

N° 648.

**ALLEMAGNE
ET TCHÉCOSLOVAQUIE**

Traité relatif aux garanties légales et à l'assistance mutuelle des tribunaux en matière civile, et protocole additionnel, signés à Prague le 20 janvier 1922.

**GERMANY
AND CZECHOSLOVAKIA**

Treaty concerning Legal Safeguard and Legal Assistance in proceedings under civil law, and additional Protocol, signed at Prague, January 20, 1922.

TEXTE TCHÈQUE. — CZECH TEXT.

No. 648. — SMLOUVA¹ MEZI ŘÍŠÍ NĚMECKOU A REPUBLIKOU ČESKOSLOVENSKOU O OCHRANĚ PRÁVNÍ A O PRÁVNÍ POMOCI VE VĚCECH OBČANSKÝCH, PODEPSANÁ V PRAZE, DNE 20. LEDNA 1922.

German and Czech official texts communicated by the German Consul at Geneva and by the Czechoslovak Minister at Berne. The registration of this Treaty took place on July 18, 1924.

ŘÍŠE NĚMECKÁ a REPUBLIKA ČESKOSLOVENSKÁ dohodly se uzavřítí smlouvu ku zajištění občanské ochrany právní příslušníků říše Německé v republice Československé a příslušníků Československé republiky v říši Německé, jakož i k úpravě právní pomoci ve věcech občanských mezi soudy obou smluvních stran.

Za tím účelem jmenovali zmocněnci :

PRESIDENT ŘÍŠE NĚMECKÉ :

Jeho Excellenci pana Dra. Walter-a KOCH-A, mimořádného vyslance a splnomocněného ministra,
pana Dra. Albert-a von BALIGAND-A, legačního radu v zahraničním úřadě, a
pana Dra. Erich-a VOLKMAR-A, tajného vládního radu a ministerského radu v říšském ministerstvu spravedlnosti,

PRESIDENT ČESKOSLOVENSKÉ REPUBLIKY :

pana Dra. Václava GIRSU, mimořádného vyslance a splnomocněného ministra a
pana Dra. Emila SPIRU, odborového přednostu v ministerstvu spravedlnosti.

Zmocněnci sdělivše si navzájem své plné moci a shledavše je v dobré a náležité formě, dohodli se na těchto ustanoveních :

PRVNÍ ODDÍL.

PRÁVNÍ OCHRANA VE VĚCECH OBČANSKÝCH.

Článek I.

Ve věcech občanských požívají příslušníci jedné smluvní strany co do zákonné a soudní ochrany jich osoby a jmění v území druhé smluvní strany, bez újmy tam platných zákonů jazykových, téhož postavení jako vlastní příslušníci.

¹ The exchange of ratifications took place at Berlin, May 28, 1924.

Mohou se za tím účelem volně a bez překážek dovolávati soudů a jednati tam za těchže podmínek jako vlastní státní příslušníci.

Článek 2.

Práva a povinnosti plynoucí z pařížské svazové dohody z 20. března 1883¹ o ochraně živnostenského vlastnictví, revidované v Bruselu dne 14. prosince 1900² a ve Washingtonu dne 2. června 1911³ uznávají se v poměru smluvních stran za závazné od zřízení neodvislého státu Československého dne 28. října 1918.

Článek 3.

Od příslušníků jedné smluvní strany, kteří před soudy druhé smluvní strany jednají jako žalobci neb intervenienti, nesmí býti pod jakýmkoliv názvem žádána jakákoli jistota nebo složení k soudu, proto, že jsou cizinci nebo že nemají v tuzemsku bydliště nebo pobytu.

Totéž platí i o zálohách, které by bylo požadovati od žalobců nebo intervenientů k úhradě nákladů soudních.

Článek 4.

Příslušníkům jedné smluvní strany přiznává se v území druhé strany právo chudých za těchže podmínek jako příslušníkům této strany.

DRUHÝ ODDÍL

PRÁVNÍ POMOC VE VĚCECH OBČANSKÝCH.

Článek 5.

Ve věcech občanských a obchodních doručují se spisy a vyřizují se dožádání o právní pomoc přímo mezi úřady smluvních stran.

V říši Německé přísluší přímé zaslání žádostí za doručení nebo za jinou právní pomoc všem soudům, jich převzetí pak presidentům zemských soudů.

V Československé republice zašlou přímo dožádání o doručení nebo o jinou právní pomoc a rovněž je převezmou předsednictva sborových soudů první stolice.

