

No. 4657

**UNION OF SOVIET SOCIALIST REPUBLICS
and
MONGOLIAN PEOPLE'S REPUBLIC**

**Treaty (with exchange of letters) concerning the provision
of legal assistance in civil, family and criminal cases.
Signed at Ulan Bator, on 25 August 1958**

Official texts: Russian and Mongolian.

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

**UNION DES RÉPUBLIQUES SOCIALISTES
SOVIÉTIQUES
et
RÉPUBLIQUE POPULAIRE MONGOLE**

**Traité (avec échange de lettres) relatif à l'entraide judiciaire
en matière civile, familiale et pénale. Signé à Oulan-
Bator, le 25 août 1958**

Textes officiels russe et mongol.

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

[TRANSLATION — TRADUCTION]

No. 4657. TREATY¹ BETWEEN THE UNION OF SOVIET SOCIALIST REPUBLICS AND THE MONGOLIAN PEOPLE'S REPUBLIC CONCERNING THE PROVISION OF LEGAL ASSISTANCE IN CIVIL, FAMILY AND CRIMINAL CASES. SIGNED AT ULAN BATOR, ON 25 AUGUST 1958

The Presidium of the Supreme Soviet of the Union of Soviet Socialist Republics and the Presidium of the Great People's Khural of the Mongolian People's Republic, being desirous of strengthening and further developing the bonds of fraternal friendship between the peoples of the Union of Soviet Socialist Republics and of the Mongolian People's Republic, and attaching great importance to co-operation in the sphere of legal relations, have decided to conclude this Treaty concerning the provision of legal assistance in civil, family and criminal cases, and for this purpose have appointed as their plenipotentiaries :

The Presidium of the Supreme Soviet of the Union of Soviet Socialist Republics : Mr. Aleksei Vasilevich Zakharov, Deputy Minister of Foreign Affairs of the Union of Soviet Socialist Republics ;

The Presidium of the Great People's Khural of the Mongolian People's Republic : Mr. Puntsgayn Shagdarsuren, Acting Minister of Foreign Affairs of the Mongolian 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 and juridical persons (hereinafter called " citizens ") of either Contracting Party shall enjoy in the territory of the other Party, in respect of their personal and property rights, the same legal protection as citizens and juridical persons of the other Party.

¹ Came into force on 4 January 1959, one month after the date of the exchange of the instruments of ratification, in accordance with article 75.

2. They shall have free and unimpeded access to the courts, the procurator's office and notarial organs (hereinafter called "judicial authorities") and to other authorities of the other Party having jurisdiction in civil, family or criminal cases, and may appear, present petitions and institute proceedings before such authorities under the same conditions as citizens of the other Party.

Article 2

PROVISION OF LEGAL ASSISTANCE

1. The judicial authorities of the two Contracting Parties shall provide one another with legal assistance in civil, family and criminal cases.

2. The judicial authorities shall also provide legal assistance to other authorities having jurisdiction in the cases referred to in paragraph 1 of this article.

Article 3

METHOD OF COMMUNICATION

In providing legal assistance, the judicial authorities of the Contracting Parties shall, save as otherwise provided herein, communicate with one another through the intermediary of their central organs.

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 drawing up, transmitting and serving documents, by carrying out searches and seizures, by transmitting or delivering material evidence, by conducting expert examinations, by interrogating accused persons, witnesses and experts, by taking evidence from litigants and other persons, and by carrying out judicial inspections *in situ*.

Article 5

OFFICIAL FORM OF DOCUMENTS

1. Documents transmitted by judicial or other authorities (hereinafter called "authorities") in connexion with legal assistance shall bear an official seal.

2. In applying for legal assistance the judicial authorities of the Contracting Parties shall use forms drawn up in two languages; model forms shall be exchanged by the said authorities.

Article 6

FORM 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 judicial 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 citizenship, occupation and domicile or residence;
 - (e) The names and addresses of their legal representatives;
 - (f) The nature of the application and any necessary relevant information, including, in criminal cases, a description of the *corpus delicti*.
2. Applications for the service of documents must indicate in addition the exact address of the recipient and the designation of the document to be served.

