

No. 6550

**AUSTRIA
and
CZECHOSLOVAKIA**

Treaty concerning legal relations in civil cases, official documents, and the communication of legal information (with Final Protocol). Signed at Prague, on 10 November 1961

Official texts: German and Czech.

Registered by Austria on 5 March 1963.

**AUTRICHE
et
TCHÉCOSLOVAQUIE**

Traité concernant les relations juridiques en matière civile, les actes instrumentaires et la communication de renseignements juridiques (avec Protocole final). Signé à Prague, le 10 novembre 1961

Textes officiels allemand et tchèque.

Enregistré par l'Autriche le 5 mars 1963.

[TRANSLATION — TRADUCTION]

No. 6550. TREATY¹ BETWEEN THE REPUBLIC OF AUSTRIA
AND THE CZECHOSLOVAK SOCIALIST REPUBLIC CON-
CERNING LEGAL RELATIONS IN CIVIL CASES, OF-
FICIAL DOCUMENTS, AND THE COMMUNICATION
OF LEGAL INFORMATION. SIGNED AT PRAGUE, ON
10 NOVEMBER 1961

The Federal President of the Republic of Austria and the President of the Czechoslovak Socialist Republic have agreed to conclude a treaty concerning legal relations in civil cases, official documents, and the communication of legal information, and for this purpose have appointed as their plenipotentiaries :

The Federal President of the Republic of Austria :

Dr. Heinrich Calice, Envoy Extraordinary and Minister Plenipotentiary,

The President of the Czechoslovak Socialist Republic :

Mr. Václav David, Minister for Foreign Affairs,

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

PART I

LEGAL PROTECTION, SERVICE OF DOCUMENTS AND LEGAL ASSISTANCE
IN CIVIL CASES

LEGAL PROTECTION

Article 1

1. Nationals of either Contracting State shall have free access in the territory of the other Contracting State to the courts and may appear before them under the same conditions as nationals of the latter State.

¹ Came into force on 30 December 1962, sixty days after the exchange of the instruments of ratification which took place at Vienna on 31 October 1962, in accordance with article 30 (1).

2. The provisions of this Treaty referring to nationals of either Contracting State shall also apply to bodies corporate, including commercial companies, constituted under the law of either Contracting State and domiciled in its territory.

LEGAL COSTS

Article 2

1. If a national of one of the Contracting States, domiciled or habitually resident in either Contracting State, appears in court in the other Contracting State as a plaintiff (applicant) or intervenor, he shall not be required, on the ground of his being an alien or of his not being domiciled or habitually resident in the country, to deposit security for legal costs.

2. If under the law of either Contracting State advance payment is required to cover court fees, the rule in paragraph 1 shall apply.

3. If under the law of either Contracting State a court fee for the proceedings is payable on filing the complaint (application), a national of the other Contracting State shall be allowed not less than one month to effect such payment.

4. Advance payments in respect of compensation payable by one of the parties may be required in one Contracting State of nationals of the other Contracting State only on the same conditions and to the same extent as they are required of the former State's own nationals.

Article 3

1. If a final and enforceable judgement rendered in one Contracting State orders the reimbursement of legal costs or the payment of court fees by a plaintiff (applicant) or intervenor who, in accordance with article 2 or with the law of the State in which the complaint was filed, has been exempted from the deposit of security or from making advance payments, such judgement shall, on application, be enforced in the territory of the other Contracting State. An application for enforcement may be made either direct to the court competent to decide thereon or to the court which rendered judgement in the case at first instance.

2. The provisions of paragraph 1 shall also apply to retrospective decisions fixing the amount of legal costs or court fees.

3. The application for enforcement shall be accompanied by the following :
- (a) an official copy of the judgement, with endorsement of its finality and enforceability ;
 - (b) a translation thereof in the language of the court competent to decide on the application ;
 - (c) where the application is made to the court which rendered judgement at first instance, a translation thereof into the language of the court competent to decide on the application.

Translations shall be subject to the provisions of article 17, paragraph 3. If the application is made to the court which rendered judgement at first instance, it shall be transmitted through the same channel as an application for legal assistance.

4. Judgements specified in paragraph 1 rendered by courts of the other State shall be enforced as if they were domestic judgements, subject to the proviso, however, that decisions on applications for enforcement shall be open to appeal.

5. Legal costs within the meaning of paragraph 1 include the cost of the endorsement of finality and enforceability, and the costs of such translations and attestations as may be necessary. Such costs shall on request be fixed by the court required to decide on the application for enforcement.

BENEFITS IN RESPECT OF MEANS (JUDICIAL ASSISTANCE FOR POOR PERSONS)

Article 4

1. Nationals of one of the Contracting States appearing before the courts of the other Contracting State shall be admitted to benefits granted in respect of means (judicial assistance for poor persons) on the same conditions and to the same extent as nationals of the latter State.

2. If a party to a legal action in one of the Contracting States is entitled to the benefits referred to in paragraph 1, such benefits shall extend to all proceedings undertaken in the other Contracting State in connexion with that action. They shall also extend to execution proceedings for the recovery of costs (article 3), if under the law of the State in which execution is to be effected the benefits in question extend to execution proceedings.

Article 5

1. The certificate required for obtaining the benefits referred to in article 4, paragraph 1, shall be issued by the competent authority of the Contracting State in whose territory the petitioner has his domicile or habitual residence.

2. If the petitioner is not domiciled or habitually resident in either Contracting State, the certificate may be issued by the competent diplomatic or consular authority of the State of which he is a national. The foregoing notwithstanding, the benefits referred to in article 4, paragraph 1, may be granted on the basis of a certificate issued by an authority of the State in which the petitioner has his domicile or habitual residence.

Article 6

The court required to rule on a petition for authorization of the benefits referred to in article 4, paragraph 1, shall, within the limits of its jurisdiction, retain the right to verify the accuracy of the certificate submitted to it.

Article 7

1. If a national of one Contracting State who has his domicile or habitual residence in either State wishes to avail himself of the benefits referred to in article 4, paragraph 1, before a court of the other Contracting State, he may file the petition to that effect with the district court of his place of domicile or habitual residence.

2. The petition shall be accompanied by the certificate mentioned in article 5 and if necessary by a statement of the facts of the case.

3. The petition and the documents accompanying it shall be forwarded through the channel referred to in article 9.

4. The fact that a petition is not drawn up in the language of the court required to rule on it shall not affect its treatment. Any translations that may be necessary shall be provided by the authorities of the State whose court is required to rule on the matter.

5. If the court required to rule on the petition authorizes the benefits, it shall of its own motion appoint a representative for the petitioner.

COMMON PROVISIONS CONCERNING SERVICE OF DOCUMENTS AND LEGAL ASSISTANCE

Article 8

1. The Contracting States undertake through their courts, on application, to provide each other with legal assistance and effect service of documents in civil cases, including family cases.

2. In the matters referred to in paragraph 1 above, the courts shall provide legal assistance and effect service of documents on the application of administrative author-