardians is required by the law of that Party, such consent must also be obtained.

Withdrawal of right of adoption

Article 28

The provisions of article 27 shall apply *mutatis mutandis* to the withdrawal of the right of adoption.

SUCCESSION LAW

General provisions

Article 29

(1) Legal relations in the matter of succession rights shall be governed by the laws of the Party of which the testator was a national at the time of his death.

(2) Capacity to inherit under succession law must exist both under the legislation of the Party of which the testator was a national and also under the legislation of the Party of which the person claiming the right to inherit is a national.

(3) The question whether an estate shall be deemed to be heirless shall be determined in accordance with the laws of the State of which the testator was a national at the time of his death.

Special successions

Article 30

Legal relations in the matter of succession rights in respect of property of which the testator, under the laws of the place in which such property is situated, cannot dispose *mortis causa*, shall be governed by the laws of the Party in whose territory the said property is situated. This provision shall apply especially to the order in which succession ranks.

Form of dispositions mortis causa

Article 31

The form of testamentary dispositions and of their revocation shall be governed by the laws of the State of which the testator is a national when the dispositions are made or revoked. It will, however, be sufficient to comply with the provisions of the laws in force in the place where the testamentary dispositions were made or revoked.

Chapter IV

Recognition of decisions of the courts and awards of arbitration tribunals

General principles of recognition

Article 32

(1) The decisions rendered by the courts of either Party which have acquired legal validity under its laws will be recognized in the territory of the other Party.

(2) Judgments and other equivalent decisions (irrespective of their denomination) rendered by civil courts, both on the merits of a case and as regards the costs of proceedings, shall be deemed to be court decisions within the meaning of paragraph 1.

(3) The valid decisions of special courts and the awards made by arbitration tribunals shall be placed on an equal footing with court decisions as defined in the above paragraphs. Nevertheless, the awards of arbitration tribunals shall be deemed to be of equal validity only if the agreement to submit to arbitration was made in writing and if the arbitrator or arbitrators were appointed by the parties, or by a third person entrusted by the parties with such appointment, or by the court. The appointment of an arbitrator or the reference of such appointment to a third party must be stated in writing.

(4) The decisions of the courts of one Party will be recognized in the territory of the other Party, if their legal validity is confirmed by the court of first instance which heard the case. The legal validity of the decisions of arbitration tribunals shall be confirmed by the court competent under the laws of the Party in whose territory the award was made.

Refusal of recognition

Article 33

(1) Decisions shall not be recognized:

1. If, under the provisions of the present convention or the laws of the Party in whose territory the decision is to be recognized, the courts of that Party were the only courts competent in the matter;
2. If the party which lost the suit was not served in due form and at the proper time with the document initiating the proceedings, and if that party did not appear in the case;
3. If, in the matter of capacity to do a legal act, capacity to take legal proceedings or to be legally represented and, furthermore, in marriage validity and divorce (or separation) cases, in cases concerning adoption, declaration of incapacity or succession matters, a law which should be applied in accordance with the legislation of the Party in whose territory the decision is to be recognized has not been applied, always provided that the present convention does not contain any provision to the contrary, or that the law applied is essentially similar to the law of the Party whose domestic law should have been applied;
4. If it is contrary to public order or morality;
5. In the matter of costs, if the decision on the merits of the case cannot be recognized.

(2) A decision awarding in costs against a plaintiff, appellant or intervener who, under article 2 of the present convention, has been exempted from depositing security shall be recognized, even though the conditions laid down in paragraph 1 are present.

Extent of the scrutiny of decisions which are to be recognized

Article 34

The court or other authorities of the Party in whose territory a decision is to be recognized shall not, in examining the grounds for refusal, be bound by the factual findings of the decision. No further examination concerning the justification for the decision shall be permitted.

EXECUTION

General provisions

Article 35

(1) Court decisions and arbitral awards rendered in the territory of one Party shall be carried out in the territory of the other Party, if the conditions governing recognition under articles 32 to 34 are complied with and if the exequatur has been granted in the territory of the other Party in the manner provided for in the present convention.

(2) Except as otherwise provided in the present convention, the procedure in respect of the exequatur, and the procedure for enforcement shall be governed by the provisions of the law operative in the territory of the Party in which execution is to be effected, always provided that an appeal may be lodged against the decision to permit execution. If, in accordance with these provisions, the court which heard the case is the court competent to effect execution or to hear complaints concerning execution, the court of the district in which enforcement is to be effected shall have power to act in its stead.

