

No. 4656

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**UNION OF SOVIET SOCIALIST REPUBLICS**  
**and**  
**HUNGARY**

**Treaty (with Protocol) concerning the provision of legal assistance in civil, family and criminal cases. Signed at Moscow, on 15 July 1958**

*Official texts: Russian and Hungarian.*

*Registered by the Union of Soviet Socialist Republics on 3 February 1959.*

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**UNION DES RÉPUBLIQUES SOCIALISTES**  
**SOVIÉTIQUES**  
**et**  
**HONGRIE**

**Traité (avec Protocole) relatif à l'entraide judiciaire en matière civile, familiale et pénale. Signé à Moscou, le 15 juillet 1958**

*Textes officiels russe et hongrois.*

*Enregistré par l'Union des Républiques socialistes soviétiques le 3 février 1959.*

[TRANSLATION — TRADUCTION]

No. 4656. TREATY<sup>1</sup> BETWEEN THE UNION OF SOVIET SOCIALIST REPUBLICS AND THE HUNGARIAN PEOPLE'S REPUBLIC CONCERNING THE PROVISION OF LEGAL ASSISTANCE IN CIVIL, FAMILY AND CRIMINAL CASES. SIGNED AT MOSCOW, ON 15 JULY 1958

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The Presidium of the Supreme Soviet of the Union of Soviet Socialist Republics and the Presidium of the Hungarian People's Republic, being desirous of strengthening, in the sphere of legal relations as in others, the close and steadfast friendship which unites the two countries, have decided to conclude this Treaty concerning the provision of legal assistance in civil, family and criminal cases.

For this purpose, they have appointed as their plenipotentiaries :

The Presidium of the Supreme Soviet of the Union of Soviet Socialist Republics :

Mr. Nikolai Semenovich Patolichev, First Deputy Minister of Foreign Affairs of the Union of Soviet Socialist Republics;

The Presidium of the Hungarian People's Republic :

Dr. Ferenc Nezvál, Minister of Justice of the Hungarian People's Republic;

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

PART I

GENERAL PROVISIONS

*Article 1*

LEGAL PROTECTION

1. Citizens (natural and juridical persons) of either Contracting Party shall enjoy in the territory of the other Party the same legal protection of their persons and property as citizens of the other Party.

2. Citizens of either Contracting Party may appear before the authorities of the other Party having jurisdiction in civil, family or criminal cases and institute proceedings, make statements and present complaints under the same conditions as citizens of the other Party.

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<sup>1</sup> Came into force on 4 January 1959, thirty days after the date of the exchange of the instruments of ratification, in accordance with article 76.

*Article 2*

## PROVISION OF LEGAL ASSISTANCE

1. The courts and the procurator's and State notarial offices of the Contracting Parties shall provide one another with legal assistance in civil, family and criminal cases.

2. The authorities referred to in paragraph 1 shall also provide legal assistance to other authorities having jurisdiction in civil, family or criminal cases.

*Article 3*

## METHOD OF COMMUNICATION

1. In providing legal assistance, the authorities referred to in article 2, paragraph 1, shall, save as otherwise provided herein, communicate with one another through the intermediary of their central organs.

2. Other authorities dealing with civil, family or criminal cases shall, save as otherwise provided herein in specific cases, address their applications for legal assistance to the authorities referred to in article 2, paragraph 1.

*Article 4*

## SCOPE OF LEGAL ASSISTANCE

The Contracting Parties shall provide one another with legal assistance by performing specific acts required in connexion with judicial proceedings, for example, by carrying out searches, seizures and attachment of property, by transmitting or delivering material evidence, by interrogating accused persons, witnesses and experts, by taking evidence from litigants and other persons, by carrying out judicial inspections *in situ*, by executing applications for the service of documents, by transmitting material bearing on the case, and by drawing up and transmitting documents.

*Article 5*

## FORMS OF APPLICATIONS FOR LEGAL ASSISTANCE

1. Applications for legal assistance must contain the following particulars :

- (a) The title of the authority making the application;
- (b) The title of the authority to which the application is made;
- (c) The title of the case in respect of which legal assistance is applied for;
- (d) The names of the parties or of the accused, tried or convicted persons, their domicile or residence, citizenship and occupation and, in criminal cases,

where possible, the place and date of birth of the accused and the names of the latter's parents;

(e) The names and addresses of the legal representatives of the parties or of the accused;

(f) The nature of the application and any necessary relevant information, including, in criminal cases, a description of the *corpus delicti*.

2. Documents transmitted under the terms of this Treaty shall bear a signature and an official seal.

3. In applying for legal assistance the Contracting Parties shall use forms drawn up in two languages; model forms shall be exchanged by the Parties.

### Article 6

#### PROCEDURE FOR EXECUTING APPLICATIONS

1. In executing an application for legal assistance, the authority applied to shall follow the laws of its own State. However, at the request of the applicant authority, it may employ judicial procedures in effect in the territory of the applicant Contracting Party, provided that such procedures do not conflict with the laws of its own State.

