

N° 3691.

PERSE ET SUISSE

Convention d'établissement, complétée par une déclaration concernant l'assistance judiciaire gratuite et la caution « *judicatum solvi* ». Signées à Berne, le 25 avril 1934.

PERSIA AND SWITZERLAND

Convention of Establishment, completed by a Declaration concerning Free Judicial Assistance and the « *Cautio judicatum Solvi* ». Signed at Berne, April 25th, 1934.

¹ TRADUCTION. — TRANSLATION.No. 3691. — CONVENTION ² OF ESTABLISHMENT BETWEEN THE EMPIRE OF PERSIA AND THE SWISS CONFEDERATION. SIGNED AT BERNE, APRIL 25TH, 1934.

French official text communicated by the Swiss Federal Council. The registration of this Convention took place July 4th, 1935.

THE SWISS FEDERAL COUNCIL

and

HIS IMPERIAL MAJESTY THE SHAH OF PERSIA,

Being equally desirous of determining the conditions for the establishment of Persian nationals in Switzerland and Swiss nationals in Persia, in accordance with the Treaty ³ of Friendship of to-day's date, have resolved to conclude a Convention of Establishment, and have for this purpose appointed as their Plenipotentiaries :

THE SWISS FEDERAL COUNCIL :

Monsieur Giuseppe MOTTA, Federal Councillor, Head of the Federal Political Department ;

HIS IMPERIAL MAJESTY THE SHAH OF PERSIA :

Monsieur Abol-Hassan Khan FOROUGHI, Envoy Extraordinary and Minister Plenipotentiary of Persia at Berne ;

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

Article I.

Nationals of either High Contracting Party shall be admitted to and treated in the territory of the other Party, as regards their persons and property, in accordance with the principles and practice of international common law. They shall enjoy there the fullest protection of the laws and territorial authorities as regards their persons and property, rights and interests. They shall be entitled to enter and leave the territory of the other Contracting Party, to travel, reside and establish themselves therein, on condition that, and for such time as, they comply with the laws and regulations in force in the said territory.

In all these matters they shall enjoy treatment not less favourable than that accorded to the nationals of the most-favoured nation.

Nothing in the foregoing shall, however, prevent either of the two High Contracting Parties from taking measures at any time to regulate or prohibit immigration into its territory, provided

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 at Berne, June 1st, 1934.
Came into force July 2nd, 1935.

³ Vol. CLIX, page 235, of this Series.

that such measures do not constitute discrimination specially directed against all nationals of the other Contracting Party.

It shall be understood that the present Article does not affect either the rules relating to passports, or the general provisions enacted by either High Contracting Party relating to the conditions in which foreign workers may carry on an occupation in the respective territories.

Article 2.

The provisions of the present Convention shall not restrict the right of either High Contracting Party to prohibit nationals of the other Party from residing in its territory in special cases, either in consequence of a judicial decision, or for reasons connected with the internal or external security of the State or with public order.

Deportation shall be carried out in conditions consistent with the requirements of health and humanity.

Article 3.

Provided they comply with the laws and regulations of the country, nationals of either High Contracting Party shall have the right, in the territory of the other, to carry on any kind of industry or commerce, and to engage in any trade or profession except hawking and other itinerant trades in the same way as nationals of the country, in so far as such trades or professions are not concerned either with a State monopoly or with the operation of a monopoly granted by the State.

Furthermore, this provision shall not apply to occupations exclusively reserved, under the said laws and regulations, for nationals of the country.

Article 4.

Commercial companies of all kinds, including companies engaged in industry, finance, insurance and communications and transport constituted in conformity with the laws of either High Contracting Party and having their registered head offices in its territory, which are regularly recognised to possess its nationality, shall be legally recognised in the territory of the other, and their capacity and right to sue and be sued in a civil action shall also be recognised.

Permission to engage in commercial activities in the territory of the other Party shall be subject to the laws and regulations in force therein.

As regards the conditions governing their admittance and the exercise of their activities, and in every other respect, the said companies may, provided they comply with the laws and regulations of the country of residence, engage in any commercial and industrial activities which, in accordance with Article 3, may be engaged in by nationals of the country in which they have been constituted. The companies in question shall in all respects be treated in the same way as similar undertakings of the most-favoured nation.

It shall be understood that neither the provisions of this nor of any other Article in the present Convention shall confer a right to claim the special privileges granted in Persia to foreign companies the conditions of whose operation are determined by special concessions.

On the other hand, companies of either High Contracting Party the conditions of whose operation in the territory of the other are determined by special concessions shall not be entitled, on the points laid down in the act of concession, to claim the benefits granted in virtue of the treaties and conventions in force or arising out of most-favoured-nation treatment.

Article 5.

The nationals and companies of either High Contracting Party referred to in Article 4 shall in all respects enjoy the same treatment and protection in the territory of the other Party as the nationals of the most-favoured nation, as regards their persons and property, rights and interests, in so far as concerns taxes and charges of all kinds as well as all other fiscal charges.

Article 6.

Nationals of either High Contracting Party shall have the right to acquire, own and dispose of rights and movable property of all kinds in the territory of the other, provided they observe the laws and regulations in force therein. They shall be treated in this respect on the same footing as nationals of the most-favoured nation.

As regards immovable property and rights, nationals of either High Contracting Party shall be treated in all respects in the territory of the other on the same footing as nationals of the most-favoured nation. It shall be understood that pending the conclusion of a special convention, Swiss nationals in the territory of Persia may only acquire, occupy or own the buildings necessary for their own occupancy and for carrying on their trade or industry.