Je-li dožádáný úřad místně nepřislušným, postoupí dožádání z úřední povinnosti úřadu příslušnému a vyrozumí o tom neprodleně úřad dožadující.

Článek 6.

Dožádání o doručení a žádosti o právní pomoc sepsati jest v jazyku oficiálním dožadujícího státu. V nich udán bude dožadující úřad, jakož i jméno a postavení stran v řízení. V žádostech

¹ British and Foreign State Papers, vol. 74, page 44.

² British and Foreign State Papers, vol. 92, page 807.

³ British and Foreign State Papers, vol. 104, page 116.

¹ TRANSLATION.

No. 648. — TREATY BETWEEN THE GERMAN REICH AND THE CZECHOSLOVAK REPUBLIC CONCERNING LEGAL SAFEGUARDS AND LEGAL ASSISTANCE IN PROCEEDINGS UNDER CIVIL LAW, SIGNED AT PRAGUE, JANUARY 20, 1922.

THE GERMAN REICH and THE CZECHOSLOVAK REPUBLIC have agreed to conclude a Treaty with a view to ensuring the maintenance of legal safeguards, in proceedings under civil law, for nationals of the German Reich in the Czechoslovak Republic and for nationals of the Czechoslovak Republic in the German Reich, and to regulate the furnishing of legal assistance to each other by the judicial authorities, in civil proceedings,

and for this purpose they have appointed as their plenipotentiaries :

THE PRESIDENT OF THE GERMAN REICH :

His Excellency Dr. Walter KOCH, Envoy Extraordinary and Minister Plenipotentiary ;
Dr. Albert von BALIGAND, Councillor of Legation in the Foreign Office ;
Dr. Erich VOLKMAR, Councillor in the Ministry of Justice of the Reich.

THE PRESIDENT OF THE CZECHOSLOVAK REPUBLIC :

Dr. Wenzel GIRSA, Envoy Extraordinary and Minister Plenipotentiary ;
Dr. Emil SPIRA, Head of a Section in the Ministry of Justice,

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

SECTION I.

LEGAL SAFEGUARDS IN CIVIL MATTERS.

Article 1.

The nationals of either contracting State shall be entitled to equality of treatment with the nationals of the other State, in matters in the territory of the latter State, notwithstanding any legal provisions relating to language which may be in force therein.

For the above purpose they shall be allowed free and unrestricted access to the courts, and shall be entitled to appear before them under the same conditions as the nationals of the State in question.

Article 2.

The rights and obligations which arise from the Union Convention of Paris of March 20, 1883, for the Protection of Industrial Property, as revised at Brussels on December 14, 1900,

¹ Translated by the Secretariat of the League of Nations.

and at Washington on June 2, 1911, shall be recognised as binding in the relations between the Contracting Parties, with effect from the creation of the independent Czechoslovak State on October 28, 1918.

Article 3.

No security or deposit, of any description whatever, may be exacted from the nationals of either Contracting Party, who appear before the courts of the other party as plaintiffs or interveners, on the ground that they are foreigners or that they possess no residence or place of abode in the country in question.

The same provision shall apply to any payments in advance which may be demanded from plaintiffs or interveners to cover judicial costs.

Article 4.

The nationals of either Contracting Party shall be entitled in the territory of the other party to the privilege of being admitted to sue *in forma pauperis* under the same conditions as nationals of the latter party.

SECTION II.

LEGAL ASSISTANCE IN CIVIL MATTERS.

Article 5.

In civil or commercial cases questions regarding the service of documents and the action to be taken as a result of applications for administrative and legal assistance shall be dealt with directly between the authorities of the two Contracting Parties.

In the case of the German Reich, all the judicial authorities shall be competent to transmit direct any applications for the service of documents and for other forms of legal assistance, and the Presidents of the District Courts (Landesgerichtspräsident) shall be competent to receive them.

In the case of the Czechoslovak Republic, the Presidents of the courts of first instance shall be competent to transmit direct and to receive any applications for the transmission of requests for the service of documents and for other forms of legal assistance.

In case the authority to which the application is addressed is not the competent authority for the locality in question, the application shall be passed through the official channel to the competent authority and the fact that this has been done shall immediately be communicated to the authority from which the application emanated.

Article 6.

Applications for the service of documents and for other forms of legal assistance shall be drawn up in the official language of the State from which the application emanates. Such applications must specify the authority making the application and the name and status of the parties concerned, and in the case of the service of documents, the address of the addressee and the nature of the document to be served.