Applications for execution

Article 36

(1) An application for authorization to effect execution may be lodged with the court of the Party in whose territory the court decisions or the arbitral award was rendered. The said court shall transfer the application to the court of the other Party which is competent under article 37.

(2) An application may also be lodged by a distraining creditor directly with the court which is competent under article 37.

Article 37

Authorization to effect execution shall be decided by the court of the Party in whose territory the decision is to be given effect at the request of the distraining creditor, without calling in the parties concerned; the defendant may be given a hearing. The debtor's ordinary court shall be the court competent for the purpose or, failing that court, the court of the district in which execution is to be effected.

Annexes to applications

Article 38

The distraining creditor shall submit:

(*a*) a copy of the text of the decision of the court or of the arbitral award with a clause certifying that it is legally valid and enforceable; such validity and enforceability should be proven by means of official documents, unless they are obvious from the text itself, and, in the case of an arbitral award, subject to compliance with the provisions of article 32, paragraph 4;

(*b*) a translation of the documents mentioned in sub-paragraph (*a*), made by a sworn translator of either Party.

Suspension of execution

Article 39

(1) If, as a result of action for renewal (annulation) of the instrument to be enforced, execution is suspended or annulled in the territory of the Party whose court rendered the decision, the issue of authorization to effect execution shall be stayed and, if it has already been given, execution in the territory of the Party which is to carry out the decision shall be suspended.

(2) In all other cases, if execution has been suspended or annulled in the territory of the Party whose court rendered the decision, it shall not affect either the proceedings initiated on the basis of the decision in the territory of the other Party in respect of the exequatur or the execution itself.

Procedure for execution of compromise agreements and notarial instruments

Article 40

Execution may also be carried out in the case of judicial compromise agreements and notarial instruments under which the debtor has agreed to execution. In this case the provisions of articles 35 to 39 shall apply *mutatis mutandis*.

Recovery of costs

Article 41

Authorization to effect execution of decisions awarding costs against plaintiff, appellant or intervener who has been excused from furnishing security under article 2, shall be given free of cost.

CHAPTER V

Succession cases

Competence of courts and succession authorities

Article 42

(1) The authorities of the Party of which the testator was a national shall be competent to proceed in succession cases. Nevertheless, at the unanimous request of the heirs, proceedings in succession cases shall be conducted by the authorities of the State in whose territory the estate is situated.

(2) The courts and authorities of the Party whose legislation regulates the order in which succession ranks shall be competent in the cases referred to in article 30.

(3) The provisions of the present convention shall not affect the public law limitations applicable to a succession in the place where it is situated.

Rights and obligations of local courts and authorities

Article 43

(1) The courts of either Party shall be competent to take conservatory measures in accordance with its law, in respect of the property situated in its territory left by a national of the other Party, and must immediately notify the consul of the other Party of the conservatory measures taken. The courts shall, in particular, have power to appoint a curator (administrator).

(2) The court which is competent to take conservatory measures in respect of the estate of a national of the other Party shall immediately notify the consul of the other Party of the death of the *de cujus,* of the persons laying claim to the estate, and also of the circumstances within its knowledge relating to beneficiaries under the succession and their places of residence, of the dispositions *mortis causa,* and of the estate itself, and lastly whether it has taken conservatory measures and if so the nature of such measures.

(3) The consul may participate in the measures taken by the court to safeguard the succession.

Article 44

The court which has taken conservatory measures in respect of the estate shall, at the request of the court competent under the present convention, rescind any such measures it has taken.

Article 45

If the consul is the first to receive news of the death of a national of the Party of which he is consul, he shall, in the manner laid down in article 43, paragraph 2, communicate the fact to the court of the other Party which is competent to take conservatory measures in respect of the estate.

Procedure to be followed with regard to dispositions mortis causa

Article 46

(1) The court empowered to take cognizance of dispositions *mortis causa* may do so in the case of the decease of a national of the other Party; in such case, the court shall send to the court of the country of the *de cujus* a certified copy of the official record of its action. At the request of the court of the country of the *de cujus* the court empowered to take cognizance of the dispositions *mortis causa* shall transmit to the former the said dispositions in accordance with the provisions of its own law.

(2) The court of the country of the *de cujus* which has custody of dispositions *mortis causa* shall, if so requested by the court competent to take conservatory measures in respect of the estate, supply the latter with a legalized copy of the dispositions in question.