2. If the authority applied to is not competent to execute the application, it shall transmit the application to the competent authority and shall notify the applicant authority accordingly.

3. The authority applied to shall, if requested to do so, notify the applicant authority in due time of the time and place of execution of the application.

4. After executing an application, the authority applied to shall return the documents to the applicant authority; if it has not been able to execute the application, it shall advise the applicant authority of the circumstances which prevented such execution.

### Article 7

#### IMMUNITY OF WITNESSES AND EXPERTS

1. No person who, in response to a summons served by an authority of the Contracting Party applied to, appears as a witness or an expert before an authority of the applicant Party may be prosecuted or detained for the offense which is the subject of the proceedings or for any other offence committed before he crossed the frontier of the applicant State, nor may he be punished for such offences in the territory of the applicant Party.

2. The witness or expert shall forfeit this privilege if he fails to quit the territory of the applicant Contracting Party within one month from the date on

which the authority taking evidence from him informs him that his presence is no longer necessary. Such period of one month shall not be deemed to include any period of time during which the witness or expert is unable through no fault of his own to quit the territory of the applicant Contracting Party.

### *Article 8*

#### APPLICATIONS FOR THE SERVICE OF DOCUMENTS

1. In effecting the service of a document the authority applied to shall comply with the laws governing service of documents in effect in its own State, provided that the document to be served is drawn up in the language of the Contracting Party applied to or is accompanied by a certified translation. Otherwise, the authority applied to shall deliver the document to the addressee if he is willing to accept it.

2. Applications for the service of documents must indicate the exact address of the recipient and the designation of the document to be served.

3. If a document cannot be served at the address indicated in the application, the authority applied to shall of its own motion take the necessary steps to determine the recipient's address. If the authority applied to is unable to determine such address, it shall so inform the applicant authority, returning to it the document in question.

### *Article 9*

#### CONFIRMATION OF SERVICE OF DOCUMENTS

Service of documents shall be officially confirmed in accordance with the regulations in effect in the State applied to. Such confirmation shall indicate the date and place of service.

### *Article 10*

#### SERVICE OF DOCUMENTS ON OWN CITIZENS

1. Each Contracting Party shall have the right to serve documents on its own citizens through the intermediary of its diplomatic or consular missions.
2. No compulsion may be used in such service.

### *Article 11*

#### COSTS OF LEGAL ASSISTANCE

1. The Contracting Party to which an application for legal assistance is addressed shall make no claim for repayment of the costs of such assistance. Each Party shall assume all costs incurred in providing legal assistance in its territory.

2. The authority applied to shall communicate to the applicant authority the amount of the costs incurred. If the applicant authority recovers these costs from the person liable therefore, the sums recovered shall accrue to the Contracting Party which recovered them.

### *Article 12*

#### PROVISION OF INFORMATION

The Judicial Commission of the Council of Ministers of the Union of Soviet Socialist Republics and the Ministry of Justice of the Hungarian People's Republic shall exchange information on request concerning laws in force or formerly in force in their respective States and concerning interpretations of laws by the competent judicial authorities of the Contracting Parties.

### *Article 13*

#### LANGUAGES

In communicating with one another concerning the provision of legal assistance, the authorities of the Union of Soviet Socialist Republics shall use the Russian language and the authorities of the Hungarian People's Republic shall use the Hungarian language.

### *Article 14*

#### ATTESTATION AND RECOGNITION OF DOCUMENTS

1. Documents drawn up or attested in the territory of either Contracting Party by authorities or public officials within the limits of their official powers and bearing an official seal shall be accepted in the territory of the other Party without the necessity for legalization.

2. Official documents drawn up in the territory of either Contracting Party shall have the evidential value of official documents in the territory of the other Party also.

## PART II

### SPECIAL PROVISIONS

#### Chapter I

#### *LEGAL ASSISTANCE IN CIVIL AND FAMILY CASES—EXEMPTION FROM SECURITY FOR LEGAL COSTS; RECOVERY OF COSTS*

### *Article 15*

Citizens of one of the Contracting Parties appearing before the courts of the other Party and present in the territory of either Party shall not be required

to deposit security for legal costs on the sole ground that they are aliens or have no permanent domicile or residence in the country in question.

#### *Article 16*

1. If a person exempted under the preceding article from the deposit of security for legal costs is required to pay costs, the competent court of the other Contracting Party shall, upon a petition for recovery of such costs being made, authorize the compulsory recovery thereof free of charge.

2. Legal costs include the costs of translation and attestation of the documents specified in article 17 of this Treaty.

#### *Article 17*

1. A petition for authorization of the compulsory recovery of legal costs shall be accompanied by a certified transcript of the order as to costs and by a certificate of the court which issued the order attesting that the latter has become final and is enforceable.

2. The documents indicated shall be accompanied by a translation in the language of the Contracting Party in whose territory recovery of the costs is to be effected.

