

N° 1090.

**POLOGNE
ET TCHÉCOSLOVAQUIE**

Traité concernant la protection et
l'assistance judiciaire dans les
questions d'impôts, signé à Var-
sovie, le 23 avril 1925.

**POLAND
AND CZECHOSLOVAKIA**

Treaty regarding Protection and
Legal Assistance in Taxation
Questions, signed at Warsaw,
April 23, 1925.

TEXTE POLONAIS. — POLISH TEXT.

N^o 1090. — UMOWA¹ MIĘDZY REPUBLIKĄ CZECHOSŁOWACKĄ A RZECZĄ-
POSPOLITĄ POLSKĄ W SPRAWIE OCHRONY PRAWNEJ W SPRAWACH
PODATKOWYCH, PODPISANA W WARSZAWIE, DNIA 23 KWIETNIA
1925 R.

Polish and Czechoslovak official texts communicated by the Delegate of the Polish Republic and by the Permanent Delegate of the Czechoslovak Republic accredited to the League of Nations. The registration of this Treaty took place February 10, 1926.

REPUBLIKA CZECHOSŁOWACKA i RZECZPOPOLITA POLSKA celem unormowania ochrony prawnej obywateli Rzeczypospolitej Polskiej w Republice Czechosłowackiej oraz obywateli Republiki Czechosłowackiej w Rzeczypospolitej Polskiej tudzież obowiązków władz obydwu Państw do udzielania sobie wzajemnej pomocy urzędowej i prawnej w sprawach podatkowych, postanowiły zawrzeć co do tego umowę i zamianowały w tym celu swymi pełnomocnikami :

PREZYDENTA REPUBLIKI CZECHOSŁOWACKIEJ :

Dra J. Bohumila VLASÁKA, upełnomocnionego Ministra i Szefa Sekcji Ministerstwa Skarbu,

PREZYDENTA RZECZYPOSPOLITEJ POLSKIEJ :

Dra J. Karola BIRGFELLNERA, Sędziego Najwyższego Trybunału Administracyjnego,

którzy po wzajemnej wymianie swych pełnomocnictw, oraz po stwierdzeniu, iż są tak co do treści jak i formy odpowiednie, umówili zgodnie, co następuje :

Artykuł 1.

Za podatki w myśl niniejszej umowy uważać należy daniny publiczne, o ile są pobierane w Rzeczypospolitej Polskiej i w Republice Czechosłowackiej na rzecz Państwa, tudzież dodatki lub opłaty, pobierane wraz z temi daninami na rzecz innych związków prawnopublicznych. Za podatki w rozumieniu niniejszej umowy nie uważa się jednak ceł i podatków spożywczych ; podatku od obrotu i od przedmiotów zbytku nie uważa się za podatek spożywczy.

I. OCHRONA PRAWNA W SPRAWACH PODATKOWYCH.

Artykuł 2.

1. Obywatele jednego Państwa będą na obszarze drugiego Państwa traktowani w sprawach podatkowych narówni z obywatelami tegoż Państwa a w szczególności doznawać będą równej ochrony wobec władz skarbowych, oraz innych organów administracji skarbowej, sądów zwyczajnych, tudzież sądów skarbowych i administracyjnych.

¹ The exchange of ratifications took place at Prague, December 14, 1925.

¹ TRANSLATION.No. 1090. — TREATY BETWEEN POLAND AND CZECHOSLOVAKIA,
REGARDING PROTECTION AND LEGAL ASSISTANCE IN TAXA-
TION QUESTIONS, SIGNED AT WARSAW, APRIL 23, 1925.

THE CZECHOSLOVAK REPUBLIC and THE POLISH REPUBLIC, desirous of laying down regulations regarding the legal safeguards afforded to Polish nationals in the Czechoslovak Republic and to Czechoslovak nationals in the Polish Republic, and the obligation of the authorities of both States in respect of co-operation between the Czechoslovak and the Polish administrations and courts in matters of taxation, have decided to conclude a Convention for that purpose and have appointed as their Plenipotentiaries :

THE PRESIDENT OF THE CZECHOSLOVAK REPUBLIC :

Dr. Bohumil VLASÁK, Minister Plenipotentiary and Head of Section of the Ministry of Finance ;

THE PRESIDENT OF THE POLISH REPUBLIC :

Dr. Karol BIRGFELLNER, Judge of the Supreme Administrative Court ;

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

Article 1.

Public taxes levied by the Polish Republic and the Czechoslovak Republic for the State, and other taxes levied for other public legal bodies, whether as additional taxes or as supplementary taxes levied with the public taxes, shall be regarded as taxes within the meaning of the present Convention. Customs duties and taxes on consumption shall, however, be excluded. The tax on business turnover and the luxury tax shall not be regarded as taxes on consumption.