Delivery of the estate

Article 47

(1) The court which has taken conservatory measures in respect of the estate of a national of the other Party shall deliver the estate to the heirs or to the testamentary executor and if the latter have not applied within three months of the death of the testator, or have not proved their rights, it shall hand over the estate to the court of the country of the *de cujus*.

(2) On the expiry of the above period the court which has taken the conservatory measures may retain custody of the assets of the estate only as security for claims to succession rights or for debts against the estate, but in no

case for more than a further six months. On the expiry of this period the estate shall be handed over to the court of the country of the *de cujus,* except in the case of security for claims to succession rights, or debts against the estate, which have been admitted or in respect of which proceedings have been instituted.

(3) The estate shall not be handed over if succession duty has neither been paid nor covered by a security.

Proof of succession rights

Article 48

(1) A decision embodying a declaration of succession rights (decision respecting the adjudication of succession) made by the court of one Party shall constitute proof of succession rights in the territory of the other Party.

(2) On the basis of such a decision embodying a declaration of succession rights (decision respecting the adjudication of succession), beneficiaries may request the courts and authorities of the other Party to record or otherwise register their titles in public books and registers. The courts and authorities of the other Party may not refuse to make such an entry or registration on the ground that the property or title is not mentioned in the decision embodying a declaration of succession rights (decision respecting the adjudication of succession).

Bankruptcy or liquidation

Article 49

At the request of any beneficiary under the succession or of creditors of the estate, the competent court of the Party in whose territory the estate of a national of the other Party is situated may institute bankruptcy or liquidation proceedings in accordance with the legislation in force in the territory of that court.

Estates of travellers

Article 50

Should a national of either Party die while travelling in the territory of the other Party, and if at the time of his death he has no place of residence or domicile in that territory, the property in his personal possession shall, after the creditors have been secured, be handed over without further formality, to the consul of the Party of which the deceased was a national at the time of his death.

Heirless estates

Article 51

Movable property belonging to heirless estates (article 29, paragraph 3) shall revert to the Party of which the testator was a national at the time of his death. Immovable property belonging to heirless estates shall revert to the Party in whose territory it is situated.

Right of consuls to intervene

Article 52

A consul of either Party shall be entitled to defend the interests of his nationals in succession matters before the courts and authorities of the other Party without special powers of attorney, whenever such nationals are absent and have not appointed an authorized representative.

Definition of terms used in the present chapter

Article 53

(1) The following expressions used in the present chapter shall have the meanings assigned to them hereunder:

(*a*) The expression "beneficiaries under the succession" shall mean persons who, under the law applicable to succession proceedings, are to be regarded as heirs, legatees or persons entitled to the reserved portion of an estate;

(*b*) The expression "courts" shall also be deemed to include administrative authorities if, under the legislation of the Parties, they carry out functions connected with succession cases; the expression "national courts or authorities" shall mean the courts or authorities of the Party of which the testator was a national at the time of his death;

(*c*) the expression "laws" shall mean, in the territory of either Party, the rules of law which are applicable according to the provisions of inter-regional law in force in the territory of the Party concerned.

(2) The provisions of the present chapter shall not exclude the application in the territories of the two Parties of provisions which have the character of absolutely binding rules.

CHAPTER VI

Documents

Article 54

(1) Documents drawn up or legalized in the territory of either Party by a court or public authority within the limits of its official jurisdiction, or by an accredited individual acting in matters within his competence, in the prescribed form and sealed with the official seal, shall not require legalization in the territory of the other Party.

(2) Documents which rank as public documents in the territory of one Party shall also have the value of public documents when adduced in evidence in the territory of the other Party.

Communication of extracts from public registers

Article 55

The civil registry (records of births, marriages and deaths) authorities of either Party will, at the request of the court authorities of the other Party, transmit, free of charge, legalized copies or extracts from the registers of births, marriages and deaths (certificates).

PART II

CRIMINAL CASES

CHAPTER VII

Extradition and conveyance of offenders
Punishable acts entailing extradition

Article 56

(1) Each Contracting Party undertakes to surrender to the other, on request and in accordance with the provisions mentioned below, any person in its territory against whom proceedings are being taken or who has been sentenced by the courts of the other Party for a crime or offence, except where the act concerned did not constitute a punishable act in the territory of the State applied to.

(2) Extradition shall also be granted in cases of an attempt to commit a punishable act as above mentioned or of having acted as an accessory to such crime or offence.