3. In authorizing the enforcement of an order for the recovery of legal costs, the court shall confine itself to determining :

- (a) Whether the order has become final and is enforceable; and
- (b) Whether the documents specified in paragraph 1 are accompanied by a certified translation.

#### *Article 18*

A petition for recovery of legal costs in the territory of the other Contracting Party may be submitted :

(a) To the court which made the order as to costs, or to the court which heard the action at first instance, which shall then transmit the petition to the competent court of the other Party in the manner specified in article 3, paragraph 1, of this Treaty; or

(b) Direct to the court of the other Party which is competent to make an order for the recovery of legal costs, provided that the person concerned is present in the territory of such Party.

#### *Article 19*

1. The court shall consider the petition for recovery of legal costs without interrogating the parties.

2. The court competent to make an order for the recovery of costs shall also rule on recovery of the costs specified in article 16, paragraph 2, of this Treaty. The amount of such costs shall be fixed by the competent court of the Contracting Party in whose territory they are incurred.

3. A petition for recovery of costs may not be rejected because of the petitioner's failure to advance the costs connected with such recovery.

### EXEMPTION FROM LEGAL COSTS

#### *Article 20*

1. Citizens of either Contracting Party present in the territory of the other Party shall be exempted from the payment of legal costs and stamp tax, shall be entitled to defer payment of stamp tax and shall benefit from free legal assistance under the same conditions and to the same extent as citizens of the other Party.

2. Exemption from legal costs and stamp tax, and the right to defer payment of stamp tax, shall apply to all judicial proceedings, including enforcement proceedings.

3. Citizens of either Contracting Party who, under the law of one Party, are exempted from the payment of legal costs and stamp tax in connexion with any court action shall be exempted from such costs and stamp tax in judicial proceedings conducted in connexion with the same action in the territory of the other Party.

#### *Article 21*

1. Documents relating to personal or family status, earnings and property shall be issued by the competent authorities of the Contracting Party in whose territory the petitioner has his domicile or residence.

2. If the petitioner has no domicile or residence in the territory of either Contracting Party, a document shall be issued by a diplomatic or consular mission of his State.

3. If necessary, the court which rules on exemption from costs may, in accordance with the procedure prescribed by article 3 of this Treaty, require additional information to be furnished by the authority which issued the document.

#### *Article 22*

1. A citizen of one of the Contracting Parties who wishes to petition a court of the other Party for exemption from costs and stamp tax (or to avail himself of the right to defer payment of stamp tax or of free legal assistance)



may make such petition in the form of an oral statement before the competent court of the place in which he has his domicile or residence, and the said court shall draw up a record of his statement. It shall transmit such record in the manner prescribed in article 3, paragraph 1, of this Treaty, together with the document specified in article 21 and the other documents submitted by the petitioner, to the competent court of the other Party.

2. The record shall be drawn up in the language of the court which prepares it.

### *Article 23*

#### TRANSMITTAL OF CIVIL REGISTRATION AND OTHER DOCUMENTS

1. Each of the Contracting Parties shall, if requested through the diplomatic channel, transmit to the other Party civil registration certificates, documents concerning educational qualifications and employment experience and other documents relating to the personal rights and interests of citizens of the other Party.

2. The documents referred to in paragraph 1 shall be sent to the other Party, untranslated and free of charge, through the diplomatic channel.

### *PERSONAL STATUS*

#### *Article 24*

#### LEGAL CAPACITY

Legal capacity shall be determined according to the law of the Contracting Party of which the person concerned is a citizen.

#### *Article 25*

#### DECLARATION OF PERSONS AS MISSING OR DEAD

1. Proceedings for declaring persons missing or dead or for the establishment of the fact of death shall be within the jurisdiction of the authorities of the Contracting Party of which the person concerned was a citizen at the time when he was last known to be alive.

2. The authorities of one Contracting Party may declare a citizen of the other Party missing or dead, or establish the fact of his death, upon the application of any person resident in its territory whose rights and interests are governed by its law.

3. A decision rendered in accordance with paragraph 2 shall have legal effect only in the territory of the Contracting Party by an authority of which the decision was rendered.

4. In the cases specified in paragraphs 1 and 2, the authorities of each Contracting Party shall apply the law of their own State.

### *FAMILY LAW*

#### *Article 26*

##### DISSOLUTION OR ANNULMENT OF MARRIAGE

Final decrees of courts of one of the Contracting Parties concerning the dissolution, annulment, declaration of nullity, or establishment of the existence of marriages shall be recognized in the territory of the other Party without further proceedings, provided that, at the time the decree takes effect, at least one of the spouses is a citizen of the Party whose court pronounced it and that such decree does not conflict with a final decree previously pronounced by a court of the other Party.

This provision shall also apply to decrees pronounced before the entry into force of this Treaty.

### *LEGAL RELATIONS BETWEEN PARENTS AND CHILDREN*

#### *Article 27*

Actions to contest or establish paternity or maternity or to establish that a child is the issue of a particular marriage shall be decided in accordance with the law of the Contracting Party of which the child is a citizen by birth.

