

N° 1039.

HONGRIE ET ROUMANIE

Convention relative à certaines questions de procédure civile et de droit privé, et Protocole de signature, signés à Bucarest, le 16 avril 1924.

HUNGARY AND ROUMANIA

Convention relating to certain Questions of Civil Procedure and Private Law, and Protocol of Signature, signed at Bucharest, April 16, 1924.

¹ TRADUCTION. — TRANSLATION.No. 1039. — CONVENTION² BETWEEN HUNGARY AND ROUMANIA
RELATING TO CERTAIN QUESTIONS OF CIVIL PROCEDURE
AND PRIVATE LAW, SIGNED AT BUCHAREST, APRIL 16, 1924.

French official text communicated by the Representative of the Royal Hungarian Government accredited to the League of Nations. The registration of this Convention took place December 12, 1925.

HIS MOST SERENE HIGHNESS THE REGENT OF HUNGARY and HIS MAJESTY THE KING OF ROUMANIA, being by common consent desirous of regulating the relations between Hungary and Roumania as regards certain questions of civil procedure and private law, have resolved to conclude a Convention to this effect, and have appointed as their respective Plenipotentiaries :

HIS MOST SERENE HIGHNESS THE REGENT OF HUNGARY :

M. R. DE WODIANER, Envoy Extraordinary and Minister Plenipotentiary ;

HIS MAJESTY THE KING OF ROUMANIA :

M. Nicolas N. FILODOR, Envoy Extraordinary and Minister Plenipotentiary, Secretary-General of the Royal Ministry of Foreign Affairs ;

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

I. ACCESS TO THE COURTS.

Article 1.

The nationals of each of the High Contracting Parties shall be authorised to prosecute and defend their rights before the Courts of the other Party. The Courts of each of the Contracting Parties shall accord to them in this respect the same treatment as to their own nationals.

In respect of bankruptcy proceedings opened in the territory of one of the Contracting Parties, creditors who are nationals of the other Party shall be on exactly the same footing as national creditors.

¹ Traduit par le Secrétariat de la Société des Nations.

¹ Translated by the Secretariat of the League of Nations.

² The exchange of ratifications took place at Budapest, March 24, 1925.

II. PROVISIONS REGARDING THE HAGUE CONVENTION¹ OF JULY 17, 1905,
RELATING TO CIVIL PROCEDURE.

Article 2.

As soon as the present Convention comes into force, the Contracting Parties agree to apply between themselves the Hague Convention of July 17, 1905, relating to civil procedure, for so long as they may be Parties to that Convention.

In this connection the Contracting Parties agree that the translations mentioned in Articles 3, 10 and 19 may also be certified by a qualified official, whose competence shall be attested by the authority making the request.

The Contracting Parties also agree that the provisions of the aforesaid Convention shall similarly apply to documents to be served and to letters rogatory from the trustee authorities in the two States.

III. PROVISIONS REGARDING THE HAGUE CONVENTIONS ON PRIVATE LAW.

Article 3.

The Contracting Parties agree to apply between themselves, as soon as the present Convention comes into force, not only the Hague Convention² of June 12, 1902, regulating the guardianship of minors, which again became applicable between the two Contracting Parties on July 26, 1921, but also the following multilateral Conventions, in so far as they are Parties to them :

(1) The Hague Convention³ of June 12, 1902, for the settlement of conflicts of legislation in matrimonial questions.

(2) The Hague Convention⁴ of June 12, 1902, for the settlement of conflicts of legislation and jurisdiction in questions of divorce and judicial separation.

(3) The Hague Convention⁵ of July 17, 1905, concerning the suspension of civil rights and similar measures of protection.

IV. SUCCESSION TO PERSONAL PROPERTY.

Article 4.

The right of succession to personal property shall be regulated by the laws of the country of the deceased.

Article 5.

The Contracting Parties undertake, subject to the exceptions provided in the present Convention, to deliver to one another the personal property bequeathed by nationals of the other Party, in order that the competent court (authority) in the country of the deceased may be able to determine the succession and settle disputed questions relative thereto.

¹ British and Foreign State Papers, Vol. 99, page 990.

² British and Foreign State Papers, Vol. 95, page 421.

³ British and Foreign State Papers, Vol. 95, page 411.

⁴ British and Foreign State Papers, Vol. 95, page 415.

⁵ British and Foreign State Papers, Vol. 99, page 990.

Article 6.

The competent court or authority of the Party in whose territory the personal property is situate shall be required :

(1) To certify the death of any national of the other Party who dies in its territory ;

(2) To take all necessary measures for the preservation and proper administration of the bequeathed property in order to protect it from deterioration or any other damage.

The court or authority shall in particular be required to have an inventory of the whole of the bequeathed property in due form, and, as circumstances may demand, either to affix its seals to the property or to order it to be deposited in a place of safety or appoint a responsible person to administer it.

The measures mentioned under (1) and (2) of the present article shall be taken by the competent court (authority) in accordance with the laws of the country. Nevertheless, at the request of the other Party, they may also be taken in some special manner, provided that it is not contrary to the laws of the country in which the competent court (authority) is situated.

(3) If the heirs or legatees are nationals or inhabitants of the country in which the bequeathed property is situate, or even if they are only temporarily resident in that country, the competent court (authority) of that Party shall have the right to retain the whole or an adequate part of the bequeathed property until the claims of such heirs or legatees shall have been finally pronounced upon by the competent probate court of the other Party.

