

No. 24352

FRANCE
and
CZECHOSLOVAKIA

Convention concerning judicial assistance and the recognition and enforcement of decisions in civil, family and commercial matters. Signed at Paris on 10 May 1984

Authentic texts: French and Czech.

Registered by France on 30 September 1986.

FRANCE
et
TCHÉCOSLOVAQUIE

Convention relative à l'entraide judiciaire, à la reconnaissance et à l'exécution des décisions en matière civile, familiale et commerciale. Signée à Paris le 10 mai 1984

Textes authentiques : français et tchèque.

Enregistrée par la France le 30 septembre 1986.

[TRANSLATION — TRADUCTION]

CONVENTION¹ BETWEEN THE GOVERNMENT OF THE FRENCH REPUBLIC AND THE GOVERNMENT OF THE CZECHOSLOVAK SOCIALIST REPUBLIC CONCERNING JUDICIAL ASSISTANCE AND THE RECOGNITION AND ENFORCEMENT OF DECISIONS IN CIVIL, FAMILY AND COMMERCIAL MATTERS

The Government of the French Republic and the Government of the Czechoslovak Socialist Republic, desiring to promote the relations of friendship and co-operation between the two States and their nationals in accordance with the Final Act of the Conference on Security and Co-operation in Europe², and

Wishing to develop their reciprocal relations in the legal sphere,
Have agreed on the following provisions:

Chapter I. GENERAL PROVISIONS

Article 1. 1. Nationals of each of the two States shall, in the territory of the other State, have free and unimpeded access to the judicial authorities, under the same conditions as the nationals of that other State, for the assertion and defence of their rights and interests.

2. Bodies corporate which are constituted in accordance with the laws of one of the two States and have their headquarters in its territory shall enjoy the same legal protection as nationals of the two States.

Article 2. 1. For the purposes of this Convention, judicial assistance between the two States shall be conducted through their Ministries of Justice.

2. Instruments and documents which are transmitted by the Ministries of Justice shall be exempted from authentication or any equivalent formality. In the event of doubt concerning the authenticity of a document, the Ministry of Justice of the requested State shall send a request for information to the Ministry of Justice of the requesting State, in order to verify the authenticity of the document.

Article 3. 1. The Ministries of Justice may, as part of judicial assistance, address to each other requests for information or investigations in connection with civil, family and commercial proceedings before their judicial authorities and shall transmit to each other, free of charge, copies of judicial decisions. Judicial assistance shall extend to administrative procedures in respect of which appeal lies to the courts.

2. As part of the procedures for the protection of minors, they shall inform each other of measures of protection taken by their authorities and shall provide each other with assistance in conducting searches and in the voluntary repatriation of minors.

¹ Came into force on 1 July 1985, i.e., the first day of the second month following the date of the last of the notifications by which the Contracting Parties had informed each other (on 22 January and 6 May 1985) of the completion of the required constitutional procedures, in accordance with article 24.

² *International Legal Materials*, vol. 14 (1975), p. 1292 (American Society of International Law).

Article 4. The Ministries of Justice of the two States shall, upon request, transmit to each other information concerning the laws currently or previously in force in the territory of the State to which they belong.

Chapter II. PROVISIONS DESIGNED TO FACILITATE THE IMPLEMENTATION OF THE CONVENTION OF 1 MARCH 1954 RELATING TO CIVIL PROCEDURE, CONCLUDED AT THE HAGUE,¹ AND THE CONVENTION ON THE TAKING OF EVIDENCE ABROAD IN CIVIL OR COMMERCIAL MATTERS, CONCLUDED ON 18 MARCH 1970 AT THE HAGUE.²

Article 5. 1. Nationals of each of the States, whatever their domicile or residence, shall be entitled to full or partial legal aid in the other State under the same conditions and in accordance with the same régime as nationals themselves.

2. The Party afforded legal aid shall benefit from it without any new investigation, and to the extent provided for by the legislation of the requesting State in respect of acts and procedures designed to secure recognition of a decision or to make it enforceable as well as acts and procedures relating to execution in the requested State.

Article 6. 1. The Ministries of Justice shall transmit to each other applications for legal aid deriving from their nationals and shall inform each other of the action taken on those applications.

2. The supporting documentation of applications for legal aid may be drawn up in the language of the applicant Party.

3. Communications in connection with examination of the applications for legal aid shall be effected by the Ministries of Justice in their respective languages.

Article 7. 1. Certificates of need shall be issued to applicants who are resident in the territory of one of the two States by the authorities of the applicant's place of habitual residence. Such certificates shall be issued to applicants who are resident in a third country by the diplomatic or consular authority of the applicant's country having territorial competence.

2. When the applicant is resident in the State in which the application is made, additional information may be sought from the authorities of the State of which he is a national.

3. When the applicant is not resident in the territory of the State in which the application is made, he may, at the request of the authorities of that State, be heard by the competent authorities of the State in which he is resident.