The official languages, for the purposes of this Treaty, shall be, in the case of Germany, the language of the administration, and in the case of the Czechoslovak Republic the official language of the State.

Article 7.

The competent authority of the State to which application is made shall be responsible for seeing that the documents are duly served. Except in the cases specified in paragraph 2 the authority concerned may restrict such action to effecting the service of the document by delivering it to the addressee, provided the latter is willing to accept it.

If the authority making the application so desire, the document to be served shall be served in the form provided by the internal legislation of the State to which application is made for serving such documents, provided that it is drafted in the official language of the State to which application is made, or is accompanied by a translation in such language. In such cases the application drawn up in the official language of the State making the application shall be accompanied by such a translation.

The translations specified in the foregoing paragraph shall be certified correct. This certificate shall be given by the diplomatic or consular representative of the State making the application or by a sworn interpreter of the State by which or to which the application is made. Either contracting State may, if it pleases, authorise its judges to grant such certificates.

Article 8.

Proof that the document has been served shall be furnished either by dated and duly certified receipt from the addressee or by an affidavit from the State to which application is made certifying the fact of such service and the manner and time.

Article 9.

The judicial authority to whom an application for legal assistance is addressed must comply with it and must employ the same means of coercion as are applicable for enforcing an application made by the authority of the country to which the application is made, or for enforcing an application by an interested party for the same purpose. The procedure for dealing with applications shall also be in conformity with the laws of the State to which application is made; if, however, the authority making the application so desire, a special mode of procedure may be employed, provided that it does not contravene the legal code of the State to which application is made.

The authority making an application shall, if it so desire, be notified of the time and place of any action to be taken in respect of such application, in order that the interested parties may be able to be present at such proceedings.

Article 10.

Applications for the service of documents or for other forms of legal assistance may be refused if the State in the territory of which the request would have to be complied with considers that its sovereignty or its security might be endangered thereby.

Article 11.

No fees or charges of any kind shall be payable for carrying out a request for the service of documents or for legal assistance of other kinds, with the exception, pending further arrangements, of compensation to witnesses or to experts, and of costs arising out of the employment of an officer of the court in the cases mentioned in Article 7, paragraph 2, or of a special mode of procedure in accordance with Article 9, paragraph 1.

Article 12.

The present Treaty, the text of which in both languages is authentic, shall be ratified, and the instruments of ratification shall be exchanged as early as possible at Berlin.

The Treaty shall come into force one month after the exchange of the instruments of ratification.

It shall remain in force until the expiration of six months after the day on which it has been denounced by either of the Contracting Parties.

In faith of which the plenipotentiaries have signed the present Treaty and have thereto affixed their seals.

Done in duplicate at Prague on the twentieth day of January 1922.

Dr. KOCH.
v. BALIGAND.
VOLKMAR.
Dr. W. GIRSA.
Dr. E. SPIRA.

ADDITIONAL PROTOCOL TO THE GERMAN-CZECHOSLOVAK TREATY IN REGARD TO LEGAL ASSISTANCE IN PROCEEDINGS UNDER CIVIL LAW.

The plenipotentiary representatives of the German Reich and the Czechoslovak Republic, being about to sign the Treaty in regard to legal safeguards and legal assistance in civil proceedings, desire on behalf of their respective Governments to declare their agreement on the following points :

(1) The provisions of Article 1, paragraph 1, shall not prejudice any agreements for most-favoured-nation treatment which have been negotiated in other treaties or conventions.

(2) When making application for the service of documents, the Contracting Parties will employ special forms, copies of which they will communicate to one another.

(3) Applications for legal assistance drawn up, in conformity with Article 6 of the present Treaty, in the official language of the State making the application, together with their annexes, shall be accompanied by a translation in the official language of the party to which the application is made.

The plenipotentiaries of the two Contracting Parties have declared, in regard to this point, that if it can be shown that there are reasons which would make it particularly difficult for the authority making the applications to procure such a translation, the authority to which the application is made will assist the first-named authority as far as possible in the matter.

(4) The Contracting Parties communicate to each other a schedule showing the distribution of their courts, arranged according to the judicial areas of the courts of first instance or of the provincial courts, as the case may be. This schedule will be accompanied by a map, if one is available.

In faith whereof the plenipotentiaries have signed the present additional protocol.

Done in Prague in duplicate on the twentieth day of January 1922.

Dr. KOCH.
v. BALIGAND.
VOLKMAR.
Dr. W. GIRSA.
Dr. E. SPIRA.