(4) The same measures must also be taken at the request of creditors who are nationals or inhabitants of the country of the Contracting Party in whose territory the property is situate or who are temporarily resident in that country, if their claims have already been submitted to the court. The right to pronounce upon these claims shall be exclusively reserved to the courts of that Party in whose territory the property is situate.

In respect of the measures mentioned under (3) and (4) of the present article, a period of three months, during which the claims of the aforesaid persons may be submitted to the court, shall be fixed as soon as possible. If no such claim is submitted during this period, the transfer of the personal property in question may not be refused.

Article 7.

The death of a national of one of the Parties in the territory of the other Party must immediately be notified by the local authorities to the regular diplomatic or consular agent of the country of the deceased, the certificate of death and, if necessary, a duly attested copy of the doctor's certificate being forwarded to him at the same time.

If there is an agent in the commune in which the personal property is situate, the measures mentioned under (2) of the previous article shall as far as possible be taken with his co-operation.

In other cases such agent shall immediately be informed of all measures taken to preserve and administer the property, and these measures may at his request be modified or provisionally suspended, unless this would be in any way detrimental to the interests of nationals of the Party in whose territory the succession is opened.

Article 8.

If heirs who are nationals of the Party in whose territory the personal property is situate demand, before the expiry of the period laid down under (4) of Article 6, that the question of succession shall be determined by the courts of that Party, the competent court (authority) in the country of the deceased must hand the case over to the competent court (authority) of the Party in whose territory the personal property is situate.

Article 9.

The question what property is personal shall be determined in accordance with the laws of the Party in whose territory the bequeathed property is situate.

As soon as the measures laid down in the previous articles have been taken, the personal property bequeathed shall be delivered to the regular diplomatic or consular agent of the deceased's country, to be handed over to the competent authority in that country.

V. ATTESTATION OF DOCUMENTS.

Article 10.

Documents furnished by the courts or the different Ministries of the Contracting Parties shall be exempt from all attestation.

These documents shall bear the seal of the authority by which they are issued.

Documents drawn up by notaries public, "huissiers" and other judicial officials must be attested. The attestation shall be regarded as in order if the document bears the signature and official seal of a judicial authority belonging to the State in which the official who drew up the document is resident.

Private documents attested by a judicial authority shall not require further attestation.

VI. LEGITIMACY PROCEEDINGS.

Article 11.

Proceedings which a father or his heirs may institute disputing the legitimacy of a child shall come within the competence of the courts of the Contracting Party of which the father is, or is considered to be, a national.

Final judgments given in such cases shall be recognised without any formalities in the territory of the other Contracting Party.

VII. ADOPTION AND LEGITIMATION.

Article 12.

The confirmation of adoption and legitimation shall rest with the authorities of the State to which the adopting or legitimising party belongs, and not with those of the State to which the person to be adopted or legitimised belongs.

If the laws of the State of which the person to be adopted is a national contain provisions, regarding the necessary consent and authorisation, different from those contained in the laws of the country of the adopting party, the provisions to be observed shall be those obtaining in the country of the person to be adopted.

Decisions relating thereto shall be recognised without any formalities in the territory of the other Contracting Party.

VIII. EXCHANGE OF REGISTERS OF BIRTHS, MARRIAGES AND DEATHS.

Article 13.

The Contracting Parties undertake to deliver to one another duly attested extracts from the registers of births, marriages and deaths, and also certificates of legitimation referring to children

born out of wedlock, as far as concerns the persons referred to in these documents as being nationals of the other Contracting Party.

Such copies of certificates of birth, marriage, death and legitimation must include all the essential facts entered in the registers, and must, whenever possible, mention the domicile or place of birth of the persons to whom they refer.

The aforesaid documents shall be drawn up and communicated, without a translation and free of cost, in the form customary in each country. They shall be communicated annually through the diplomatic channel.

If claims are made on behalf of individuals for the delivery of documents not included in the above category, such documents shall be drawn up and communicated free of charge only when they refer to a poor person certified by the competent authority to be such.

IX. FINAL PROVISIONS.

Article 14.

The present Convention shall be ratified, and the instruments of ratification shall be exchanged at Budapest as soon as possible.

Article 15.

The present Convention shall come into force three months after the exchange of the instruments of ratification, and shall remain valid for ten years as from that date.

Should neither of the Contracting Parties have given notice, twelve months before the end of the specified period, of its intention to terminate the Convention, the latter shall retain its force until the expiry of one year from the date on which either of the Contracting Parties shall have denounced it.

In faith whereof the respective Plenipotentiaries have affixed their signatures and seals.

Done at Bucharest, in duplicate, April 16, 1924.

(L.S.) (Signed) R. DE WODIANER.

(L.S.) (Signed) N. N. FILODOR.

PROTOCOL OF SIGNATURE.

At the moment of signing the Convention of this day's date relating to certain questions of civil procedure and private law, the undersigned Plenipotentiaries have agreed as follows :

In view of the provisions of Roumanian civil procedure with regard to the choice of domicile, Hungarian nationals in the position of claimants or other intervening parties in a suit, and living outside Roumania, shall be required, when submitting their claims, to give the name of some person living in Roumania who is entitled to receive documents on their behalf.

The present Protocol shall have the same force and the same period of validity as the aforesaid Convention concluded this day.

In faith whereof the respective Plenipotentiaries have signed the present Protocol and have thereto affixed their seals.

Done at Bucharest, in duplicate, April 16, 1924.

(L.S.) (Signed) R. DE WODIANER.

(L.S.) (Signed) N. N. FILODOR.