

**No. 26454**

---

**SPAIN  
and  
CZECHOSLOVAKIA**

**Convention concerning judicial assistance and recognition  
and enforcement of judgements in civil matters. Signed  
at Madrid on 4 May 1987**

*Authentic texts: Spanish and Czech.*

*Registered by Spain on 27 February 1989.*

---

**ESPAGNE  
et  
TCHÉCOSLOVAQUIE**

**Convention relative à l'entraide judiciaire, à la reconnais-  
sance et à l'exécution des décisions judiciaires en matière  
civile. Signée à Madrid le 4 mai 1987**

*Textes authentiques : espagnol et tchèque.*

*Enregistrée par l'Espagne le 27 février 1989.*

## [TRANSLATION — TRADUCTION]

CONVENTION<sup>1</sup> BETWEEN THE KINGDOM OF SPAIN AND THE CZECHOSLOVAK SOCIALIST REPUBLIC CONCERNING JUDICIAL ASSISTANCE AND RECOGNITION AND ENFORCEMENT OF JUDGEMENTS IN CIVIL MATTERS

The Kingdom of Spain and the Czechoslovak Socialist Republic, endeavouring to strengthen further the friendly relations and cooperation between the two States in accordance with the Final Act of the Conference on Security and Cooperation in Europe,<sup>2</sup> and wishing to facilitate their citizens' access to the judicial authorities of the other State, to recognize and enforce all judgements rendered in the territory of the other State and to regulate judicial assistance in the field of civil law;

Considering the need to expand and facilitate their judicial relations, which are regulated by the Convention relating to civil procedure signed at The Hague on 1 March 1954<sup>3</sup> and by other multilateral international conventions on legal assistance to which both States are parties;

And desiring to improve mutual judicial cooperation, which until now has been regulated by the Agreement regarding reciprocal Judicial Assistance in Civil and Commercial Matters signed at Madrid on 26 November 1927<sup>4</sup> and the Convention regarding the Recognition and Enforcement of Judicial Decisions signed at Madrid on 26 November 1927;<sup>5</sup>

Have decided to conclude this Convention and to this end have agreed as follows:

## CHAPTER I. GENERAL PROVISIONS

*Article 1*

1. Citizens of one Contracting Party shall enjoy in the territory of the other Contracting Party the same legal protection, in matters affecting their person and property, as citizens of that other Contracting Party.

2. Citizens of one Contracting Party shall be able to appear before the judicial authorities of the other Contracting Party and to defend their rights, present petitions, bring actions and apply for forms of review on the same conditions as citizens of the other Contracting Party.

3. The provisions of this Convention concerning citizens of the Contracting Parties shall apply, *mutatis mutandis*, to legal entities with headquarters in the territory of either Contracting Party and instituted in accordance with the laws of one of those Parties.

<sup>1</sup> Came into force on 10 December 1988, i.e., 60 days after the exchange of the instruments of ratification, which took place at Prague on 11 October 1988, in accordance with article 26 (2).

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

<sup>3</sup> United Nations, *Treaty Series*, vol. 286, p. 265.

<sup>4</sup> League of Nations, *Treaty Series*, vol. CXXI, p. 287.

<sup>5</sup> *Ibid.*, p. 311.

### Article 2

1. For the purposes of this Convention, the term “civil matters” shall also include family and commercial matters.

2. For the purposes of this Convention, the term “judicial authority” shall mean any State organ of either Contracting Party having competence in matters regulated by this Convention in accordance with the laws of that State.

3. If, in applying this Convention, any doubts should arise as to a person’s nationality, either Contracting Party shall inform the other, at the latter’s request, whether the person in question does or does not hold its citizenship.

### Article 3

1. In applying this Convention and except as otherwise provided therein, the judicial authorities of the Contracting Parties shall maintain contact through their competent central authorities.

