

HONGRIE ET POLOGNE

Echange de notes ayant pour objet d'introduire, à titre d'addition à la Convention de La Haye du 17 juillet 1905, relative à la procédure civile, de nouvelles simplifications dans l'assistance judiciaire réciproque. Budapest, les 2 août et 9 décembre 1931, 5 mai, 1^{er} et 9 juillet 1932.

HUNGARY AND POLAND

Exchange of Notes with the Object of introducing Further Simplifications, as an Addition to the Civil Procedure Convention concluded at The Hague, July 17, 1905, in Reciprocal Judicial Assistance. Budapest, August 2 and December 9, 1931, May 5, July 1 and 9, 1932.

¹ TRADUCTION. — TRANSLATION.

No. 3253. — EXCHANGE OF NOTES² BETWEEN THE HUNGARIAN AND POLISH GOVERNMENTS WITH THE OBJECT OF INTRODUCING FURTHER SIMPLIFICATIONS, AS AN ADDITION TO THE CIVIL PROCEDURE CONVENTION CONCLUDED AT THE HAGUE, JULY 17, 1905, IN RECIPROCAL JUDICIAL ASSISTANCE. BUDAPEST, AUGUST 2 AND DECEMBER 9, 1931, MAY 5, JULY 1st AND 9, 1932.

French official text communicated by the Polish Delegate accredited to the League of Nations and by the Chargé d'Affaires a. i. of the Hungarian Delegation accredited to the League of Nations. The registration of this Exchange of Notes took place August 31, 1933.

I.

ROYAL MINISTRY
OF FOREIGN AFFAIRS
OF HUNGARY.

71733/5
1931.

NOTE VERBALE.

With reference to the Notes Verbales Nos. 47/pol. 1930 of February 27, 1930 and 116/pol. 1930 of April 9, 1930, the Royal Hungarian Ministry of Foreign Affairs has the honour to inform the Polish Legation that the Royal Hungarian Government, taking note of the tenor of the above-mentioned Notes, regards the question of judicial assistance under the Hague Convention³ of July 17, 1905, as finally settled between the two countries in the following manner :

I. Applications for service of judicial documents and letters of request — whether coming from Poland itself or the Free City of Danzig — shall be forwarded in Hungary by the Polish Consulate to the Royal Hungarian Ministry of Justice. Application for service of documents under Article 1 of the Convention must be drawn up in Hungarian and the said applications or the lists annexed thereto and also drawn up in Hungarian must contain the mention of the authority from whom the document forwarded comes, the name and status of the parties, the address of the consignee, the nature of the document in question and, if necessary, any wishes that may be expressed concerning coercive service. The methods of service provided for in points 1 to 3 of Article 6 and by Article 15 of the Hague Convention shall not apply to Hungaro-Polish relations, since the Royal Government is unable in practice to guarantee the reciprocity which the Polish Government desires.

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 In force as from July 15, 1932.

³ *British and Foreign State Papers*, Vol. 99, page 990.

Applications for execution to be carried out in Hungary under Article 18 of the Convention must be made through the diplomatic channel.

The documents to be served, letters of request and acts of execution mentioned in Articles 3 and 10 respectively and under point 3 of paragraph 2 of Article 19 of the Convention, must be accompanied by a Hungarian translation made by a sworn translator in Hungary or should the translation not come from such a translator, it must be certified correct by the diplomatic or consular agent of the Polish Republic.

II. Applications for service on persons in Poland must be sent by the Royal Hungarian Legation in Warsaw to the Presidents of the District Courts of the place of residence of the addressee.

Letters of request should, however, be forwarded through the Royal Hungarian Legation — accompanied by the application in respect of them — to the Polish Ministry of Justice.

Requests for enforcement, as defined in Article 18 of the Convention, may also be forwarded to the Polish authorities direct by the parties concerned.

Since the Royal Hungarian Government is not in a position to guarantee reciprocity, the procedure provided for in points 1-3 of Article 6 and by Article 15 of the Convention cannot be followed. The documents mentioned in Articles 3 and 10 of point 3 of paragraph 2 of Article 19 of the Convention must be accompanied by a certified Polish translation. Should the translation not come from a sworn translator in Poland, it should be certified correct by the diplomatic or consular agent of the Kingdom of Hungary.