#### *Article 28*

1. In the case of a child born out of wedlock, the legal relations between the child and his mother and father—including actions to establish paternity or maternity—shall be determined by the law of the Contracting Party of which the child is a citizen.

#### *Article 29*

Decisions on the legal relations referred to in articles 27 and 28 shall be within the jurisdiction of the courts of the Contracting Party whose laws are applicable. If the persons concerned are resident in the territory of one of the Contracting Parties, the courts of that Party shall also have jurisdiction.

### *ADOPTION*

#### *Article 30*

1. Matters of adoption shall be dealt with in accordance with the law of the Contracting Party of which the adopter is a citizen.

2. If the child is adopted by a husband and wife, one being a citizen of one of the Contracting Parties and the other a citizen of the other Party, the adoption shall be carried out in accordance with the law in effect in the territory of both Parties.

3. If the child is a citizen of one of the Contracting Parties and the adopter a citizen of the other Party, adoption shall be subject to the consent of the child, if this is prescribed by the law of the Party of which he is a citizen, and to the consent of his legal representative or of the competent public authority of that Party.

#### *Article 31*

In matters of adoption the authorities having jurisdiction shall be those of the Contracting Party of which the adopter is a citizen. In the case specified in article 30, paragraph 2, the authority having jurisdiction shall be an authority of the Contracting Party in whose territory the spouses have, or recently had, a common domicile or residence.

#### *Article 32*

The provisions of articles 30 and 31 shall apply, *mutatis mutandis*, to the termination of adoption.

### *GUARDIANSHIP AND CURATORSHIP*

#### *Article 33*

1. The authorities having jurisdiction in proceedings relating to guardianship or curatorship over citizens of the Contracting Parties shall, save as otherwise provided by the present Treaty, be those of the Party of which the ward is a citizen.

2. The conditions governing the appointment of a guardian or curator and the termination of guardianship or curatorship shall be determined by the law of the Contracting Party of which the ward is a citizen.

3. The legal relations between guardians or curators and their wards shall be determined by the law of the Contracting Party by an authority of which the guardian or curator was appointed.

4. With respect to the obligation to accept the office of guardian or curator, the applicable law shall be that of the Contracting Party of which the prospective guardian or curator is a citizen.

#### *Article 34*

1. Where need arises to provide for guardianship or curatorship, in the interests of a citizen of one of the Contracting Parties whose domicile, residence

or property is in the territory of the other Party, the interested authority of such other Party shall at once notify a diplomatic or consular mission of the State of which the person concerned is a citizen.

2. In cases admitting of no delay, the authority of such other Party may itself take temporary measures in accordance with the existing circumstances (i.e. may provide lodging, maintenance or care), provided that it at once notifies a diplomatic or consular mission of the State of which the person concerned is a citizen. Such measures shall remain in effect pending other measures by the diplomatic or consular mission or by the authorities specified in article 33, paragraph 1.

#### *Article 35*

1. An authority of one Contracting Party may request the competent authority of the other Party to assume guardianship or curatorship over a citizen of the former Party who has his domicile or residence or owns property in the territory of the other Party. The authority applied to shall notify the applicant authority, in accordance with the procedure specified in article 3 of this Treaty, of the measures taken.

2. The authority assuming guardianship or curatorship in accordance with paragraph 1 shall exercise it in the manner prescribed by the law of its own State. However, it shall apply the law of the Party of which the ward is a citizen in any matters relating to the juridical personality or legal capacity of the ward. It shall have no authority to decide questions relating to the personal status of the ward, but may give its consent to marriage where such consent is required by the law of the Contracting Party of which the ward is a citizen.

### *SUCCESSION*

#### *Article 36*

##### PRINCIPLE OF EQUALITY

Citizens of either Contracting Party shall enjoy in the territory of the other Party the same rights as citizens of the latter Party as regards statutory or testamentary succession to property situated in the territory of that Party and as regards the making or revocation of wills.

#### *Article 37*

##### APPLICABLE LAW

1. Succession to movables shall be determined by the law of the Contracting Party of which the testator was a citizen at the time of his death.

2. Succession to immovables shall be determined by the law of the Party in whose territory the immovable is situated.

*Article 38*

## ESCHEAT

Where no heirs exist or where all the heirs waive their rights to the estate or forfeit their capacity to succeed thereto, immovables shall revert to the Contracting Party in whose territory the estate is situated and movables shall revert to the Party of which the testator was a citizen at the time of his death.

*Article 39*

## WILLS

1. The form of the testamentary disposition shall be determined by the law of the Contracting Party of which the testator was a citizen at the time of making the testamentary disposition. It shall, however, be deemed sufficient if the law of the Party in whose territory the testamentary disposition was made is complied with. The same shall apply to the revocation of testamentary disposition.

2. The capacity to make or revoke a testamentary disposition and the legal effects of defective testamentary dispositions shall be determined according to the law of the Contracting Party of which the testator was a citizen at the time of making the testamentary disposition.

