

N° 2828.

PORTUGAL
ET TCHÉCOSLOVAQUIE

Convention relative à la reconnaissance et à l'exécution de décisions judiciaires. Signée à Lisbonne, le 23 novembre 1927.

PORTUGAL
AND CZECHOSLOVAKIA

Convention concerning the Recognition and Enforcement of Judicial Decisions. Signed at Lisbon, November 23, 1927.

¹ TRADUCTION. — TRANSLATION.

No. 2828. — CONVENTION ² BETWEEN THE PORTUGUESE REPUBLIC AND THE CZECHOSLOVAK REPUBLIC CONCERNING THE RECOGNITION AND ENFORCEMENT OF JUDICIAL DECISIONS. SIGNED AT LISBON, NOVEMBER 23, 1927.

French official text communicated by the Permanent Delegate of the Czechoslovak Republic accredited to the League of Nations. The registration of this Convention took place September 25, 1931.

THE PRESIDENT OF THE CZECHOSLOVAK REPUBLIC and THE PRESIDENT OF THE PORTUGUESE REPUBLIC having thought it expedient to conclude a Convention concerning the recognition and enforcement of judicial decisions, have appointed for this purpose as their Plenipotentiaries :

THE PRESIDENT OF THE CZECHOSLOVAK REPUBLIC :

M. Emil SPIRA, Doctor of Laws, Head of Department in the Ministry of Justice ;
M. Karel HALFAR, Doctor of Laws, Head of the International Treaties Department at the Ministry of Foreign Affairs ;

THE PRESIDENT OF THE PORTUGUESE REPUBLIC :

Doctor Abel DE ANDRADE, Professor in the Faculty of Law at Lisbon ;
Doctor José CAEIRO DA MATA, Professor in the Faculty of Law at Lisbon ;

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

Article 1.

The following shall be regarded as judicial decisions within the meaning of the Convention : decisions pronounced in civil and commercial cases, whether of a contentious nature or not, by the ordinary tribunals, special tribunals, arbitral tribunals and, in Czechoslovakia, the guardianship (curatorship) authorities.

Decisions pronounced in a criminal case, upon the demand of the civil party, and decisions involving a declaration of bankruptcy, or the acceptance of a composition between the parties, shall not be regarded as judicial decisions in civil and commercial cases within the terms of the Convention.

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

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

² The exchange of ratifications took place at Prague, October 27, 1930.

Article 2.

The authority of judicial decisions within the meaning of Article 1, pronounced in one of the Contracting States, shall be recognised in the other State, subject to the following conditions :

(1) That in the case in question the rules of international legal competence recognised by the law of the State in which the decision is sought to be relied upon shall not exclude the jurisdiction of the other State ;

(2) That the recognition of the decision shall not be contrary to the public policy or to the principles of public law of the country in which the decision is sought to be relied upon ;

(3) That under the law of the State where the decision has been pronounced such decision shall be deemed to have acquired the force of *res judicata* ;

(4) That in the case of judgment by default, the defaulting party against whom the decision is sought to be relied upon shall have been duly summoned in accordance with the law of the country where the decision has been pronounced, and that he shall have received the summons in good time.

The examination by the authorities of the State where the decision is sought to be relied upon shall relate only to the conditions specified in points 1-4. It shall be the duty of these authorities to ascertain whether the said conditions are fulfilled. This examination shall be completed within two months at latest from the date on which the competent authority received the documents.

Article 3.

Judicial decisions pronounced in one of the Contracting States shall be enforced in the other State, if they satisfy the conditions enumerated in Article 2, points 1-4, and if they are enforceable in the State where they have been pronounced.

The examination by the authorities of the State where enforcement is sought shall only deal with the conditions mentioned in the preceding paragraph. It shall be the duty of these authorities to ascertain whether the said conditions are fulfilled. This examination shall be terminated within two months at latest from the date on which the competent authority received the documents.

Article 4.

The party relying upon the decision or claiming its enforcement must produce :

(1) A duly authenticated copy of the decision ;

(2) A certificate that the decision has acquired the force of *res judicata* and that it has become enforceable if such is the case ; this certificate shall be issued by the authority which pronounced the decision ;

(3) In the event of judgment by default, an authentic copy of the act or summons whereby the proceedings were instituted, and a document certifying the method and date of notification to the defaulting party ;

(4) A translation of the documents enumerated above, duly certified in accordance with the regulations of either State ; in Czechoslovakia, the translation shall be submitted in the Czech language, and in Portugal, in the Portuguese language.

Article 5.

Arbitral awards pronounced in one of the Contracting States, and having acquired there the same force as judicial decisions, shall be recognised and enforced in the other State if they satisfy the provisions of the preceding Articles, in so far as these are applicable.

The same shall apply in the case of compromises concluded before the judicial authorities and before arbitrators or arbitral tribunals.

Documents certifying that the awards, decisions or compromises mentioned in this article have acquired the force of *res judicata* and have become enforceable shall be issued in each of the two Contracting States by the authority which would be competent to authorise enforcement on the basis of the said enforceable instruments.

Article 6.

Enforcement shall be sought directly by the party concerned at the court within whose jurisdiction it must be effected.

Procedure with regard to enforcement shall be governed by the law of the State in which enforcement is sought. This shall also apply to the measures provided for in Articles 9 and 11.

Article 7.

The enforcement of the decisions relating to costs referred to in Article 18, paragraphs 1 and 2, of the Hague Convention¹ of July 17, 1905, on Civil Procedure, pronounced in either State, shall be governed by Article 6 of the Agreement on reciprocal judicial assistance in regard to civil and commercial matters concluded between the two Contracting States.

Article 8.

The provisions of the present Convention shall apply irrespective of the nationality of the Parties.

Article 9.

The tribunal competent to authorise enforcement shall, at the request of the Party, allow the taking of precautionary measures, in conformity with its laws, to safeguard the rights, as against the debtor, arising out of the enforceable instrument. The tribunal may rescind these measures later, in conformity with its laws.

Article 10.

Even before the decisions specified in Articles 1 and 5 have acquired the force of *res judicata*, or before the period laid down in the decision for fulfilment has expired, the tribunal competent to authorise enforcement shall be at liberty, upon request to that effect being made, to allow conservatory measures to be taken in accordance with the provisions in force in the country applied to.

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

Article II.

Provisional measures shall be adopted before or during the proceedings, at the request of the Party whose interests are threatened, and in conformity with the laws of the State applied to, even if a tribunal of the other State is competent to take a decision in the matter in question.

Article 12.

Should any doubts arise in connection with questions raised by the application of the present Convention, the Ministry of Justice and Religion at Lisbon and the Minister of Justice at Prague shall, upon request, communicate to each other direct the necessary legal information.

Article 13.

The present Convention shall be ratified and the instruments of ratification shall be exchanged at Prague.

This Convention shall come into force one month after the exchange of ratifications, and shall remain valid for one year after denunciation, which may be effected at any time.

In faith whereof, the Plenipotentiaries have signed the present Convention in two copies.

Done at Lisbon, November 23, 1927.

(L. S.) Dr. Emil SPIRA.

(L. S.) Abel DE ANDRADE.

(L. S.) Dr. Karel HALFAR.

(L. S.) José CAEIRO DA MATA.