

Convention for the Settlement of Certain Conflicts of Laws in Connection with Cheques

THE PRESIDENT OF THE GERMAN REICH; THE FEDERAL PRESIDENT OF THE AUSTRIAN REPUBLIC; HIS MAJESTY THE KING OF THE BELGIANS; HIS MAJESTY THE KING OF DENMARK AND ICELAND; THE PRESIDENT OF THE POLISH REPUBLIC, FOR THE FREE CITY OF DANZIG ; THE PRESIDENT OF THE REPUBLIC OF ECUADOR; HIS MAJESTY THE KING OF SPAIN; THE PRESIDENT OF THE REPUBLIC OF FINLAND; THE PRESIDENT OF THE FRENCH REPUBLIC; THE PRESIDENT OF THE HELLENIC REPUBLIC; HIS SERENE HIGHNESS THE REGENT OF THE KINGDOM OF HUNGARY; HIS MAJESTY THE KING OF ITALY; HIS MAJESTY THE EMPEROR OF JAPAN; HER ROYAL HIGHNESS THE GRAND-DUCHESS OF LUXEMBURG; THE PRESIDENT OF THE UNITED STATES OF MEXICO; HIS SERENE HIGHNESS THE PRINCE OF MONACO; HIS MAJESTY THE KING OF NORWAY ; HER MAJESTY THE QUEEN OF THE NETHERLANDS; THE PRESIDENT OF THE POLISH REPUBLIC; THE PRESIDENT OF THE PORTUGUESE REPUBLIC; HIS MAJESTY THE KING OF ROUMANIA ; HIS MAJESTY THE KING OF SWEDEN ; THE SWISS FEDERAL COUNCIL; THE PRESIDENT OF THE CZECHOSLOVAK REPUBLIC; THE PRESIDENT OF THE TURKISH REPUBLIC; HIS MAJESTY THE KING OF YUGOSLAVIA,

Being desirous of adopting rules to settle certain conflicts of laws in connection with cheques,

have appointed as their Plenipotentiaries the following :

THE PRESIDENT OF THE GERMAN REICH :

M. Leo QUASSOWSKI, Ministerial Counsellor in the Reich Ministry of Justice;

Dr. Erich ALBRECHT, Counsellor of Legation in the Reich Ministry for Foreign Affairs;

Dr. Erwin PÄTZOLD, " Landgerichtsrat " at the Court of Schweidnitz.

THE FEDERAL PRESIDENT OF THE AUSTRIAN REPUBLIC :

Dr. Guido STROBELE, Ministerial Counsellor in the Federal Ministry of Justice.

His MAJESTY THE KING OF THE BELGIANS :

M. J. DE LA VALLÉE POUSSIN, Honorary Secretary-General of the Ministry of Science and Arts.

His MAJESTY THE KING OF DENMARK AND ICELAND :

M. Axel HELPER, Ministerial Counsellor in the Ministry of Commerce and Industry;

M. Valdemar EIGTVED, General Manager of the " Privatbanken ", Copenhagen.

THE PRESIDENT OF THE POLISH REPUBLIC, FOR THE FREE CITY OF DANZIG :

M. Józef SULKOWSKI, Professor at the University of Poznan, Member of the Polish Codification Commission.

THE PRESIDENT OF THE REPUBLIC OF ECUADOR :

Dr. Alejandro GASTELÚ, Consul at Geneva.

His MAJESTY THE KING OF SPAIN :

Professor Francisco BERNIS, Secretary-General of the " Consejo superior Bancario " .