2. For the purposes of this Convention, the central authorities shall be:

(a) For Spain:

— The Ministry of Justice;

(b) For the Czechoslovak Socialist Republic:

— The Office of the Attorney General of the Czechoslovak Socialist Republic;

— The Ministry of Justice of the Czech Socialist Republic;

— The Ministry of Justice of the Slovak Socialist Republic.

3. In applying this Convention, the central authorities of the Contracting Parties shall use their respective language in their communications.

## CHAPTER II. JUDICIAL ASSISTANCE IN CIVIL MATTERS

### Article 4. MANNER OF COMMUNICATION

1. In order to facilitate compliance with the Convention relating to civil procedure signed at The Hague on 1 March 1954, the Contracting Parties have agreed to supplement this Convention with the additional provisions contained in this chapter.

2. As an additional provision to the Convention relating to civil procedure signed at The Hague on 1 March 1954, the judicial authorities of the Contracting Parties shall maintain contact in the manner described in article 3 of this Convention.

### Article 5. REQUESTS FOR JUDICIAL ASSISTANCE

1. Requests for judicial assistance shall contain the following:

(a) The name of the competent authority;

(b) The name of the requested authority;

(c) Specific details of the case in which legal assistance is being requested;

(d) The names and surnames of the parties and their legal representatives, if any, their place of permanent or temporary residence, their citizenship and occupation, and also their place and date of birth and the names and surnames of

their parents, if possible, and, in the case of legal entities, their name and headquarters;

(e) The nature of the request and data giving all necessary information for processing it.

2. The request shall indicate the date on which it was sent, shall be signed and shall bear the seal of the competent authority.

3. If the address given in the request for judicial assistance is incorrect or if the person referred to therein does not reside at the address given, the requested authority shall take the necessary steps to determine the correct address.

4. After processing the request for judicial assistance, the requested authority shall return the documents to the requesting authority. If the request for judicial assistance cannot be met, the requested authority shall return the documents to the requesting authority with the reasons why it was not possible to meet the request.

#### *Article 6. SERVICE OF DOCUMENTS*

1. The certificate of service shall be sent immediately to the requesting Contracting Party.

2. If service cannot be effected, the requested Contracting Party shall immediately communicate the reasons to the requesting Contracting Party.

#### *Article 7. PROCESSING OF REQUESTS FOR JUDICIAL ASSISTANCE THROUGH DIPLOMATIC MISSIONS OR CONSULAR OFFICES*

The Contracting Parties shall be free to serve documents on their own citizens, and also to examine them, through their diplomatic missions or consular offices. No coercion shall be used in such cases.

#### *Article 8. PROTECTION OF WITNESSES AND EXPERTS*

1. No person who is to be questioned as a witness or expert before the civil judicial authority of one of the Contracting Parties and who resides in the territory of the other Contracting Party is obliged to obey a summons to appear before that authority; accordingly, the summons shall contain no threat of coercion should that person fail to appear.

2. No person of any nationality who resides in the territory of one of the Contracting Parties and who, in response to a summons, appears as a witness or an expert before the judicial authority of the other Contracting Party may be prosecuted, or subject to any restrictions on his personal liberty, in the territory of that Contracting Party in connection with a criminal act or conviction arising prior to his having crossed the border of the requesting Contracting Party to comply with the summons. Neither may such person be tried with a view to obtaining his testimony or expert evidence.

3. The protection provided for in paragraph 2 of this article shall cease to apply if the witness or expert fails to leave the territory of the requesting Contracting Party within seven days from the date on which the judicial authority which summonsed him informs him that his presence is no longer necessary or if, having left the territory of the requesting Contracting Party, he returns voluntarily. Such time-limit shall not include any period during which the witness or expert was unable, for reasons beyond his control, to leave the territory of that Contracting Party.

4. Any person who has received a summons shall be entitled to compensation for travel costs and living expenses and for loss of earnings; experts shall also be entitled to examination fees for their expert evidence. The type of compensation to which the summonsed person is entitled shall be established in the summons and the person shall be furnished with an advance against such expenses, upon request.