*Article 40*

## JURISDICTION IN MATTERS OF SUCCESSION

1. In matters of succession to movables the authorities having jurisdiction shall, with the exception specified in paragraph 4, be those of the Contracting Party of which the testator was a citizen at the time of death.

2. In matters of succession to immovables the authorities having jurisdiction shall be those of the Party in whose territory the immovable is situated.

3. The provisions of paragraphs 1 and 2 shall apply, *mutatis mutandis*, to disputes arising out of claims to succession.

4. If the entire movable estate of a deceased citizen of one of the Contracting Parties is situated in the territory of the other Party, proceedings in matters of succession to such estate shall, upon petition by an heir or a legatee, and subject to the consent of all heirs whose place of domicile or abode is known, be conducted by the authorities of the latter Party.

*Article 41*

## NOTIFICATION OF DEATH

1. If a citizen of one of the Contracting Parties dies in the territory of the other Party, the competent authority shall notify thereof without delay the diplo-

matic or consular mission of the country of which the deceased was a citizen, communicating to it whatever information is available concerning the heirs or legatees, their domicile, abode or address, the condition of the estate and the existence of a will. The said authority shall also send such notification if it learns that the deceased has left property in the territory of a third State.

2. If the competent authority of one of the Contracting Parties, notified in accordance with paragraph 1 of the death of a citizen of its State, learns of the existence in the territory of its own State or abroad of heirs or legatees not mentioned in such notification or learns that the deceased left a will, it shall notify the competent authority of the other Party thereof.

3. If a citizen of one of the Contracting Parties dies in the territory of that Party and a citizen of the other Party is concerned with the succession as an heir or legatee, the competent authority of the first Party shall notify the diplomatic or consular mission of the other Party in accordance with paragraph 1.

#### *Article 42*

##### COMPETENCE OF DIPLOMATIC AND CONSULAR MISSIONS

1. In all succession proceedings arising in the territory of one of the Contracting Parties, diplomatic or consular missions shall have the right to represent the interests of citizens of their State before the authorities of that Party if such citizens are not present and have not appointed their representatives; in such cases no special power of attorney shall be necessary.

2. If a citizen of one of the Contracting Parties not domiciled or resident in the territory of the other Party dies while travelling in such territory, his personal effects shall be delivered to the diplomatic or consular mission without any formal proceedings.

#### *Article 43*

##### PUBLICATION OF WILLS

Wills shall be published by the competent authority of the Contracting Party in whose territory the will is to be found. A copy of the will, a copy of the minute of publication of the will, and, on request, the original will itself shall be transmitted to the competent authority of the Party of which the testator was a citizen.

#### *Article 44*

##### MEASURES FOR THE PROTECTION OF THE ESTATE

1. The competent authority of a Contracting Party in whose territory an estate has been left by a citizen of the other Party shall, in accordance with its laws, take such measures as are necessary to ensure the protection and the administration thereof.

2. The measures taken under paragraph 1 shall be immediately reported to the diplomatic or consular mission of the other Party, which may participate, either directly or through a representative, in carrying them out. At the request of such mission, the said measures may be modified or rescinded.

3. The time-limit prescribed by the law of the Contracting Parties for the acceptance of estates shall be reckoned from the date on which the diplomatic or consular mission is notified of the testator's death.

#### *Article 45*

##### DELIVERY OF THE ESTATE

1. If, after the completion of succession proceedings, the movable estate of the deceased or the moneys realized from the sale of his movable or immovable estate are to be delivered to heirs in the territory of the other Contracting Party, the movable estate or the moneys realized shall be delivered to the diplomatic or consular mission of that State.

2. The succession authority shall issue instructions for the delivery of the estate to the diplomatic or consular mission if :

(a) All claims of the heirs, legatees or creditors of the deceased presented within the period prescribed by the law of the Contracting Party in which the estate is situated have been paid or secured;

(b) All estate duties have been paid or secured;

(c) The competent authorities have approved the export of the estate and the transfer of moneys realized from the sale of portions thereof, where such approval is required.

#### *RECOGNITION AND ENFORCEMENT OF JUDGEMENTS*

#### *Article 46*

1. Final decisions of courts and guardianship or curatorship authorities of either Contracting Party in matters not relating to property shall be recognized in the territory of the other Party without further proceedings, provided that they do not conflict with this Treaty and that no court or guardianship or curatorship authority of the other Party has previously rendered a final decision in the matter.

This provision shall also apply to decisions rendered before the entry into force of this Treaty.

2. Final judgements of courts in civil and family cases relating to property rendered in the territory of either Contracting Party, with the exception of the judgements referred to in paragraph 3, shall be recognized and enforced in the

territory of the other Party, provided that they were rendered after the entry into force of this Treaty.

This provision shall also apply to final judgements of courts relating to damages in criminal cases.

3. Final judgements of courts of either Contracting Party in cases having reference to the legal relations referred to in article 28 shall be recognized and enforced in the territory of the other Party, if the relations in respect of which the judgements were rendered came into being after the entry into force of this Treaty.