Article 8. Nationals of either State, who are claimants or intervenors before the courts of the other State, may not be required to deposit security for legal costs or to make any other deposit by reason of their status as aliens.

Article 9. 1. Requests for the service and notification of documents in civil, family and commercial matters emanating from either State shall be received by their Ministries of Justice, who shall be responsible for taking action thereon. Judicial assistance shall extend to administrative procedures in respect of which appeal lies to the courts.

¹ United Nations, *Treaty Series*, vol. 286, p. 265.

² *Ibid.*, vol. 847, p. 231.

2. Receipts, certificates and reports relating to the service or non-service of documents shall be transmitted through the same channel.

3. Where it has not been possible to serve the document, the requested State shall state the reason therefor.

Article 10. 1. The service of documents shall be effected in accordance with the legislation of the requested State.

2. However, each State shall have the option of proceeding, directly and without constraint, through its diplomatic or consular agents to the service of documents intended for its own nationals.

Article 11. 1. Requests for service or notification shall be drawn up on bilingual forms, a model of which is annexed to this Convention. The blank forms shall be filled out in the language of the requesting State.

2. Proof of the service of a document shall be furnished by means of a receipt drawn up on a bilingual form, a model of which is annexed to this Convention. The blank forms shall be filled out in the language of the requested State.

Article 12. 1. Documents in respect of which service or notification is requested shall be drawn up in the language of the requesting State.

2. However, such documents shall be translated into the language of the requested authority when so requested by the intended recipient. In such case, the costs of translation shall continue to be the responsibility of the requested State.

Article 13. The taking of evidence in civil, family or commercial matters shall be effected in accordance with the provisions of The Hague Convention of 18 March 1970 on the taking of evidence abroad in civil or commercial matters. Judicial assistance shall extend to administrative procedures in respect of which appeal lies to the courts.

Article 14. Letters rogatory must be drawn up in the language of the requested authority or accompanied by a translation into that language. They shall be addressed "to any locally competent authority" of the requested State.

Article 15. 1. The execution of a letter rogatory shall not give rise to the refunding of taxes or costs of any kind.

2. However, the requested State shall have the right to require the requesting State to refund fees paid to experts.

Article 16. If the address of the intended recipient of the document or of the person being convened for hearing is incomplete or inaccurate, the requested authority shall nevertheless try to comply with the request. To this end, it may ask the requesting State for supplementary information so as to be able to identify and search for the person in question.

Chapter III. TRANSMITTAL OF CIVIL REGISTRY DATA

Article 17. 1. The two Contracting Parties shall automatically and without charge exchange extracts of all entries in the civil registry that concern their nationals. Copies of death certificates shall be transmitted without delay. Other copies shall be transmitted in a group every six months.

2. Where the request is made for administrative purposes or on behalf of indigent persons, each Contracting Party undertakes to transmit without cost to the other Party, depending on the request, copies or extracts of any civil registry entry prepared in its territory and relating to nationals of the requesting State, as well as copies of decisions rendered in respect of civil registry information.

3. When the request is made by nationals of one of the States, each Party undertakes to issue under the same conditions as to its nationals, copies or extracts of any civil registry entry made in its territory, and copies of decisions rendered in respect of civil registry information.

4. Nationals of either State may communicate directly with the competent authority of the other State.

5. The transmittal of civil registry entries shall be carried out through the diplomatic or consular channel.

6. The fact that a copy of or an extract from a civil register has been issued shall not prejudice the nationality of the person concerned.

Chapter IV. EVIDENTIARY FORCE OF DOCUMENTS AND EXEMPTION FROM AUTHENTICATION

Article 18. 1. Documents to which the law of one of the States accords the value of authentic documents shall have the same evidentiary force in the territory of the other State.

2. Documents emanating from the competent authorities of either State, and private documents authenticated by those authorities, provided that they bear the signature and official seal of the authority competent to issue them, shall be exempted from authentication or any equivalent formality when they are to be presented in the territory of the other State.

3. In the event of doubt concerning the authenticity of a document, any national and any authority of either State shall be entitled to submit a request for information to the Ministry of Justice of the other State for the purposes of verifying the authenticity of the document.

Chapter V. RECOGNITION AND EXECUTION OF JUDICIAL DECISIONS AND ACCREDITED LEGAL DOCUMENTS

Article 19. 1. The provisions of this chapter shall apply to the recognition and execution of decisions rendered by the courts of the two States in civil, family and commercial cases. These provisions shall extend to administrative procedures in respect of which appeal lies to the courts.

2. They shall apply to decisions rendered by criminal courts with regard to compensation for damage and the return of property.

Article 20. All decisions rendered in adversary and non-adversary proceedings by any court having its headquarters in the territory of one of the two States shall be recognized as having full legal validity and shall have the authority of *res judicata* in the territory of the other State.