#### *Article 9. COSTS OF JUDICIAL ASSISTANCE*

1. The Contracting Parties shall not demand reimbursement of the costs of processing a request for judicial assistance, for examination fees and other costs incurred in obtaining expert evidence.

2. The processing of a request for expert evidence may be subject to payment of a deposit.

3. Upon request, the requested authority shall inform the requesting authority of the amount of the costs incurred in meeting the request for legal assistance.

#### *Article 10. LEGAL INFORMATION*

Upon request, the central authorities of the Contracting Parties concerned with the present scope of this Convention shall provide each other with information concerning the legal norms that are or have been in force in their respective territories, the text of such norms, and with information on the practice of the judicial authorities.

#### *Article 11. VALIDITY AND EVIDENTIAL FORCE OF DOCUMENTS*

1. Documents issued or certified in the prescribed form and sealed with the official seal of the competent State authority or official designated by the laws of one of the Contracting Parties shall not require any further authentication in the territory of the other Contracting Party. The same shall apply to signatures on documents and to signatures verified according to the norms of one of the Contracting Parties.

2. For the purpose of this Convention, public documents issued in the territory of one of the Contracting Parties shall have the same evidential force before the State authorities of the other Contracting Party as they enjoy under the law of the Contracting Party in which they were issued.

#### *Article 12. VERIFICATION OF ADDRESSES AND OTHER DATA*

1. The central authorities of the Contracting Parties shall, upon request, assist each other in verifying the addresses of persons residing in their territory, should that be necessary for promoting the rights of their citizens.

2. If a claim for maintenance is submitted to a judicial authority of one Contracting Party against a person residing in the territory of the other Contracting Party, the latter Party shall, upon request, provide assistance in verifying the source and the amount of that person's income.

#### *Article 13. TRANSFER OF BIRTH, MARRIAGE AND DEATH CERTIFICATES AND OTHER DOCUMENTS RELATING TO CIVIL STATUS*

1. Each Contracting Party shall provide the other Contracting Party with certificates of the birth, marriage or death of citizens of the latter Party, as well as with information on any alteration of such records concerning such citizens. Such certificates shall be sent as soon as the entry has been made in the register.

2. Either Contracting Party shall, at the request of the other Contracting Party, provide such certificates for official use.

3. The certificates mentioned in this article shall be provided free of charge through the diplomatic channel.

#### *Article 14*

Applications by citizens of the Contracting Parties for birth, marriage and death certificates or other documents relating to civil status may be sent directly to the competent registry authority or to the judicial authority of the other Contracting Party. Any documents requested shall be sent to the applicant through the diplomatic mission or consular office of the State whose authority issued the document. The diplomatic mission or consular office shall, on handing over the document, charge the applicant a fee for its issuance.

The provisions of article 25 of the Convention relating to civil procedure signed at The Hague on 1 March 1954 shall not be affected by this article.

#### *Article 15*

Each Contracting Party shall send the other Contracting Party copies of any final judgements concerning the civil status of citizens of that other Party, in the manner described in article 13, paragraph 3, of this Convention.

### CHAPTER III. RECOGNITION AND ENFORCEMENT OF JUDGEMENTS

#### *Article 16*

Each Contracting Party shall recognize and enforce in its territory the following judgements rendered in the territory of the other Contracting Party:

- (a) Judgements of the judicial authorities in civil matters;
- (b) Judgements of the judicial authorities in criminal matters relating to the payment of compensation and other claims under civil law;
- (c) Awards by arbitral tribunals.

#### *Article 17*

The provisions of this chapter shall not apply to the following:

- (a) Bankruptcy, composition or other similar proceedings;
- (b) Decisions on social security matters;
- (c) Decisions on compensation for damage caused by nuclear power.

#### *Article 18*

For the purposes of this chapter:

(a) "Judgement" shall mean any binding judgement rendered by judicial authorities or arbitral tribunals, as well as any settlement approved by them.