#### *Article 47*

1. The law applicable to the issue of authorization of enforcement shall be that of the Contracting Party in whose territory enforcement takes place.

2. Applications for enforcement shall be made to the court which heard the case at first instance or, if the person concerned is in the territory of the other Contracting Party, to the competent court of that Party. The court of first instance shall transmit such applications, in the manner prescribed in article 3 of this Treaty, to the competent court of the other Party.

#### *Article 48*

An application for authorization of enforcement must be accompanied by the following :

(a) The complete text of the judgement, and, if such text does not show that the judgement has become final, an official document to that effect;

(b) If the respondent did not participate in the proceedings, a document showing that he or his representative was served at least once, in due time and proper form, with a summons to appear in court;

(c) A certified translation of the documents specified in (a) and (b).

#### *Article 49*

In issuing authorization of enforcement, the court may, when necessary, summon the applicant to appear before it and require him to furnish clarification or, if his application is defective, to correct it. It may also interrogate the debtor concerning the application or request the court which rendered the judgement to furnish clarification.

#### *Article 50*

1. The enforcement procedure shall be determined by the law of the Contracting Party in whose territory enforcement is sought.



2. The debtor may not submit to the court which rules on authorization of enforcement objections either to the admissibility of enforcement or to the claims satisfied by the judgement unless such objections are admissible under the law of the Contracting Party in whose territory the judgement was rendered.

### *Article 51*

#### REFUSAL TO ENFORCE JUDGEMENTS

Authorization of enforcement of judgements may be refused :

- (a) If the judgement whose enforcement is sought has not become final;
- (b) If the respondent or the person against whom the judgement was rendered did not participate in the proceedings because he or his representative was not served in due time and proper form, in the manner prescribed by this Treaty, with a summons to appear in court; or
- (c) If the judgement conflicts with an earlier judgement which has become final and which was rendered in an action between the same parties relating to the same claim and based on the same grounds by a court of the Contracting Party in whose territory recognition or enforcement is sought. However, this provision shall not apply where there has been a material change in the circumstances on which the nature of the enforcement provisions and the time of enforcement were based in the earlier judgement.

### *Article 52*

With respect to legal costs arising in connexion with enforcement, the law of the Contracting Party in whose territory the judgement is to be enforced shall apply.

### *Article 53*

The provisions of articles 46 to 52 of this Treaty shall also apply to amicable arrangements arrived at before courts.

## Chapter II

### *LEGAL ASSISTANCE IN CRIMINAL CASES*

### *Article 54*

#### OBLIGATION TO EXTRADITE

1. Each Contracting Party undertakes to extradite to the other on request, under the conditions laid down by this Treaty, persons in its territory whose presence is required for the purpose of criminal prosecution or for the execution of a sentence.

2. Extradition shall take place only in respect of acts which, under the law of both Contracting Parties, are recognized as criminal offences and are punishable with deprivation of liberty for a period of more than one year or with a heavier penalty (hereinafter called "extraditable offences").

### *Article 55*

#### REFUSAL OF EXTRADITION

Extradition shall not take place if :

- (a) The person claimed is a citizen of the Contracting Party applied to;
- (b) The person claimed committed the offence in the territory of the Party from which extradition is sought;
- (c) Under the law of the Party applied to, exemption from prosecution or punishment has been acquired by lapse of time or for other legal reasons;
- (d) The person claimed has already been prosecuted in the territory of the Party applied to for the same offence and sentenced or discharged;
- (e) Under the law of at least one of the Parties, the criminal proceeding may be instituted only on the complaint of the injured party, and the latter failed to lodge such a complaint in due time.

### *Article 56*

#### OBLIGATION TO PROSECUTE

1. Each Contracting Party undertakes to prosecute under its own law, at the request of the other Party, any of its citizens who commit an extraditable offence in the territory of the other Party.

The request for prosecution shall be accompanied by documents containing the particulars of the offence and all the available evidence relating thereto.

2. Requests for prosecution shall be submitted, in the case of the Union of Soviet Socialist Republics, by the General Procurator of the Union of Soviet Socialist Republics; in the case of the Hungarian People's Republic, such requests shall be submitted, up to the point of committal for trial, by the General Procurator of the Hungarian People's Republic and, after committal for trial, by the Minister of Justice of the Hungarian People's Republic.

3. The Contracting Party which receives such a request shall notify the other Party of the result of the prosecution and, if sentence is passed and becomes final, shall transmit a copy of the sentence.

*Article 57*

## REQUISITION FOR EXTRADITION

1. A requisition for extradition for the purpose of execution of a sentence shall be accompanied by a certified copy of the final sentence and the complete text of the statute defining the offence.

If the convicted person has already served a part of his sentence, the particulars in that regard shall also be transmitted.