For this purpose, they must satisfy the following conditions:

- (a) The decision was rendered by a court which is competent under the rules governing conflicts of competence accepted in the State in which the decision was invoked;

- (b) The decision is in implementation of the law applicable to the dispute under the rules for the solutions of conflicts of laws accepted in the State in which the decision is invoked;
- (c) Under the law of the State in which it was rendered, the decision, if rendered in respect of personal status, or legal capacity is enforceable and, if rendered in any other matter, has acquired the force of *res judicata*;
- (d) The parties were duly summoned, represented or declared in default;
- (e) The decision contains nothing repugnant to the public policy of the State in which it is invoked;
- (f) No action between the same parties, based on the same facts and having the same object:
 - Is pending before a court of the requested State which was seized of it first, or
 - Has given rise to a decision rendered in the requested State with the force of *res judicata*, or
 - Has given rise to a decision rendered in a third State which satisfies the necessary conditions for its recognition with the force of *res judicata* in the requested State.

Article 21. The procedure for securing recognition or enforcement of the decision, and the conditions of enforcement, shall be regulated by the law of the requested State.

Article 22. 1. The party to the proceedings which requests the enforcement of a judicial decision must produce:

- (a) A copy of the decision satisfying the requirements laid down for authentication;
- (b) The original certificate of service of the decision, or any equivalent original document in lieu of the certificate of service or notification;
- (c) A certificate issued by the competent authority indicating that the decision meets the conditions necessary for enforcement or has acquired the force of *res judicata*;
- (d) Where applicable, a copy, certified correct by the competent authority of the court which rendered the decision, of the summons served on the defaulting party, and all documents that may serve to establish that such summons was received in good time by the person concerned.

2. The documents referred to in the preceding paragraph must be accompanied by a certified translation by a sworn translator, or any other qualified person.

Article 23. 1. Certified legal documents, including in particular notarized documents and authenticated documents which are enforceable in either State shall be declared enforceable in the other State, by the competent authority, in accordance with the law of the State in which execution is requested. The same shall apply to compromise settlements concluded or approved before a judge or competent authority of either State.

2. The said authority shall examine only the question of whether the documents meet the requirements for authenticity in the State in which they were prepared and whether the provisions whose enforcement is sought are not contrary to the public policy of the State in which enforcement is requested or to the principles of law applicable in that State.

Chapter VI. FINAL PROVISIONS

Article 24. Each Contracting Party shall notify the other of the completion of the procedures required by its Constitution for the entry into force of this Convention; the Convention shall take effect on the first day of the second month following the last such notification.

Article 25. This Convention shall be concluded for an indefinite period. However, either Contracting Party may denounce it at any time by means of notification sent through the diplomatic channel at least six months in advance to the other Contracting Party.

Article 26. From the time of its entry into force, this Convention shall replace and abrogate the Convention between France and Czechoslovakia concerning judicial protection and legal assistance in civil and commercial matters, signed on 7 May 1928.¹

DONE at Paris on 10 May 1984, in duplicate in the French and Czech languages, both texts being equally authentic.

For the Government
of the French Republic:

[CLAUDE CHEYSSON]

For the Government
of the Czechoslovak Socialist Republic:

[BOHUMIL CHNOUPEK]

ANNEX

REQUEST FOR NOTIFICATION

Convention between the Government of the French Republic and the Government of the Czechoslovak Socialist Republic concerning judicial assistance and the recognition and enforcement of decisions in civil, family and commercial matters of

Done at on

- | | |
|---|--|
| <p>1. Requesting authority
Ministry of Justice
Address:</p> | <p>2. Requested authority
Ministry of Justice
Address:</p> |
| <p>3. Ref. of the requesting authority:</p> | |
| <p>4. <i>Purpose:</i> Notification of a judicial or extrajudicial document in civil, family and commercial matters (document annexed)</p> | |
| <p>5. Intended recipient of the document:</p> | |
| <p>A. Name (in block capitals) and first names</p> | |
| <p>B. Where applicable, additional details to assist in identifying the intended recipient</p> | |

¹ League of Nations, *Treaty Series*, vol. CXIV, p. 171.

C. Address:

- (1) No. street, — Square — etc.
- (2) District — town
- (3) Province — department
- (4) Postal code

6. Notification requested:

- A. By delivery
- B. By the following special method (translation of the document and commitment to costs annexed)

The requested authority is asked to return or arrange to have returned to the requesting authority the Certificate appearing overleaf.

SIGNATURE and/OR SEAL

(Reverse side of the request)

CERTIFICATE(*)

The undersigned authority has the honour to certify

7. That the request was executed
- A. On (date)
 To (district, street no.)
- B. By one of the following methods:
- (1) By delivery
- (2) By the following special method (with an indication, where applicable, of the costs incurred)
- C. The documents referred to in the request were delivered to:
- Identity and status of person;
- Link with the intended recipient of the document (relationship, employee status, etc.).
8. That the request was not executed, for the following reasons:
9. Annexes (where applicable)
- A. Documents certifying operations carried out
- B. Documents returned, including documents returned in cases of non-execution of the request
10. Requested authority
- Designation of service

Done at on

SIGNATURE and/OR SEAL

(*) This certificate is drawn up in the language of the certifying authority.