(3) The fact that the person whose extradition is requested has been sentenced also for a contravention under the same judgment to one penalty only shall not constitute an obstacle to his extradition.

Article 57

If, under the laws of the Party making tne application, the punishable act for which extradition is requested constitutes an offence, whereas it constitutes merely a contravention under the laws of the State applied to, the Parties will request extradition only when, in the opinion of the Party making the application, this is required in the special interests of justice.

Own nationals not to be extradited

Article 58

(1) The Parties shall not surrender their own nationals to one another.

(2) Action on an application for extradition may be postponed until a final decision is reached on a petition for the grant of citizenship by the person if he filed the petition before the application for his extradition was received.

Taking over of criminal proceedings

Article 59

(1) The Parties undertake to prosecute, in accordance with their legislation, their own nationals who are accused of having committed in the territory of the other Party acts giving rise to extradition.

(2) A Party wishing to avail itself of the provisions of the above paragraph shall give due notice thereof to the other Party in the manner prescribed in Article 67, and shall attach to such notice all the instruments, documents, data and articles necessary to constitute evidence of the act in question.

(3) The Party of which the prosecuted person is a national shall inform the other Party of the results of the proceedings and shall transmit to it a copy of any decision of the court.

Offences for which extradition will not be granted

Article 60

Extradition will not be granted:

(*a*) If the offence was committed in the territory of the State applied to;

(*b*) If the offence is political or is connected with a political offence, unless the characteristic of an offence under ordinary law predominates;

(*c*) If the offence is exclusively an offence under the press laws;

(*d*) If the offence is the subject of proceedings which are taken only on a charge made by the injured party and if the proceedings are stopped, upon withdrawal of the charge;

(*e*) If criminal proceedings are being taken for the same offence in the territory of the Party applied to against a person whose extradition is requested, or if such proceedings have resulted in conviction or have been quashed, unless there are grounds for re-opening the proceedings, under the laws of the Party applied to, because of new facts adduced by the Party making the application.

Civil obligations

Article 61

Civil obligations undertaken in the territory of the Party applied to by a person whose extradition is requested may not constitute an obstacle to extradition.

Receipt of concurrent applications for extradition

Article 62

If the extradition of one and the same person for one and the same offence or for different offences is requested from one Party by another State or a number of other States, the Party applied to shall be free to decide which of the requests shall be granted.

Legal consequences of extradition

Article 63

(1) An extradited person shall not be prosecuted, punished or extradited to a third country for an offence other than that for which extradition was granted, if it was committed prior to extradition, unless:

(*a*) The Party applied to subsequently gives its consent thereto; such consent may not be refused if under this convention the offender would be liable to extradition for the offence in question; or

(*b*) The extradited person gives his consent thereto and such consent is entered in the court record. An authenticated copy of the said record shall be forwarded to the Party which carried out the extradition.

(2) If the extradited person fails, through his own fault to leave the territory of the Party to which he has been extradited (although he had an opportunity of doing so) within one month from the date when the criminal proceedings for which he was extradited were concluded, or the sentence served or remitted, or if he has voluntarily returned there, he may in such case be prosecuted or punished also for an offence other than the extradition offence.

Delay in reception

Article 64

If the Party making the application fails to receive the surrendered person within one month from the date on which it was informed that extradition can be effected immediately, the person in question may be released.

Summary extradition

Article 65

If the extradited person has, in any manner whatsoever, evaded the application of justice and is again found in the territory of the Party applied to, he may, at the request of the competent authorities made in accordance with the provisions of article 67, paragraph 1, be arrested and re-extradited without further formalities.

Transit

Article 66

(1) The transit across the territory of one of the Parties of a person whom a third State has decided to extradite to the other Party shall be authorized on production of the documents mentioned in article 67, paragraph 2, if that person has committed an offence which comes under the provisions of the present convention.

(2) The provisions governing extradition shall apply, *mutatis mutandis,* to transit.

(3) Transit shall be effected by the authorities of the State applied to, which shall determine the conditions and route of conveyance.

Applications for extradition

Article 67

(1) Applications for extradition shall be sent direct by the Ministry of Justice (or by the Ministry of National Defence, in the case of persons prosecuted by court martial) of the Party making the application to the Ministry of Justice (Ministry of National Defence) of the Party applied to.