Article 7.

Houses and other premises acquired, owned or rented by nationals of either High Contracting Party in the territory of the other Party in accordance with the provisions of the present Convention shall be subject to domiciliary searches only under the conditions and in accordance with the formalities prescribed by the laws in force for nationals of the country.

In the same way, trade books, statements of account, and documents of any kind which may be found in the houses or offices of nationals of either High Contracting Party in the territory of the other Party may only be subject to examination or seizure in the conditions and in accordance with the formalities prescribed by the laws in force for nationals of the country.

Article 8.

Nationals of either High Contracting Party shall enjoy the same treatment in the territory of the other Party as nationals of the most-favoured nation, as regards the protection of their persons and property by the courts and authorities.

They shall, in particular, have free and unhindered access to the courts, and may sue and be sued under the same conditions as nationals of the most-favoured nation. Questions relating to assistance to the poor and *cautio judicatum solvi* shall be settled under a special declaration of reciprocity annexed to the present Convention.

In matters relating to personal and family rights and the right of succession, nationals of either High Contracting Party in the territory of the other Party shall continue to be subject to the provisions of their national laws. The other Contracting Party may only depart from the application of these laws in exceptional circumstances, and in so far as these laws are usually departed from in the case of any other foreign State.

The High Contracting Parties agree that personal and family rights and the right of succession, that is to say personal status, shall be deemed to include the following matters: marriage, marriage settlements, divorce, separation, marriage portion, paternity, filiation, adoption, legal competency, age of majority, guardianship and trusteeship, judicial interdiction, testamentary or *ab intestat* inheritance, liquidation and the division of estates or property, and, generally speaking, all questions relating to family rights, including all questions concerning personal status.

Article 9.

In time of peace and in time of war, nationals of each High Contracting Party shall be exempt in the territory of the other Party from any obligation to work for the State, except in the case of defence against a natural disaster. They shall be exempt from compulsory military service in the land, naval or air forces, or in the national guard or militia and also from any tax imposed in lieu of personal service. Nationals of either High Contracting Party in the territory of the other shall be exempt from all forced loans. They shall not be liable to military contributions or to any kind of requisition, whether military or civil, or to expropriation in the public interest except

under the same conditions and on the same footing as nationals of the most-favoured nation and in return for the same compensation.

The provisions of the present Article shall also apply to the companies mentioned in Article 4.

Article 10.

The Convention shall be ratified and the instruments of ratification shall be exchanged at Berne as soon as possible.

The Convention shall come into force one month after the exchange of ratifications, and shall remain in force for five years. If the Convention is not denounced six months before the expiration of the said period, it shall be regarded as prolonged by tacit consent for an indefinite period. It may be denounced at any moment on six months' notice being given.

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

Done in duplicate at Berne, April the twenty-fifth, one thousand nine hundred and thirty-four.

(L. S.) (Signed) MOTTA.

(L. S.) (Signed) A. H. FORUGHI.

DECLARATION

CONCERNING FREE LEGAL ASSISTANCE AND SECURITY FOR COSTS.

For the purpose of supplementing Article 8, paragraph 2, of the Convention of Establishment between Switzerland and Persia, concluded and signed to-day, the undersigned, duly authorised by their respective Governments, have agreed upon the following Articles :

Article 1.

No security or deposit of any kind whatever may be required, on account of the fact of their being aliens or of their having no domicile or residence in the country, from nationals of either Contracting State having their domicile in Persia or Switzerland who appear as plaintiffs or interveners before the courts of the other.

The same rule shall apply to payments required of plaintiffs or interveners as security for legal costs.

Article 2.

Judgments rendered in one of the Contracting States ordering payment of the costs of the suit by plaintiffs or interveners who are exempt from the requirement of security, deposit or payment in virtue of Article 1 or of the law of the State in which the action was brought shall be enforced free of charge by the competent authority in the other State. Application shall be made either through diplomatic channels or direct by the Party concerned.

The same rule shall apply to legal decisions under which the costs of the action are fixed at a later date.

Article 3.

The competent authority shall confine itself, in deciding whether enforcement orders shall be granted, to considering :

(1) Whether, according to the law of the country in which the judgment was rendered, the decision has acquired the force of *res judicata* ;

(2) Whether the operative part of the decision is accompanied by a translation into the language of the authority to which application is made and certified correct by a diplomatic or consular agent of the State making the application or by a sworn translator belonging to either State.

The conditions laid down in paragraph 1, No. 1, shall be deemed to be satisfied by a declaration by the competent authority of the applicant State, attesting that the decision has acquired the force of *res judicata*. The highest official of the administration of justice in the applicant State shall certify that this authority is competent. The declaration and certificate just referred to shall be translated in accordance with the rule laid down in paragraph 1, No. 2.

In deciding whether to grant enforcement orders, the competent authority shall estimate at the same time, provided the party requests it to do so, the amount of the costs of translation and legalisation referred to in paragraph 1, No. 2. These costs shall be regarded as costs and expenses of the action.

Article 4.

It shall be understood that Articles 1 to 3 of this Declaration shall also apply to the companies mentioned in Article 4 of the Convention of Establishment between Switzerland and Persia.

Article 5.

The nationals of either Contracting State shall enjoy the benefit, in the other State, of free legal assistance in the same way as nationals of that State, provided they comply with its legislation.

Done in duplicate at Berne, the twenty-fifth day of April, one thousand nine hundred and thirty-four.

(Signed) MOTTA.

(Signed) A. H. FOROUGHI.