THE PRESIDENT OF THE REPUBLIC OF FINLAND :

M. Filip GRÖNWALL, Counsellor of State, Member of the High Administrative Court.

THE PRESIDENT OF THE FRENCH REPUBLIC :

M. Louis jean PERCEROU, Professor in the Faculty of Law of the University of Paris.

THE PRESIDENT OF THE HELLENIC REPUBLIC :

M. R. RAPHAËL, Permanent Delegate accredited to the League of Nations ;

M. A. CONTOUMAS, First Secretary of the Permanent Delegation accredited to the League of Nations.

His SERENE HIGHNESS THE REGENT OF THE KINGDOM OF HUNGARY :

M. jean PELENYI, Resident Minister, Head of the Royal Delegation accredited to the League of Nations.

His MAJESTY THE KING OF ITALY :

M. Amedeo GIANNINI, Counsellor of State, First-Class Minister Plenipotentiary;

M. Giovanni ZAPPALÀ, Barrister-at-Law, Head of Section in the Ministry of Finance.

His MAJESTY THE EMPEROR OF JAPAN :

M. Nobutaro KAWASHIMA, Envoy Extraordinary and Minister Plenipotentiary to the President of the Hellenic Republic ;

M. Ukitsu TANAKA, judge at the Supreme Court of Japan.

HER ROYAL HIGHNESS THE GRAND-DUCHESS OF LUXEMBURG:

M. Charles VERMAIRE, Consul at Geneva.

THE PRESIDENT OF THE UNITED STATES OF MEXICO :

M. Antonio CASTRO-LEAL, Observer accredited to the League of Nations.

His SERENE HIGHNESS THE PRINCE OF MONACO :

Al. Conrad E. HENTSCH, Consul-General of the Principality at Geneva.

His MAJESTY THE KING OF NORWAY :

M. C. Stub HOLMBØE, Advocate at the Supreme Court.

HER MAJESTY THE QUEEN OF THE NETHERLANDS :

Dr. J. KOSTER, Counsellor at the High Court of Justice, former Professor at the University of Groningen.

THE PRESIDENT OF THE POLISH REPUBLIC :

M. Józef SULKOWSKI, Professor at the University of Poznan, Member of the Polish Codification Commission.

THE PRESIDENT OF THE PORTUGUESE REPUBLIC :

Dr. Jose CAEIRO DA MATTA, Rector of the University of Lisbon, Professor in the Faculty of Law, Director of the Bank of Portugal and Deputy judge at the Permanent Court of International Justice.

HIS MAJESTY THE KING OF ROUMANIA :

M. Constantin ANTONIADE, Envoy Extraordinary and Minister Plenipotentiary accredited to the League of Nations.

HIS MAJESTY THE KING OF SWEDEN :

Baron Erik Teodor MARKS VON WERTEMBERG, President of the Stockholm Court of Appeal, former Minister for Foreign Affairs ;

M. L. Birger EKEBERG, former Minister of Justice, President of the Civil Legislation Commission, former Counsellor of the Supreme Court ;

M. Knut DAHLBERG, former Minister of Agriculture, Director of the Association of Swedish Banks.

THE SWISS FEDERAL COUNCIL :

Dr. Max VISCHER, Barrister-at-Law and Notary, First Secretary of the Swiss Bankers' Association at Basle;

Dr. O. HULFTEGGER, First Secretary to the Board of the Swiss Commercial and Industrial Union at Zurich.

THE PRESIDENT OF THE CZECHOSLOVAK REPUBLIC :

Dr. Karel HERMANN-OTAVSKÝ, Professor at the University of Prague, President of the Codification Commission for Commercial Law in the Ministry of justice.

THE PRESIDENT OF THE TURKISH REPUBLIC :

CEMAL HÜSNÜ Bey, Envoy Extraordinary and Minister Plenipotentiary to the Swiss Federal Council, former Minister of Public Instruction.

His MAJESTY THE KING OF YUGOSLAVIA :

M. I. CHOUMENKOVITCH, Minister Plenipotentiary, Permanent Delegate accredited to the League of Nations.

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

Article 1

The High Contracting Parties mutually undertake to apply, for the settlement of the conflicts of laws hereinafter mentioned, in connection with cheques, the rules set out in the following Articles.

Article 2

The capacity of a person to bind himself by a cheque shall be determined by his national law. If this national law provides that the law of another country is competent in the matter, this latter law shall be applied.

A person who lacks capacity, according to the law specified in the preceding paragraph, is nevertheless bound if his signature has been given in any territory in which, according to the law in force there, he would have the requisite capacity.