(2) Applications shall be accompanied by:

(*a*) A warrant for arrest, or other equivalent instrument, issued by the competent authorities of the Party making the request, and, if the sentence is to be enforced, a copy also of the judgment which has acquired the force of a *res judicata*;

(*b*) Documents containing a description of the offence and stating the place where and time when it was committed, nature of the charge and, in the event of an offence against property, all possible information concerning the extent of the damage which the offender did or intended to do, if such information is not included in the documents referred to under (*a*);

(*c*) The text of the penal provisions applicable to the offence in question in the territory of the Party making the application;

(*d*) Particulars of the nationality and civil status of the person whose extradition is requested and, if possible, any documents and information required to establish his identity, such as a detailed description, photographs, fingerprints and particulars of his place of residence.

(3) Applications for the extradition of a convicted person who has already served part of his sentence should also state the portion of the sentence that remains to be served.

(4) Originals or authenticated copies or extracts of the above-mentioned documents shall be submitted and they shall be sealed with the official seal.

Language of applications

Article 68

(1) The two Parties shall use their national languages in their mutual relations.

(2) This applies more particularly to the documents mentioned in articles 59 and 67.

Supplementary explanations

Article 69

(1) If any doubt should arise whether an offence comes under the provisions of the present convention, the Party applied to shall ask the Party making the application for supplementary explanations.

(2) Extradition shall not be granted unless the explanations given remove every doubt. The Party applied to may fix a time-limit for supplying the supplementary explanations. This time-limit may be extended if the request is justified.

(3) If a person proceeded against has been arrested in pursuance of an application for extradition, he may be released if the information asked for is not received within six weeks from the date of despatch of the request for supplementary information made by the Party applied to. This time-limit may be extended in accordance with the request of the Party making the application.

(4) The Party applied to may not insist on the production of evidence incriminating the person liable to extradition.

Measures for ensuring extradition

Article 70

As soon as an application accompanied by the documents referred to in article 67 has been received, the Party applied to shall, in accordance with its legislation, make all the necessary arrangements to ensure the surrender of the person whose extradition is requested and to prevent his escape, unless it ascertains immediately that extradition is inadmissible.

Provisional detention

Article 71

(1) In urgent cases, unless it is immediately apparent that extradition is inadmissible, the person proceeded against may be detained provisionally in custody before the application for extradition is received, if such action has

been requested in virtue of a warrant of arrest or valid judgment and if the offence has been specified.

(2) Such a request may be sent directly in writing or by telegram to the competent authority of the Party applied to by the competent authority of the Party making the application.

(3) The competent authorities of either Party may, even in default of such request, provisionally detain a person residing in its territory, if it learns that he has committed an offence in the territory of the other Party.

(4) An authority which has placed a person in custody in virtue of paragraph 2 or 3 of the present article shall immediately notify the authority of the other Party and also its own Ministry of Justice (Ministry of National Defence) of the fact, indicating the place where the person is detained. The said Ministry shall inform the Ministry of Justice (Ministry of National Defence) of the other Party of such detention.

Article 72

(1) A person who has been detained in provisional custody may be discharged out of custody if, within a period of one month from the date of despatch of the notification as provided in article 71, paragraph 4, no information is received from the other Party that an application for extradition will be lodged.

(2) A detained person may also be discharged if an application for extradition, together with the documents referred to in article 67, is not received within a period of two months reckoned from the date of despatch of the notification as provided in article 71, paragraph 4.

Postponement of extradition

Article 73

If proceedings have been taken against the person whose extradition is requested or if he has been sentenced for another offence or detained in custody for another reason in the territory of the Party applied to, the latter shall nevertheless make a decision with respect to extradition. Extradition may, however, be postponed until the proceedings taken in the territory of the Party applied to are closed, or the sentence served or remitted, or until detention is ended for another reason.

Temporary extradition

Article 74

At the request, stating the reasons, of the Party making the application, permission for temporary extradition will, nevertheless, be granted even in the case referred to in article 73 if, under the laws of the Party making the application, postponement of extradition might entail either prescription or other important consequences prejudicial to the criminal proceedings, provided such postponement does not conflict with the particular interests of the jurisdiction of the Party applied to. A person extradited temporarily must be returned as soon as the criminal proceedings in connexion with which temporary extradition was granted are completed or as soon as the criminal proceedings are concluded in the territory of the Party making the application.