(b) "Court of origin" shall mean the judicial authority which rendered the judgement whose recognition and enforcement is sought.

(c) "State of origin" shall mean the Contracting Party in whose territory the court of origin has its seat or in which the arbitral award was made.

(d) “Requested court” shall mean the judicial authority that has to render the decision on recognition and enforcement of judgements.

(e) “Requested State” shall mean the Contracting Party in whose territory the recognition and enforcement of the judgement is being sought.

#### Article 19

1. For the purposes of this chapter, the court of origin shall be deemed to have jurisdiction:

- (a) If, on the date of the institution of proceedings, the defendant had his permanent or temporary residence in the State of origin;
- (b) If, on the date of the institution of proceedings, the defendant had a commercial, industrial or other establishment or branch in the State of origin and was served with a summons by reason of an activity of such establishment or branch;
- (c) If, in the case of a claim for damages, the tort was committed in the State of origin;
- (d) If the proceedings relate to immovable property situated in the State of origin;
- (e) If the Parties have, by written agreement, submitted to the jurisdiction of the court of origin disputes which have arisen or may arise out of a specific legal relationship, unless the law of the requested State does not allow such an agreement because of the nature of the dispute;
- (f) If the proceedings relate to a contractual obligation and the Parties agree expressly that the obligation was or could be met in the territory of the State of origin;
- (g) If the proceedings relate to the inheritance of movable property and the deceased was at the time of his death a national of the State of origin.

2. With respect to any maintenance judgements that may be rendered, the authorities of the Contracting Parties shall be deemed to have jurisdiction by virtue of article 3 of the Convention concerning the recognition and enforcement of decisions relating to maintenance obligations towards children, concluded at The Hague on 15 April 1958.<sup>1</sup>

#### Article 20

The judgements referred to in article 16 of this Convention shall be recognized and enforced, provided that:

- (a) The court of origin is deemed to have jurisdiction within the meaning of the provisions of article 19 of this Convention;
- (b) The judgement is final and enforceable under the laws of the State of origin;
- (c) The recognition and enforcement of the judgement does not conflict with the exclusive competence of the authorities of the requested State;
- (d) The party against whom the judgement was rendered, although summonsed within the time and in the manner stipulated by the laws of the State of origin, failed to take part in the proceedings and, if unable to litigate, was properly represented;

<sup>1</sup> United Nations, *Treaty Series*, vol. 539, p. 27.

- (e) The judgement does not contradict a final judgement rendered previously on the same matter between the same parties by the judicial authority of the requested State;
- (f) There are no proceedings pending between the same parties on the same matter before a court of the requested State and these proceedings were the first to be brought;
- (g) No judgement of a judicial authority of a third State rendered between the same parties on the same matter is recognized or enforced in the territory of the requested State;
- (h) The requested State considers that recognition or enforcement of the judgement would not be prejudicial to that Party's public policy (*ordre public*), its sovereignty or its security.

#### Article 21

Awards by arbitral tribunals shall be recognized and enforced on the conditions set forth in article 20 of this Convention, provided that:

- (a) The award is based on a written agreement concerning the competence of the arbitral tribunal and was made by that tribunal within the sphere of competence recognized by that agreement; and
- (b) The agreement on the competence of the arbitral tribunal is valid under the law chosen by the parties or, if no choice was made, under the laws of the requested State.

#### Article 22

Recognition or enforcement of a judgement shall not be refused solely on the grounds that the court of origin applied a law other than the law which would have been applicable under the rules of private international law of the requested State. However, recognition or enforcement of a judgement may be refused if the court of origin ruled on a matter relating to the status or capacity of a party and arrived at a result other than that which would have ensued if the rules of private international law of the requested State had been applied to the matter.

#### Article 23

1. Interim enforcement decisions and decisions ordering interim measures shall, although subject to the ordinary forms of review, be recognized and enforced in the requested State if similar decisions could be rendered and enforced in that State.