Each of the High Contracting Parties may refuse to recognise the validity of a contract by means of a cheque entered into by one of his nationals which would not be deemed valid in the territory of the other High Contracting Parties otherwise than by means of the application of the preceding paragraph of the present Article.

Article 3

The law of the country in which the cheque is payable determines the persons on whom a cheque may be drawn.

If, under this law, the instrument is not valid as a cheque by reason of the person on whom it is drawn, the obligations arising out of the signatures affixed thereto in other countries whose laws provide otherwise shall nevertheless be valid.

Article 4

The form of any contract arising out of a cheque is regulated by the laws of the territory in which the contract has been signed. Nevertheless, it shall be sufficient if the forms prescribed by the law of the place of payment are observed.

If, however, the obligations entered into by means of a cheque are not valid according to the provisions of the preceding paragraph, but are in conformity with the laws of the territory in which a subsequent contract has been entered into, the circumstance that the previous contracts are irregular in form shall not invalidate the subsequent contract.

Each of the High Contracting Parties may prescribe that contracts by means of a cheque entered into abroad by one of his nationals shall be valid in respect of another of his nationals in his territory, provided that they are in the form laid down by the national law.

Article 5

The law of the country in whose territory the obligations arising out of a cheque have been assumed shall determine the effects of such obligations.

Article 6

The limits of time for the exercise of rights of recourse shall be determined for all signatories by the law of the place where the instrument was created.

Article 7

The law of the country in which the cheque is payable shall determine :

- (1) Whether a cheque must necessarily be payable at sight or whether it can be drawn payable at a fixed period after sight, and also what the effects are of the post-dating of a cheque ;
- (2) The limit of time for presentment ;
- (3) Whether a cheque can be accepted, certified, confirmed or visaed, and what the effects are respectively of such acceptance, certification, confirmation or visa ;
- (4) Whether the holder may demand, and whether he is bound to accept, partial payment ;
- (5) Whether a cheque can be crossed or marked either with the words "payable in account " or with some equivalent expression, and what the effects are of such crossing or of the words "payable in account " or any equivalent expression ;
- (6) Whether the holder has special rights to the cover and what the nature is of these rights ;
- (7) Whether the drawer may countermand payment of a cheque or take proceedings to stop its payment (opposition) ;
- (8) The measures to be taken in case of loss or theft of a cheque ;
- (9) Whether a protest or any equivalent declaration is necessary in order to preserve the right of recourse against. the endorsers, the drawer and the other parties liable.

Article 8

The form of and the limits of time for protest, as well as the form of the other measures necessary for the exercise or preservation of rights concerning cheques, shall be regulated by the law of the country in whose territory the protest must be drawn up or the measures in question taken.

Article 9

Each of the High Contracting Parties reserves the right not to apply the principles of private international law contained in the present Convention so far as concerns :

- (1) An obligation undertaken outside the territory of one of the High Contracting Parties ;
- (2) Any law which may be applicable in accordance with these principles and which is not a law in force in the territory of any High Contracting Party.

Article 10

In the territory of each of the High Contracting Parties the provisions of the present Convention shall not apply to cheques already issued at the time of the coming into force of the present Convention.

Article 11

The present Convention, the French and English texts of which shall be equally authentic, shall bear this day's date.

It may be signed thereafter until July 15, 1931, on behalf of any Member of the League of Nations or non-Member State.

Article 12

The present Convention shall be ratified. The instruments of ratification shall be deposited before September 1st, 1933, with the Secretary-General of the League of Nations, who shall

forthwith notify receipt thereof to all the Members of the League of Nations and to the non-Member States on whose behalf the present Convention has been signed or acceded to.

Article 13

As from July 15, 1931, any Member of the League of Nations and any non-Member State may accede thereto.

Such accession shall be effected by a notification to the Secretary-General of the League of Nations, such notification to be deposited in the archives of the Secretariat.

The Secretary-General shall notify such deposit forthwith to all the Members of the League of Nations and to the non-Member States on whose behalf the present Convention has been signed or acceded to.

Article 14

The present Convention shall not come into force until it has been ratified or acceded to on behalf of seven Members of the League of Nations or non-Member States, which shall include three of the Members of the League permanently represented on the Council.