I. LEGAL PROTECTION GRANTED TO TAX-PAYERS IN MATTERS OF TAXATION.

Article 2.

1. The nationals of either of the two States shall be entitled to receive in the territory of the other State the same treatment in matters of taxation as nationals of that State and in particular, to be afforded the same safeguards in their dealings with the revenue authorities and other representatives of the financial administration, and with the regular courts and fiscal and administrative tribunals.

2. Legal persons, including companies, and also partnerships, institutions, charitable foundations and all other organisations possessing property set aside for a particular purpose, which

¹ Translated by the Secretariat of the League of Nations.

are not legal persons but which are liable to taxation as such, shall, if they are situated or have their registered offices in the territory of one of the two States and if they are legally recognised in that State, be entitled to the same treatment in matters of taxation (paragraph 1) in the territory of the other State as that which is accorded to similar tax-payers belonging to the said State.

II. CO-OPERATION OF THE COURTS AND ADMINISTRATIONS IN MATTERS OF TAXATION.

Article 3.

The two States undertake to give each other mutual administrative and legal assistance in all questions relating to taxation and in all cases of flight of capital and tax evasion, both in regard to the assessment and fixing of taxation and guarantees, and also in regard to the procedure for securing redress and to recovery.

Article 4.

1. In matters of taxation, questions regarding the service of legal documents and the action to be taken as a result of applications for administrative and legal assistance shall, unless otherwise provided in the special stipulations with regard to recovery (Articles 11 to 13) be dealt with directly between the authorities of the two States.

2. The chief revenue offices in the two States shall be competent to transmit direct, and to receive, applications for the service of documents and for other administrative and legal assistance.

3. Should the authority to which application is made not be competent *ratione loci* to deal with the same, it shall officially transmit the application to the competent authority and inform the authority making the application to that effect without delay.

Article 5.

Except in the cases mentioned in paragraph 2 of Article 6, applications must be drafted by the authorities of the Polish Republic in the Polish language and by the authorities of the Czechoslovak Republic in the Czechoslovak language. The application must specify the authority making the application, the name and profession (or status) of the parties concerned, and, in the case of the service of documents, the address of the recipient and the nature of the document to be served.

Article 6.

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

2. Should the State making application so desire, the document shall be served in the form prescribed for effecting service in similar cases, by the internal legislation of the State to which application is made; in such cases it shall be drafted in the language of the State to which application is made (Article 5) or be accompanied by a translation in that language.

Article 7.

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

Article 8.

1. The authorities to whom the application is addressed must comply with it and must employ for the purpose the same means of coercion as they would resort to in enforcing an application made by an authority or a party in their own country.

2. A means of coercion allowable in the territory of the State to which application is made may not be employed unless the State making application is in a position to use a like means of coercion in the case of a similar application being made to itself.

3. The authority making application shall, if it so desires, be notified of the time and place of the action to be taken in respect of such application. The parties concerned shall be entitled to be represented or to be present at any such proceedings, subject to the general regulations in force in the State to which the application is made.

Article 9.

No fees or charges of any kind shall be payable for carrying out requests for the service of documents or other applications, with the exception, subject to agreement to the contrary, of compensation to persons heard or to experts, and of sums payable to an executive agent for assistance in the case mentioned in Article 6, paragraph 2.

Article 10.

Unless otherwise provided in Articles 11 to 13, the provisions of this Convention shall be applicable to the co-operation of the Czechoslovak and Polish courts in all procedure relating to recovery.

Article 11.

1. In matters of taxation, decrees (decisions, awards, orders), from which there is no appeal, shall, upon application, which is to be made by the head revenue authority of one State to the corresponding authority of the other State, be acknowledged and executed free of cost. This acknowledgment must be made in official form.

2. The decrees referred to in paragraph 1 shall be put into execution in accordance with the legislation of the State in which execution is effected without it being necessary to hear the parties concerned.

3. An application for execution must be accompanied by a statement by the competent authority of the State making application to the effect that there is no appeal against the decree; such authority must be certified competent by the head revenue authority of the State.

Article 12.

Provisional security, in the form of the sequestration of property, may be required from nationals of the State to which an application is made, by virtue of executory decrees against which an appeal may still be made. The person concerned shall be entitled to have such sequestration removed upon giving security, the nature and value of which must be specified in the application.

Article 13.

If application is made for a specified mode of execution or a specified type of security, the request shall be complied with, provided that such mode of execution or type of security is com-

patible with the law of the State making application and of the State to which application is made. Otherwise, the mode of execution and the type of security, and the carrying out of the execution and security, shall be in conformity with the law of the State to which application is made.