Applications for service of documents, letters of request, requests for enforcement on the territory of the Free City of Danzig must be forwarded by diplomatic channel through the Polish Government to the Senate of that City.

Although the Polish Government has not made any declaration with regard to the suggestion of the Royal Government that applications for free legal aid should also be accompanied by a Hungarian or Polish translation, the Royal Hungarian Government, in view of the provisions of Article 20 of the Convention under which persons applying for free legal aid must comply with the laws of the State in which legal aid is applied for, regards it as understood that certificates of indigence must also be accompanied by an authentic certified Hungarian (or Polish) translation.

BUDAPEST, *August 2, 1931.*

(*Seal.*)

To the Polish Legation
at Budapest.

II.

POLISH LEGATION
AT BUDAPEST.

No. 517/Pol./31.

NOTE VERBALE.

By Note Verbale No. 71733/5/31 dated August 2, 1931, the Royal Ministry of Foreign Affairs made the following communication to the Legation :

“ With reference to the Notes Verbales Nos 47/Pol. 1930 of February 27, 1930, and 116/Pol. 1930 of April 9, 1930, the Royal Hungarian Ministry of Foreign Affairs has the honour to inform the Polish Legation that the Royal Hungarian Government, taking note of the tenor of the above-mentioned Notes, regards the question of judicial assistance under the Hague Convention of July 17, 1905, as finally settled between the two countries in the following manner :

“ I. Applications for service of judicial documents and letters of request — whether coming from Poland itself or the Free City of Danzig — shall be forwarded in Hungary by the Polish Consulate to the Royal Hungarian Ministry of Justice. Application for service of documents under Article 1 of the Convention must be drawn up in Hungarian and the said applications or the lists annexed thereto and also drawn up in Hungarian must contain the mention of the authority from whom the document forwarded comes, the name and status of the parties, the address of the consignee, the nature of the document in question and, if necessary, any wishes that may be expressed concerning coercive service. The methods of service provided for in points 1 to 3 of Article 6 and by Article 15 of the Hague Convention shall not apply to Hungaro-Polish relations since the Royal Government is unable in practice to guarantee the reciprocity which the Polish Government desires.

“ Applications for execution to be carried out in Hungary under Article 18 of the Convention must be made through the diplomatic channel.

“ The documents to be served, letters of request and acts of execution mentioned in Articles 3 and 10 respectively and under point 3 of paragraph 2 of Article 19 of the Convention, must be accompanied by a Hungarian translation made by a sworn translator in Hungary or should the translation not come from such a translator, it must be certified correct by the diplomatic or consular agent of the Polish Republic.

“ II. Applications for service on persons in Poland must be sent by the Royal Hungarian Legation in Warsaw to the Presidents of the District Courts of the place of residence of the addressee.

“ Letters of request should, however, be forwarded through the Royal Hungarian Legation — accompanied by the application in respect of them — to the Polish Ministry of Justice.

“ Requests for enforcement, as defined in Article 18 of the Convention, may also be forwarded to the Polish authorities direct by the parties concerned.

“ Since the Royal Hungarian Government is not in a position to guarantee reciprocity, the procedure provided for in points 1-3 of Article 6 and by Article 15 of the Convention cannot be followed. The documents mentioned in Articles 3 and 10 respectively in point 3 of paragraph 2 of Article 19 of the Convention must be accompanied by a certified Polish translation. Should the translation not come from a sworn translator in Poland, it should be certified correct by the diplomatic or consular agent of the Kingdom of Hungary.

“ Applications for service of documents, letters of request and requests for enforcement on the territory of the Free City of Danzig must be forwarded by diplomatic channel through the Polish Government to the Senate of that City.

“ Although the Polish Government has not made any declaration with regard to the suggestion of the Royal Government that applications for free legal aid should also be accompanied by a Hungarian or Polish translation, the Royal Hungarian Government, in view of the provisions of Article 20 of the Convention under which persons applying for free legal aid must comply with the laws of the State in which legal aid is sought, regards it as understood that certificates of indigence must also be accompanied by a certified Hungarian (or Polish) translation. ”

The Polish Legation has the honour to acknowledge this communication, which it regards as settling the question of legal aid as between Poland and Hungary in accordance with the Hague Convention of July 17, 1905.