Communication of the results of criminal proceedings

Article 75

The Party to which the person proceeded against is extradited shall, at the request of the Party which made the surrender, inform the latter of the final result of the criminal proceedings and, in the event of a legally valid judgment having been pronounced, shall transmit a copy thereof to that Party. This provision shall also apply in the cases referred to in article 63.

CHAPTER VIII

Reciprocal legal assistance in criminal matters
Direct relations

Article 76

(1) The Parties will, if so requested, give each other legal assistance in criminal matters by means of direct relations between the judicial authorities.

(2) In particular, these authorities will, reciprocally, effect the service of documents connected with criminal proceedings, including sentences, conduct preliminary investigations, such as, the examination of accused persons, witnesses and legal experts, court investigations, searches and sequestrations of effects, and transmit to each other acts, documents and material evidence.

Language of applications

Article 77

(1) Applications for the service of documents or for the granting of other legal assistance shall be drawn up in the national language of the Party making the application and shall be sealed with the official seal.

(2) The authority applied to shall execute the application in its own national language and shall affix its official seal to the application.

(3) If it is requested that a document be served on the recipient personally, it must be accompanied by a legalized translation into the language of the Party applied to. In default of a translation, the authority applied to may confine itself to serving the document by delivering it to the recipient, if he is willing to accept it.

Execution of applications

Article 78

(1) Service of documents and applications for legal assistance will be executed in accordance with the laws of the Party in whose territory the required action is to be taken.

(2) At the request of the authority making the application an application may be executed in a special form, if this does not conflict with the laws of the Party applied to.

Reference of application to competent authority

Article 79

If the authority applied to is not the proper authority to deal with the matter, it shall officially refer the application to the competent authority and shall at the same time directly inform the authority making the application of this fact.

Refusal to grant legal assistance

Article 80

(1) Legal assistance in criminal matters may be refused if the offence in respect of which legal assistance is requested is not an extradition offence within the meaning of the present convention.

(2) If the service requested does not fall within the competence of the judicial authorities in the territory of the Party applied to or if the Party in whose territory such service is to be carried out considers that it would jeopardize its sovereign rights or its security, the application may be refused.

Summons to appear before foreign authorities

Article 81

(1) If, in the course of criminal proceedings before the courts of one Party, the personal appearance of a witness or expert residing in the territory of the other Party is required, application should be made to the competent court of that Party for the service of a summons.

(2) The summons shall not contain a threat of penalties in the event of failure to attend.

(3) A witness or expert who has voluntarily answered a summons to appear before a court of the other Party shall not be liable to any proceedings or detention in the territory of the other Party in connexion with a previous criminal offence, and he shall not be sentenced as an accessory to a criminal offence which is the subject of the proceedings for which he was summoned.

(4) The witness or expert shall forfeit these privileges if he fails, through his own fault, to leave the territory of the Party making the application within a week from the date when he is informed by the court that his attendance in court is no longer required.

Article 82

(1) If the person summoned is under detention in the territory of the Party applied to, the competent Ministries of that Party may be asked to extradite him temporarily, subject to the undertaking that he will be sent back as soon as possible. Such extradition may be granted if the person in question does not explicitly object thereto.

(2) Subject to the provisions of article 81, the competent Ministry shall authorize the passage in both directions across the territory of his own State of a person detained in a third State who is to be heard as a witness or to be confronted.

Handing over of material evidence

Article 83

(1) The judicial authorities of the two Parties will, if so requested, hand over to one another articles acquired by an accused person as a result of an offence and also articles which are to serve as material evidence, even though they are liable to confiscation, deterioration or forfeiture. The authority handing over the articles may stipulate that they should be returned at the earliest possible date.

(2) If such articles were in the possession of the accused at the time of his extradition, whether direct or in transit, they shall, as far as possible, be handed over simultaneously with the extradition of the accused. Such articles shall be handed over even in cases where the extradition of the accused cannot be carried out owing to his death or escape. Articles concealed or deposited by the accused in the territory of the Party which granted extradition shall also be handed over, even though the articles were only discovered subsequently.

(3) The rights of the Party applied to or of third parties to the above-mentioned articles shall not be affected, and the articles shall be returned immediately and free of cost on the conclusion of the criminal proceedings.

CHAPTER IX

Communication of sentences and extracts from records of previous convictions

Article 84

(1) The Parties shall communicate to each other copies of records of previous convictions or extracts from valid convictions if they concern nationals of the other Party and if, in accordance with the provisions binding on the court which pronounced sentence, they are entered in the records of previous convictions. They shall also communicate further decisions relating to the said sentences if these are included in the records of previous convictions.

