

N° 845.

BULGARIE ET ROUMANIE

Convention judiciaire, signée à Bucarest, le 19 avril 1924.

BULGARIA AND ROUMANIA

Judicial Convention, signed at Bucharest, April 19, 1924.

¹ TRADUCTION. — TRANSLATION.No. 845. — JUDICIAL CONVENTION ² BETWEEN BULGARIA AND ROUMANIA, SIGNED AT BUCHAREST, APRIL 19, 1924.

French official text communicated by the Bulgarian Chargé d'Affaires at Berne. The registration of this Convention took place March 23, 1925.

HIS MAJESTY THE KING OF THE BULGARIANS and HIS MAJESTY THE KING OF ROUMANIA, being desirous of regulating certain questions of procedure and private law with regard to civil and commercial matters, have decided for this purpose to conclude a Convention, and have appointed as their respective Plenipotentiaries :

HIS MAJESTY THE KING OF THE BULGARIANS :

- General FITCHEFF, Envoy Extraordinary and Minister Plenipotentiary of His Majesty the King of the Bulgarians at Bucharest ;
- M. Ph. POPOFF, President of the High Court of Appeal at Sofia ;
- M. C. MINCOFF, Minister Plenipotentiary, Secretary-General of the Bulgarian Ministry for Foreign Affairs.

HIS MAJESTY THE KING OF ROUMANIA :

- M. George MARZESCO, Minister of Justice, Interim Minister for Foreign Affairs.
- M. Gregory BILCIURESco, Minister Plenipotentiary, Director in the Ministry for Foreign Affairs ;

who, having exchanged their full powers, found in good and due form, have agreed as follows :

Article I.

The nationals of each of the Contracting Parties shall enjoy, in the territory of the other Party, the same treatment as the nationals of that Party in all matters concerning the legal and judicial protection of their persons and property.

They shall have free and ready access to the courts of the other country, and may appear in court on the same terms and in the same manner as the nationals of the country concerned. In particular, nationals of one of the Contracting Parties who are domiciled in the territory of one of the said Parties and are bringing an action or intervening in the courts of the other, shall not be required to give any surety or make any deposit, under whatsoever designation, by reason either of their being foreigners or of their not possessing a domicile or a residence in the country.

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 Bucharest, March 5, 1925.

Nationals of one of the States residing outside the territory of the other shall be required, when bringing actions in this territory, to name a person resident in the territory who shall be empowered to be served with process on their behalf.

In bankruptcy proceedings instituted in the territory of one of the contracting countries, creditors who are nationals of the other country shall be treated in exactly the same manner as creditors who are nationals of the country concerned.

Article 2.

Orders to pay the costs of an action which are made by the courts of one of the Contracting Parties against a plaintiff or person intervening in an action who has been exempted from giving surety or making a deposit in virtue either of Article 1 or of the law of the State in which the action was brought, shall, upon an application being submitted through the diplomatic channel, be made executory free of charge, by the competent authority of the other Contracting Party, in conformity with the laws of that country.

Article 3.

Decisions regarding costs shall be made executory without the parties being heard, but subject to the subsequent right of appeal of the unsuccessful party in accordance with the laws of the country where execution is carried out.

The competent authority for hearing applications for execution shall restrict itself to considering :

- (1) Whether, according to the laws of the country where an order was made, the document containing the decision fulfils the required conditions in respect of authenticity ;
- (2) Whether, according to the same law, the decision has acquired the force of law ;
- (3) Whether the terms of the decision are drawn up or have been translated in conformity with the rule laid down in Article 8, sub-paragraph 3.

To meet the requirements prescribed in the preceding sub-paragraphs (1) and (2), it will be sufficient if the competent authority of the State making application attests that the decision has acquired the force of law. This attestation shall be drawn up or translated in accordance with the rule laid down in Article 8, sub-paragraph 3.

Article 4.

The nationals of both Contracting Parties shall, in the territories of the other Contracting Party, be entitled to free legal assistance in the same way as the nationals of that State, provided that they conform to the laws of the State in which free legal assistance is claimed.

Article 5.

In all cases the certificate or declaration of poverty shall be issued or received by the authorities of the State in which the applicant's habitual residence is situated, or, in default of such residence, by the authorities of the State in which he is residing for the time being. Should the applicant not be resident in the territory of either of the Contracting Parties, and should the authorities of his country of residence not issue or receive certificates or declarations of this kind, it will be sufficient if a certificate or declaration is issued or received by a diplomatic agent or consular official of the country to which the applicant belongs.

If the applicant does not reside in the territory of the Contracting Party to whose authorities the application is made, the certificate or declaration of poverty shall be legalised free of charge by a diplomatic agent or consular official of the country where the document is to be produced.

Article 6.

The authority competent to issue or receive the certificate or declaration of poverty may make enquiries of the authorities of the other Contracting Party regarding the financial position of the applicant.

The authority appointed to deal with the application for free legal assistance shall be entitled, within the limits of its competence, to verify the certificates, declarations and information submitted to it.

Article 7.

The party to whom free legal assistance has been granted by a court of one of the Contracting Parties shall also enjoy such assistance during proceedings and other steps of a judicial character taken in the same suit, at the request of the said court, by a court of the other Contracting Party.

In proceedings in which a court of one of the Contracting Parties is competent to give a decision, the party to the suit who has his domicile or permanent residence in the territory of the other Contracting Party may, by making a formal statement for the purpose, claim free legal assistance from the court of his place of domicile or permanent residence.