2. A requisition for extradition for the purpose of criminal prosecution shall be accompanied by a certified copy of the warrant of arrest, a description of the circumstances of the offence, and the text of the statute defining the offence; if the offence resulted in material damage, the extent of such damage shall be indicated.

3. In the case of offences in respect of which proceedings may be instituted only on the complaint of the injured party, the date on which such a complaint was lodged shall be indicated in the requisition. It shall also be stated whether any statutory limitations exist relative to the period within which the complaint may be lodged.

4. The requisition for extradition shall, so far as possible, be accompanied by a personal description of the person claimed, particulars concerning his identity, citizenship and residence, and photographs and fingerprints.

5. The Contracting Party submitting the requisition for extradition shall not be bound to enclose with the requisition proof of the guilt of the person claimed.

*Article 58*

## SUPPLEMENTARY INFORMATION

If all the information required is not provided in the requisition for extradition, the Contracting Party applied to may request supplementary information. For this purpose it may set the applicant Party a time-limit not exceeding two months. Such time-limit may be extended for valid reasons.

*Article 59*

## ARREST OF PERSONS LIABLE TO EXTRADITION

Upon receipt of a requisition for extradition, the Contracting Party applied to shall take immediate steps to arrest the person claimed, save in cases in which, in accordance with this Treaty, extradition may not take place.

*Article 60*

## DETENTION PENDING RECEIPT OF REQUISITION FOR EXTRADITION

1. A person liable to extradition may be arrested even before receipt of the requisition for extradition if one of the Contracting Parties applies for his arrest, specifying that there exists a warrant for such arrest or a final sentence or other judicial decision.

Such application may be submitted by post, telegraph, telephone or wireless.

2. The competent authorities of either Contracting Party may arrest a person present in their territory in the absence of such application if, according to their information, he has committed an extraditable offence in the territory of the other Party.

3. Where an arrest has been made under the provisions of paragraphs 1 and 2, the other Party shall be notified immediately.

*Article 61*

## RELEASE FROM DETENTION

1. A person who has been detained may be released if, in the cases specified in article 58, supplementary information for the requisition for extradition is not received, within the time-limit set in accordance with the said article, from the Contracting Party which submitted such requisition.

2. A person detained in accordance with article 60 may be released if the requisition for his extradition is not received from the other Party within two months from the date on which notification of his detention was sent.

*Article 62*

## POSTPONEMENT OF EXTRADITION

If the person claimed is under trial or has been convicted in the territory of the Contracting Party applied to for another offence, his extradition may be postponed until the termination of the proceedings or the execution or remission of the sentence.

*Article 63*

## TEMPORARY EXTRADITION

1. If the postponement of extradition as provided in article 62 may result in exemption from prosecution being acquired by lapse of time or may prejudice seriously the investigation of an offence, the person claimed may be extradited for a temporary period on receipt of an application for such extradition with statement of grounds.

2. A temporarily extradited person shall be returned as soon as the criminal proceeding for the purpose of which he was extradited is concluded.

#### *Article 64*

##### CONCURRENT REQUISITIONS FOR EXTRADITION

If requisitions for a person's extradition are received from more than one State, the Contracting Party applied to shall decide which of the requisitions submitted shall be complied with.

#### *Article 65*

##### LIMITS TO THE PROSECUTION OF EXTRADITED PERSONS

1. An extradited person may not, without the consent of the Contracting Party applied to, be prosecuted, punished or surrendered to a third State for an offence which was committed before his extradition and which is not the offence for which he was extradited.

2. Such consent shall not be required if :

(a) The extradited person fails to quit the territory of the Contracting Party to which he was extradited within one month after the conclusion of the proceedings in the case or, in the event of his conviction, within one month after the completion or remission of the sentence; such period of one month shall not be deemed to include any period of time during which the extradited person is unable through no fault of his own to quit the territory of the applicant Party;

(b) The extradited person quits the territory of the applicant Party but subsequently returns thereto.

#### *Article 66*

##### SURRENDER OF THE PERSON CLAIMED

The Contracting Party applied to shall notify the applicant Party of the time and place of surrender of the person claimed.

If the applicant Party fails to accept the person claimed within fifteen days after the date fixed for his surrender, such person may be released from custody.

#### *Article 67*

##### RE-EXTRADITION

If an extradited person in some manner evades prosecution and reappears in the territory of the Contracting Party applied to, he shall be re-extradited upon receipt of a new requisition, without production of the documents and information specified in article 57.

*Article 68*

## CONVEYANCE IN TRANSIT

1. Each Contracting Party undertakes to convey through its territory, at the request of the other Party, any person extradited by a third State to the other Party.

The Contracting Parties shall not be bound to authorize such conveyance in cases where extradition is not provided for under the terms of this Treaty.

2. A request for conveyance in transit shall be submitted and treated in the same manner as a requisition for extradition.

3. The manner, route and other conditions of conveyance shall be determined in each individual case by agreement between the competent authorities of the Contracting Parties.

*Article 69*

## NOTIFICATION OF RESULTS OF PROSECUTION

The Contracting Parties shall inform each other of the results of proceedings taken against persons extradited by them.