(2) The said copies and extracts will be exchanged directly between the Ministries of Justice.

Article 85

(1) The authorities of either Party responsible for keeping records of previous convictions shall supply the judicial authorities of the other Party on their direct request and free of charge with information from the records of previous convictions.

(2) Similar information shall be supplied by the criminal records offices in response to a direct application therefor to the head offices of the criminal police services of the other Party: in Poland, the *Komenda Główna Milicji Obywatelskiej* (National Militia Headquarters) and in Czechoslovakia, the *Kriminální Ústředna* (Central Directorate of Criminal Police).

Chapter X

Costs of legal assistance in criminal cases

Article 86

(1) The costs entailed by a request for extradition or for legal assistance in criminal cases, including the remuneration of witnesses and experts, shall be borne by the Party in whose territory the costs have been incurred.

(2) The Party applied to shall pay provisionally the costs incurred in connexion with transit through its territory and with the temporary extradition of persons in accordance with articles 66 and 82. Nevertheless, such costs shall be refunded to the Party applied to.

PART III

Legal information

Chapter XI

Article 87

(1) The Ministries of Justice of the two Parties shall supply each other with information on the laws in force in the territories of their States.

(2) The information will be supplied at the request of the Ministry of Justice of one Party by the Ministry of Justice of the other Party.

Article 88

The request, which shall be drawn up in the language of the Party making the application, should contain a detailed statement of the point of law in respect of which information is to be given.

PART IV

Chapter XII

Final provisions

Article 89

The present convention, which is drawn up in the Polish and Czech languages, both texts being equally authentic, will be ratified. The instruments of ratification will be exchanged at Prague as soon as possible.

It shall come into force one month after the exchange of the instruments of ratification and shall remain in force for six months from the date on which notice of termination is given by either of the Parties.

On the date on which the present convention comes into force, the following instruments shall cease to have effect:

(*a*) Convention with regard to the settlement of legal relations in civil, penal and non-contentious cases, concluded between the Polish Republic and the Czechoslovak Republic, signed at Prague, 6 March 1925;[1]

(*b*) Convention between the Polish Republic and the Czechoslovak Republic on reciprocity in the matter of succession, signed at Prague, 25 January 1934;[2]

(*c*) Convention between the Polish Republic and the Czechoslovak Republic concerning the reciprocal execution of enforceable decisions and instruments and reciprocity in bankruptcy proceedings, signed at Prague, 10 February 1934.[3]

IN FAITH WHEREOF the plenipotentiaries have signed the present convention and have affixed their seals thereto.

DONE in duplicate, at Warsaw, on 21 January 1949.

[L. S.] (*Signed*) H. ŚWIATKOWSKI

(*Signed*) Dr. Alexej ČEPIČKA

ADDITIONAL PROTOCOL

TO THE CONVENTION BETWEEN THE POLISH REPUBLIC AND THE CZECHOSLOVAK REPUBLIC CONCERNING RECIPROCAL LEGAL RELATIONS IN CIVIL AND CRIMINAL CASES

The plenipotentiary representatives of the Polish Republic and the Czechoslovak Republic, on signing the Convention concerning reciprocal legal relations in civil and criminal cases, declare on behalf of their respective Governments their agreement on the following points:

1. Any matters arising in connexion with the carrying out of the present convention and consequent on changes in the legislation of both Parties deriving

[1] League of Nations, *Treaty Series*, Volume XLVI, page 201.
[2] League of Nations, *Treaty Series*, Volume CLXXVII, page 139.
[3] League of Nations, *Treaty Series*, Volume CLXXVIII, page 159.

from the codification of their civil and criminal legal systems will be settled by the Polish-Czechoslovak Law Commission.

2. The expression "courts" in the text of article 56 shall be deemed to mean any judicial authority and the expression "judicial authorities" in article 76, paragraph 1, shall be deemed to include courts also.

3. The provisions of article 84, paragraph 1, shall also apply to conditional sentences.

4. The Parties shall supply one another with schedules showing the territorial areas of their civil courts, courts martial and other judicial organs.

IN FAITH WHEREOF the plenipotentiaries of the two Parties have signed the present protocol, which shall have the same validity as the convention.

DONE in duplicate, at Warsaw, on 21 January 1949.

(*Signed*) H. ŚWIATKOWSKI

(*Signed*) Dr. Alexej ČEPIČKA