The date of entry into force shall be the ninetieth day following the receipt by the Secretary-General of the League of Nations of the seventh ratification or accession in accordance with the first paragraph of the present Article.

The Secretary-General of the League of Nations, when making the notification provided for in Articles 12 and 13, shall state in particular that the ratifications or accessions referred to in the first paragraph of the present Article have been received.

Article 15

Every ratification or accession effected after the entry into force of the Convention in accordance with Article 14 shall take effect on the ninetieth day following the date of receipt thereof by the Secretary-General of the League of Nations.

Article 16

The present Convention may not be denounced before the expiry of two years from the date on which it has entered into force in respect of that Member of the League or non-Member State ; such denunciation shall take effect as from the ninetieth day following the receipt by the Secretary-General of the notification addressed to him.

Every denunciation shall be immediately communicated by the Secretary-General of the League of Nations to all the Members of the League of Nations and to the non-Member States on whose behalf the present Convention has been signed or acceded to.

Each denunciation shall take effect only as regards the Member of the League of Nations or the non-Member State, on whose behalf it has been made.

Article 17

Every Member of the League of Nations and every non-Member State, in respect of which the present Convention is in force, may forward to the Secretary-General of the League of Nations, after the expiry of the fourth year following the entry into force of the Convention, a request for the revision of some or all of the provisions of that Convention.

If such request, after being communicated to the other Members or non-Member States between whom the Convention is at that time in force, is supported within one year by at least six of them, the Council of the League of Nations shall decide whether a Conference shall be convened for the purpose.

Article 18

Any High Contracting Party may, at the time of signature, ratification or accession, declare that, in accepting the present Convention, he does not assume any obligations in respect of all or any of his colonies, protectorates or territories under suzerainty or mandate ; and the present Convention shall not apply to any territories named in such declaration.

Any High Contracting Party may give notice to the Secretary-General of the League of Nations at any time subsequently that he desires that the Convention shall apply to all or any of his territories which have been made the subject of a declaration under the preceding paragraph, and the Convention shall apply to all the territories named in such notice ninety days after its receipt by the Secretary-General of the League of Nations.

Any High Contracting Party may at any time declare that he desires that the present Convention shall cease to apply to all or any of his colonies, protectorates or territories under suzerainty or mandate and the Convention shall cease to apply to the territories named in such declaration one year after its receipt by the Secretary-General of the League of Nations.

Article 19

The present Convention shall be registered by the Secretary-General of the League of Nations as soon as it comes into force.

In faith whereof the above-mentioned Plenipotentiaries have signed the present Convention.

Done at Geneva, the nineteenth day of March, one thousand nine hundred and thirty-one, in a single copy, which shall be deposited in the archives of the Secretariat of the League of Nations, and of which authenticated copies shall be delivered to all Members of the League of Nations and non-Member States represented at the Conference.

Protocol to the Convention

At the time of signing the Convention of this day's date for the settlement of certain conflicts of laws in connection with cheques, the undersigned, duly authorised, have agreed upon the following provisions :

A. The Members of the League of Nations and the non-Member States who may not have been able to deposit their ratifications of the said Convention before September 1st, 1933, undertake to forward within fifteen days from that date a communication to the Secretary-General of the League of Nations informing him of their situation as regards ratification.

B. If on November 1st, 1933, the conditions laid down in Article 14, paragraph 1, for the entry into force of the Convention are not fulfilled, the Secretary-General of the League of Nations shall convene a meeting of the Members of the League and the non-Member States on whose behalf the Convention has been signed or acceded to.

The purpose of this meeting shall be to examine the situation and any measures to be taken to remedy it.

C. The High Contracting Parties shall communicate to each other, immediately upon their coming into force, the legislative measures taken by them in execution of the Convention in their respective territories.

In faith whereof the Plenipotentiaries have signed the present Protocol.

Done at Geneva, the nineteenth day of March, one thousand nine hundred and thirty-one, in a single copy, which shall be deposited in the archives of the Secretariat of the League Nations, and of which authenticated copies shall be delivered to all Members of the League of Nations and non-Member States represented at the Conference.