

N° 1777.

AUTRICHE ET POLOGNE

Convention conclue en vue d'éviter
la double perception de la taxe
successorale. Signée à Vienne, le
24 novembre 1926.

AUSTRIA AND POLAND

Convention concluded with a view
to avoiding the Double Collection
of Succession Duties. Signed at
Vienna, November 24, 1926.

¹ TRADUCTION. — TRANSLATION.

No. 1777. — CONVENTION ² CONCLUDED BETWEEN THE REPUBLIC OF AUSTRIA AND THE REPUBLIC OF POLAND WITH A VIEW TO AVOIDING THE DOUBLE COLLECTION OF SUCCESSION DUTIES. SIGNED AT VIENNA, NOVEMBER 24, 1926.

French official text communicated by the Chancellor of the Austrian Federal Government and by the Permanent Delegate of the Polish Republic accredited to the League of Nations. The registration of this Convention took place July 12, 1928.

THE FEDERAL PRESIDENT OF THE REPUBLIC OF AUSTRIA and THE PRESIDENT OF THE REPUBLIC OF POLAND, being desirous of preventing double collection of succession duties, have agreed to conclude a Convention with this object and have appointed for the purpose as their Plenipotentiaries :

THE FEDERAL PRESIDENT OF THE REPUBLIC OF AUSTRIA :

M. Alfred KEMPF, Ministerial Counsellor at the Federal Ministry of Finance ;

THE PRESIDENT OF THE REPUBLIC OF POLAND :

M. Eduard WERNER, Head of Section in the Polish Ministry of Finance,

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

Article I.

1. Immovable property, including appurtenances, left by nationals of the Contracting Parties shall be liable to succession duty only within that one of the two States in which such property is situated.

2. The question whether a specific item of property forming part of the estate is to be considered as immovable property or not, and what constitutes " appurtenances " shall be settled in accordance with the laws of the State in which such property is situated.

3. For the purposes of paragraph 1 of the present Article, rights of usufruct relating to immovable property and, in general, all rights secured, or constituting a charge, on immovable property shall be regarded as immovable property.

¹ Traduit par le Secrétariat de la Société des Nations, à titre d'information.

¹ Translated by the Secretariat of the League of Nations, for information.

² The exchange of ratifications took place, May 22, 1928.

Article 2.

1. In the case of property forming part of the estate of nationals of either of the two Contracting Parties and not coming under the provisions of Article 1. the following principles shall be applied :

(a) Such property shall be liable to succession duty in that one of the two States of which the deceased was a national at the time of his death ;

(b) If, however, the deceased at the time of his death had his domicile in the other State, the property in question situated therein shall be liable to succession duty in that country ;

(c) If the deceased at the time of his death had a domicile in both States, the property in question shall be liable to succession duty in that one of the two States of which the deceased was a national.

2. For the purposes of the present Convention, the term “ *domicile* ” shall mean the place in which a person has an abode provided that, in view of the circumstances, it may be assumed that he intends to retain it as a permanent dwelling, or the place where he resides, if there is good reason to assume, in view of the circumstances, that it is not his intention to reside only temporarily in such place or country.

Article 3.

1. For the purposes of Articles 1 and 2, legacies which do not relate to a specific item of property or to a right constituting a charge upon such item of property shall be treated as if they were chargeable in the first place to the property referred to in Article 2, and as if only the balance, which cannot be met from the property in question, was to be paid from the property specified in Article 1.

2. Where the property specified in Article 1 or Article 2 is situated in both States, the legacies shall be divided up in proportion to the total value of the estate situated in either State.

Article 4.

1. Debts chargeable to or secured on property specified in Article 1 shall be deducted from the value of such property.

2. Where the deceased was also personally liable for such debts, any balance thereof which cannot be met as above shall be deducted, together with other debts, in the first place from the movable property, and only such proportion of these debts as cannot be met otherwise shall be deducted from the remainder of the estate. Where necessary the provisions of Article 3, paragraph 2, shall be applied *mutatis mutandis*.

Article 5.

For the purposes of the present Convention the term “ *succession duty* ” shall mean all taxes levied on the transfer of property *mortis causa* in virtue of laws which are or may hereafter be in force in each of the two States.

Article 6.

The two Contracting Parties will assist each other in laying down the principles on which the rates of the said duty will be determined, and the persons interested will be notified concerning

the questions dealt with in the present Convention. The two Governments will concert measures regarding the details of the procedure relating thereto by means of an exchange of diplomatic Notes.

Article 7.

If in individual cases the Contracting Parties should be in doubt regarding the application of the provisions of the present Convention, the Finance Ministers of the two Contracting Parties will communicate with each other in order to arrive at a just and equitable solution.

Article 8.

1. The present Convention shall be ratified and the instruments of ratification shall be exchanged at Warsaw as soon as possible. It shall come into force on the fifteenth day after the exchange of the instruments of ratification and shall apply in all cases in which the deceased dies after its coming into force.

2. The present Convention shall remain in force until denounced by either Contracting Party ; such denunciation shall be made not less than 6 (six) months before the end of the calendar year. If denounced within the period laid down, the Convention shall cease to have effect on the expiry of the same calendar year in all cases in which the deceased dies after the close of that year.

In faith whereof the aforementioned Plenipotentiaries have signed the present Convention and have thereto affixed their seals.

Done in duplicate. at Vienna, November the twenty-fourth, one thousand nine hundred and twenty-six.

For the Republic of Austria :

(Signed) Alfred KEMPF.

For the Republic of Poland :

(Signed) Eduard WERNER.