If such persons are convicted, a copy of the sentence shall be transmitted after it has become final.

*Article 70*METHOD OF COMMUNICATION IN MATTERS RELATING TO EXTRADITION AND  
CONVEYANCE IN TRANSIT

In matters relating to the extradition of offenders and their conveyance in transit, and to the appearance of persons held in custody (article 71), the General Procurator of the Union of Soviet Socialist Republics and the Ministry of Justice or the General Procurator of the Hungarian People's Republic shall communicate with each other direct.

*Article 71*

## APPEARANCE OF PERSONS HELD IN CUSTODY

1. If need arises for the interrogation as a witness of a person who is held in custody in the territory of the other Contracting Party, the agencies specified in article 70 of this Treaty may arrange for such person to be delivered to the territory of the requesting Party, subject to his being kept in custody and returned as soon as possible after the interrogation is completed.

2. If need arises for the interrogation as a witness of a person who is held in custody in a third State, the agency specified in article 70 of this Treaty of the

Contracting Party applied to shall authorize the conveyance of such person through the territory of its State. This shall be without prejudice to the provisions of article 7 of this Treaty.

### *Article 72*

#### DELIVERY OF ARTICLES

1. Articles acquired through the commission of an extraditable offence, and all other articles which may be used as material evidence in criminal proceedings, shall be delivered to the Contracting Party which requests them even if the offender cannot be extradited by reason of death or any other circumstances.

2. If the Contracting Party applied to has need of the claimed articles in connexion with another criminal proceeding, it may postpone their delivery.

3. These provisions shall not affect the rights of third parties to the articles to be delivered.

After the conclusion of the criminal proceedings such articles shall be returned to the Contracting Party which delivered them for transmittal to the persons entitled to them.

### *Article 73*

#### REFUSAL OF LEGAL ASSISTANCE IN CRIMINAL CASES

Legal assistance in criminal cases shall not be provided if it is requested in connexion with a non-extraditable offence.

### *Article 74*

#### NOTIFICATION OF SENTENCES

1. Each Contracting Party shall annually communicate to the other Party information concerning final sentences pronounced with respect to citizens of the other Party. Such communication shall be accompanied by the operative part of the sentences concerned.

2. Each Contracting Party shall on request transmit to the other Party information regarding the previous convictions of persons formerly resident in its territory, where criminal proceedings have been initiated against such persons in the territory of the applicant Party.

3. In the cases specified in paragraphs 1 and 2, the Contracting Parties shall also, in so far as possible, transmit the fingerprints of the convicted persons.

4. The information specified in paragraphs 1 and 2 shall be transmitted by the Parties in the manner prescribed in article 3 of this Treaty.

## PART III

## FINAL PROVISIONS

*Article 75*

This Treaty shall be subject to ratification. The instruments of ratification shall be exchanged in Budapest.

*Article 76*

1. This Treaty shall enter into force thirty days after the exchange of the instruments of ratification. It shall remain in force for a period of ten years from the date on which it entered into force.

2. If neither of the Contracting Parties gives notice of termination of the present Treaty not later than one year before the expiry of the period specified above, the Treaty shall continue in effect indefinitely and shall remain in force until one year's prior notice of its termination is given by either Party.

*Article 77*

This Treaty has been drawn up in duplicate in the Russian and Hungarian languages, both texts being equally authentic.

IN FAITH WHEREOF the plenipotentiaries of the two Contracting Parties have signed this Treaty and have thereto affixed their seals.

DONE at Moscow on 15 July 1958.

For the Presidium  
of the Supreme Soviet  
of the Union of Soviet  
Socialist Republics :

N. PATOLICHEV

For the Presidium  
of the Hungarian People's  
Republic :

Dr. NEZVÁL Ferenc



PROTOCOL TO THE TREATY BETWEEN THE UNION OF SOVIET SOCIALIST REPUBLICS AND THE HUNGARIAN PEOPLE'S REPUBLIC CONCERNING THE PROVISION OF LEGAL ASSISTANCE IN CIVIL, FAMILY AND CRIMINAL CASES, SIGNED AT MOSCOW, ON 15 JULY 1958<sup>1</sup>

On signing this day the Treaty concerning the provision of legal assistance in civil, family and criminal cases, the plenipotentiaries of the Contracting Parties state the following :

Communication in matters pertaining to the provision of legal assistance in civil, and family cases, as provided in article 3 of the Treaty, may, in so far as relates to the Ukrainian Soviet Socialist Republic, be maintained directly between the competent central authorities of the Ukrainian Soviet Socialist Republic and the competent central authorities of the Hungarian People's Republic.

This Protocol, constituting an integral part of the aforementioned Treaty, has been drawn up in duplicate in the Russian and Hungarian languages, both texts being equally authentic.

Moscow, 15 July 1958.

N. PATOLICHEV

Dr. NEZVÁL Ferenc

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<sup>1</sup> See p. 56 of this volume.