Article 14.

1. Legal and administrative assistance will not be granted in proceedings against nationals of the State to which an application is made, if they have their domicile or permanent residence within the territory of that State. This provision shall not apply in the case of legal and administrative co-operation for the purpose of recovering taxes payable by a taxpayer at a time when he was a national of the State making application.

2. Legal and administrative assistance may also be refused should the State to which application is made consider such assistance likely to endanger its sovereign rights or safety, or to stand in the way of the recovery of taxes due to it or of taxes which it has imposed but which are not yet due.

3. Applications which involve the obtaining of information, statements or opinions in the territory of the State to which application is made from persons who are not parties to the case in their capacity as taxpayers, may also be refused, if the State making application is unable under the terms of its national legislation to call for similar information, statements or opinions. The same condition shall obtain in regard to applications made for the purpose of acquiring information upon material circumstances or legal relations if the knowledge of such circumstances or relations can be obtained only by appealing to an obligation to furnish information, statements or opinions which is not admissible in the territory of the State making application, and to other applications if they can only be complied with by disregarding the principle of commercial, business or industrial secrecy.

Article 15.

1. If an application is conceded either wholly or in part, the authority to whom such application is made must promptly notify the authority making application as to the manner in which the application has been dealt with.

2. If an application is not conceded, the authority to whom such application is made must promptly notify the fact to the authority making application, giving all reasons in support and information as to any circumstances with which he has become acquainted through other channels and which might be of importance for any further action which is to be taken in the matter.

Article 16.

As regards all questions, information, statements and opinions and any other communications forwarded to a State for the purpose of co-operation in legal matters, the statutory regulations of such State regarding official and professional secrecy shall be observed.

III. FINAL PROVISIONS.

Article 17.

1. Sums to be recovered shall be expressed in the currency of the State to which application is made.

2. The Polish State shall pay the sums recovered to the Bank of Poland in Warsaw, and the Czechoslovak State to the postal cheque Office at Prague, stating clearly the reason for which the payment is made.

Article 18.

1. The Contracting Parties, in order to facilitate examination of the question whether the condition of reciprocity has been fulfilled with a view to the granting of mutual assistance in legal matters, shall communicate to each other information as to the powers conferred on the revenue authorities for the purpose of determining whether the principles of Polish law and Czechoslovak law are the same in respect of legal assistance. Such communications shall more especially include particulars :

- (a) As to the information, statements, opinions and evidence which may be required from taxpayers or third persons ;
- (b) As to the means of coercion and measures of security and execution which may be applied to taxpayers or third persons.

2. Pending the exchange and acknowledgment by both Parties of the explanatory statements, there will be attached to each separate application for legal co-operation a certificate issued by the senior revenue authorities of the State making the application, attesting officially that a similar application can be complied with in accordance with the law of that State.

Article 19.

Documents shall not as a rule be transmitted. Exceptions to this principle shall be conditional upon agreement between the head revenue officials of the two Parties ; an application for the forwarding of documents shall, however, only be made if it is urgently required in the interest of the State making such application. Each State shall be entitled to attach to its applications any documents which may be of assistance in the fulfilment of such applications.

Article 20.

If, under the regulations in force in the State to which application is made, the proceedings must be discontinued owing to the impossibility of recovering the taxes, the authority to whom application is made will return the application to the authority who made it, together with a certificate to the effect that the legal conditions necessitating the discontinuance of the proceedings exist, and also all available documentary evidence thereof in its possession.

Article 21.

Should the application or interpretation of the present Convention be open to doubt, or should its provisions not be sufficient to provide a solution in a given case, the Ministers of Finance of the two Contracting Parties will in certain special cases settle such matters by agreement in an equitable manner.

Article 22.

1. The present Convention shall be ratified and the instruments of ratification shall be exchanged as soon as possible at Prague. It shall come into force on the fifteenth day after the exchange of the instruments of ratification.

2. Each of the two Contracting Parties shall be entitled to denounce the present Convention at least six months before the expiration of any calendar year. In that case the Convention shall cease to apply after the expiration of the said calendar year.

3. The present Convention has been drawn up in two original texts, in Czechoslovak and Polish. Both texts are authentic.

In faith whereof the above-mentioned Plenipotentiaries have signed the present Convention and affixed their seals thereto.

Done at Warsaw on April 23, 1925.

For the Czechoslovak Republic :

(L. S.) Dr. BOHUMIL VLASÁK.

For the Polish Republic :

(L. S.) Dr. KAROL BIRGFELLNER.