In civil cases in which the law does not require the parties to be represented by counsel, the plaintiff may put forward his application in the formal statement and at the same time request that it should be transmitted to the court which is competent to judge the case. The application shall be accompanied by a translation in the language of the latter court.

Article 8.

The Contracting Parties reciprocally undertake, in civil and commercial cases, through the intermediary of the competent authorities, to cause summonses or other documents to be served and commissions to examine witnesses to be executed in the form prescribed by the internal laws of the State to which application is made or in a special form demanded by the authority making application, provided that such form is not in contravention of the laws of the State to which application is made.

These documents shall be transmitted by diplomatic channel. If they are not drawn up in the language of the authority to whom the application is made they shall be accompanied by translations in this language or in French. These translations may also be certified by a qualified official whose competence shall be attested by the authority making the application.

Documents issued by judicial authorities shall be exempt from legalisation. They need only bear the seal of the authority issuing them.

Documents drawn up by public notaries, "huissiers" and other judicial officials require to be legalised. The legalisation shall be considered to be in due form if the document is provided with the signature and official seal of a judicial authority of the State in which the official who has prepared the document has his residence.

Documents which have not been witnessed by a notary public (sous seing privé) but which have been legalised by a judicial authority shall not require further legalisation.

The provisions of the present article shall not affect the right of both Contracting Parties to cause documents issued by judicial authorities and intended for their own nationals in the territory of the other Party to be served direct, though without constraint, through their regular diplomatic or consular agents.

Article 9.

A State may only refuse to effect service of process within its territory, as provided for in Article 8, if it considers that its sovereign rights would be infringed or its security endangered thereby.

Proof of service shall be furnished either by a duly dated and legalised receipt given by the addressee or by an attestation of the authority of the State to which application is made testifying to the circumstances, form and date of service.

If the document to be served is transmitted in duplicate, the receipt or attestation should be given on one of the copies or be attached thereto.

Article 10.

The legal authority to which a commission to examine witnesses, as provided for in Article 8, is addressed, shall be required to execute it and to use the same means of constraint for that purpose as when executing a commission of the authorities of the State to which application is made, or when giving effect to a request of that nature presented by one of the parties concerned. Such means of constraint shall not necessarily be employed if the object in view is to secure the attendance of the parties to the suit.

The authority making application shall, if it so requests, be informed of the date and place of execution of the measures demanded, so that the party concerned may be able to attend.

Execution of the commission to examine witnesses can only be refused :

- (1) If the authenticity of the document is not proved ;
- (2) If, in the State to which application is made, the execution of the commission does not lie within the competence of the legal authority ;
- (3) If the State on whose territory execution is to take place considers that its sovereign rights would be infringed, or its security endangered thereby.

Should the authority to which application is made not be competent to deal with the matter, the commission shall be transmitted *ex officio* to the competent legal authority of the same State, in conformity with the laws of such State.

In all cases in which the commission is not executed by the authority to which application is made, such authority shall immediately notify to that effect the authority making application, indicating, in the case of sub-paragraph 3, the reasons for which the execution of the commission has been refused, and, in the case of the preceding sub-paragraph, the authority to which the commission has been transmitted.

Article 11.

Summonses, extracts from dossiers, depositions and evidence of witnesses, reports of experts, records of judicial proceedings, and, generally, any documents relating to civil or commercial cases, furnished at the request of a Tribunal of one of the Contracting Parties on the territory of the other Party, shall be written on unstamped paper and delivered free of charge.

The costs in connection with the serving of summonses and other legal documents and with the execution of commissions to examine witnesses shall be borne by the State to which application is made.

The provisions contained in the first paragraph shall only be applied to fees payable in such cases to the respective Governments, and shall in no way cover either the allowances granted to witnesses or experts or the fees which may be payable to officials in all cases in which the law requires their intervention in order to accomplish the desired measure. These costs shall be borne by the parties to the suit and shall be paid in conformity with the laws in force in the country where the execution takes place ; if necessary, they shall be advanced by the State to which the application is made.

The costs referred to in the preceding paragraph shall be borne by the State making application if they cannot be refunded by the interested parties.

Article 12.

Final judgments given in civil or commercial matters by the competent judicial authorities of either of the Contracting Parties shall be executed in the territory of the other Contracting Party in accordance with the laws of the respective countries.

Article 13.

Litigation instituted by a legitimate father or his heirs in order to contest the legitimacy of a child shall be within the competence of the courts of the Contracting Party of which the legitimate father is or is alleged to be a national.

Final decisions on such questions shall be recognised without further formality in the territory of the other Contracting Party.

Article 14.

Confirmation of adoption shall be within the competence of the authorities of the State to which the adopting person belongs and not of the State to which the adopted person belongs.

If the laws of the State to which the adopted person belongs contain provisions in respect of the necessary consent and authorisation other than those provided by the laws of the country to which the adopting person belongs, the provisions observed shall be those contained in the laws of the former.

Decisions in this matter shall be recognised without further formality in the territory of the other Contracting Party.

Article 15.

The present Convention shall be ratified and the ratifications exchanged at Bucharest as early as possible.

It shall be executory three months after the exchange of the ratifications and shall remain in force until the expiration of one year from the date on which one of the Contracting Parties denounces it.

In faith whereof, the respective Plenipotentiaries have set their signatures and seals hereto.

Done in duplicate, at Bucharest, on the 19th day of April, 1924.

(L. S.) GENERAL FITCHEFF.
(L. S.) PH. POPOFF.
(L. S.) C. MINCOFF.
(L. S.) G. MARZESCU.
(L. S.) GR. BILCIURESICO.