BUDAPEST, *December 9, 1931.*

(*Seal.*)

To the Royal Ministry of Foreign Affairs
at Budapest.

III.

POLISH LEGATION
AT BUDAPEST.

No. 97/Pol./32.

NOTE VERBALE.

With reference to the Note Verbale from the Royal Ministry of Foreign Affairs No. 71733/31 of August 2, 1931, the Polish Legation has the honour to inform the Royal Ministry of Foreign Affairs that, in the opinion of the competent Polish authorities, the wording of paragraph 1 of the said note which excludes the use in Polish-Hungarian relations of the three methods of serving judicial documents provided for in paragraphs 1-3 of Article 6 of the Hague Convention does not take account of the right that Article 6 of the said Convention gives to each State to serve non-coercive judicial documents direct through its diplomatic or consular agents on its own nationals in the territory of the other Contracting Party.

Therefore to avoid all misunderstanding the Polish Legation desires to state clearly that paragraph 1 of its Note No. 517-Pol./31 of December 9, 1932, does not affect the right of the Polish Government to serve judicial documents on its nationals in Hungary in the manner provided for in paragraph 3 of Section 1 of Article 6 of the Hague Convention.

In the hope that the Royal Ministry of Foreign Affairs will agree with this point of view, the Polish Legation has the honour to request the Royal Ministry to be so good as to confirm its opinion.

BUDAPEST, *May 5, 1932.*

(*Seal.*)

To the Royal Ministry of
Foreign Affairs at Budapest.

IV.

ROYAL MINISTRY
OF FOREIGN AFFAIRS
OF HUNGARY.

69.843/5.

1932.

NOTE VERBALE.

With reference to Note Verbale No. 97/Pol./32 of May 5, 1932 concerning the interpretation of Article 6 of the Convention on Civil Procedure concluded on July 17, 1905, at The Hague, the Royal Hungarian Ministry of Foreign Affairs has the honour to inform the Polish Legation that according to the last sentence of Article 6 of the said Convention the State on whose territory service is to be made cannot object when, in the case provided for in Section 1, paragraph 3, the document is to be served in non-coercive form on a national of the applicant State. In these circumstances the Royal Hungarian Ministry of Foreign Affairs shares and confirms the point of view of the Polish Legation to the effect that Poland is, without further formalities, entitled to have documents served on its nationals in the territory of the Kingdom of Hungary by its diplomatic or consular agents direct but in non-coercive form.

When communicating the above to the Polish Legation, the Royal Hungarian Ministry of Foreign Affairs begs to draw the Legation's attention to the fact that, although the methods to be followed in respect of Hungaro-Polish legal aid based on the principles of the Hague Convention of July 17, 1905, and on the respective declarations of the two Governments, have been set forth clearly and definitely in an exchange of notes, the Polish Government is continuing to forward documents for service and letters rogatory through diplomatic channel.

This Ministry has therefore the honour to request the Polish Legation to take action in the proper quarters in order that the methods provided for in the exchange of notes mentioned above (cf. Legation's Note Verbale No. 517/Pol./31 dated December 9, 1931) shall be followed in future.

BUDAPEST, July 1, 1932.

(Seal.)

To the Polish Legation
at Budapest.

V.

NOTE VERBALE.

Communicated by the Chargé d'Affaires a.i. of the Hungarian Delegation accredited to the League of Nations, November 15, 1933.

POLISH LEGATION
AT BUDAPEST.

No. 332/Pol./32.

The Polish Legation has the honour to acknowledge receipt of Note Verbale No. 69843/5/32 of July 1st, 1932, from the Royal Ministry of Foreign Affairs.

At the same time, with reference to the second part of the said Note, the Polish Legation has the honour to inform the Royal Ministry that, as from July 15, 1933, the service of writs and letters of request will be effected through the channels specified in the Exchange of Notes (see Notes Verbales No. 71733/5 of 2/VIII/1931 and No. 517/Pol./31 of 9/XII/31): that is to say, by the Polish Consulate at Budapest to the Royal Ministry of Justice.

BUDAPEST, July 9, 1932.

(Seal.)

To the Royal Ministry of Foreign Affairs,
Budapest.