2. Interim measures ordered by the judicial authorities of one Contracting Party shall be recognized and enforced in the territory of the other Contracting Party, although the proceedings between the same parties on the same matter are pending in the territory of the other Contracting Party if the judicial authority which ordered the protective measure is deemed to have jurisdiction within the meaning of article 19 of this Convention.

#### Article 24

1. The request for recognition or enforcement of the judgement may be submitted directly to the court or to the requested competent judicial authority that rendered the judgement as the authority of first instance; the latter shall transmit the



request to the judicial authority of the other Contracting Party in the manner stipulated in article 3 of this Convention.

2. The request shall be accompanied by the following documents:

- (a) An authenticated, complete copy of the judgement of the court of origin, conforming to the laws of either Contracting Party, containing a clause indicating that it is final and enforceable, unless this is obvious from the judgement itself;
- (b) A document certifying that notice of the judgement was duly served in accordance with the laws of the State of origin;
- (c) A document certifying that the party against whom the judgement was rendered and who failed to take part in the proceedings was summonsed, within the time and in the manner stipulated, to take part in the proceedings in accordance with the laws of the State of origin and that, if unable to litigate, was properly represented, unless this is obvious from the judgement itself;
- (d) A certified translation, in the language of the requested State, of the request and of the documents mentioned in subparagraphs (a), (b) and (c) of this paragraph.

#### *Article 25*

1. The requested court shall limit itself to verifying whether the conditions referred to in this Convention have been fulfilled.

This authority shall be bound by the factual grounds on which the court of origin based its jurisdiction, unless the decision was rendered by default.

2. If the judgement contains provisions that can be dissociated from one another, one or more of these may be recognized and enforced separately.

3. The requested court shall proceed in accordance with the laws of its State, unless otherwise provided in this Convention.

### CHAPTER IV. FINAL PROVISIONS

#### *Article 26*

1. This Convention shall be subject to ratification. The instruments of ratification shall be exchanged at . . . . .<sup>1</sup>

2. This Convention shall enter into force 60 days after the exchange of the instruments of ratification.

#### *Article 27*

1. On the day this Convention enters into force, the Agreement between the Czechoslovak Republic and the Kingdom of Spain on reciprocal judicial assistance in civil and commercial matters, signed at Madrid on 26 November 1927, and the Convention between the Czechoslovak Republic and the Kingdom of Spain on the recognition and enforcement of judicial decisions, signed at Madrid on 26 November 1927, shall cease to be valid.

2. The Protocol, signed on 13 August 1928 at Madrid, to the Convention regarding Extradition and Judicial Assistance in Criminal Matters,<sup>2</sup> to the Agreement regarding reciprocal Judicial Assistance in Civil and Commercial Matters, and to the

<sup>1</sup> The instruments were exchanged at Prague.

<sup>2</sup> League of Nations, *Treaty Series*, vol. CXXI, p. 271.

Convention regarding the Recognition and Enforcement of Judicial Decisions, which were concluded and signed on 26 November 1927 at Madrid between the Czechoslovak Republic and the Kingdom of Spain,<sup>1</sup> shall not be used for the present Convention.

*Article 28*

This Convention is concluded for an indefinite period. Either Contracting Party may terminate the Convention by giving written notice through the diplomatic channel. The notice of termination shall take effect one year after its receipt.

IN WITNESS WHEREOF, the Plenipotentiaries of the two Parties have signed this Convention and hereto affixed their seals.

DONE at Madrid on 4 May 1987 in two original copies, in the Spanish and Czech languages, both texts being equally authentic.

For the Kingdom  
of Spain:

[Signed]

FRANCISCO FERNÁNDEZ ORDÓÑEZ

For the Czechoslovak Socialist  
Republic:

[Signed]

BOHUSLAV CHŇOUPEK

---

<sup>1</sup> League of Nations, *Treaty Series*, vol. CXXI, p. 321.