Article 7

PROCEDURE FOR EXECUTING APPLICATIONS

1. In executing an application for legal assistance, the judicial 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 judicial authority applied to is not competent to execute the application, it shall transmit the application to the competent judicial authority and shall notify the applicant authority accordingly.
3. The judicial authority applied to shall, if requested to do so, notify the applicant authority of the time and place of execution of the application.
4. After executing an application, the judicial authority applied to shall return the documents to the applicant authority; if it has not been able to provide the legal assistance requested, it shall at the same time advise the applicant authority of the circumstances which prevented the execution of the application.

Article 8

IMMUNITY OF WITNESSES AND EXPERTS

1. No person of whatsoever citizenship who, in response to a summons served by a judicial authority of the Contracting Party applied to, appears as a witness or an expert before an authority of the applicant Party may be prosecuted, detained or punished in the territory of the latter Party for an offence committed before he crossed the frontier.

2. The witness or expert shall forfeit this protection if, being at liberty to do so, he fails to quit the territory of the applicant Contracting Party within one week from the date on which the judicial authority taking evidence from him informs him that his presence is no longer necessary. Such period of one week 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 9

APPLICATIONS FOR THE SERVICE OF DOCUMENTS

1. In effecting the service of a document the judicial authority applied to shall employ the procedure for service of documents in effect in its own State, provided that the document to be served is drawn up in the language of that State or is accompanied by a certified translation. If the document fails to satisfy these conditions, the judicial authority shall deliver it to the recipient if he is willing to accept it.

2. The translation may be certified by the translator himself, or by the applicant authority, or by a diplomatic or consular representative of one of the Contracting Parties.

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

Article 10

CONFIRMATION OF SERVICE OF DOCUMENTS

Service of documents shall be officially confirmed in accordance with the regulations in effect in the State of the authority applied to.

Article 11

SERVICE OF DOCUMENTS ON OWN CITIZENS

Each Contracting Party shall have the right to serve documents on its own citizens through the intermediary of its diplomatic or consular missions.

Article 12

ATTESTATION OF DOCUMENTS

1. Documents drawn up or attested in the territory of either Contracting Party by courts or public officials (official translators, experts, etc.) within the limits of their official powers, in due form and bearing an official seal, shall be accepted in the territory of the other Party without further authentication.

2. Documents which are considered official documents in the territory of either Contracting Party shall have the evidential value of official documents in the territory of the other Party.

Article 13

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 judicial 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 therefor, the sums recovered shall accrue to the Contracting Party which recovered them.

Article 14

INFORMATION ON LEGAL QUESTIONS

The Judicial Commission of the Council of Ministers of the Union of Soviet Socialist Republics and the Ministry of Justice of the Mongolian People's Republic shall exchange information on request concerning laws in force or formerly in force in their respective States.

Article 15

LANGUAGES

In communicating with one another concerning the provision of legal assistance, the judicial authorities of the Contracting Parties shall use either the Russian or the Mongolian language.

PART II

SPECIAL PROVISIONS

Chapter I

LEGAL ASSISTANCE IN CIVIL AND FAMILY CASES—LEGAL COSTS

EXEMPTION FROM SECURITY FOR LEGAL COSTS

Article 16

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, residence or abode in the country in question.

Article 17

1. If a person exempted under article 16 of this Treaty from the deposit of security for legal costs is required in the territory of one Contracting Party to pay costs, the competent court in the territory of the other 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 drawing up certificates and translations and the costs of attestation of the documents specified in article 18 of this Treaty.

Article 18

1. In authorizing the enforcement of an order for the recovery of legal costs, the court shall confine itself to determining whether the order has become final and is enforceable.

2. The petition for such authorization shall be accompanied by a transcript of the order as to costs, authenticated by the court of first instance, and by a certificate of the same court that the order has become final and is enforceable.

3. An order of enforcement may be contested in accordance with the laws in effect in the territory of the court which made the order.

4. The documents specified in paragraph 2 of this article shall be accompanied by a translation, certified in the manner indicated in article 9, paragraph 2, of this Treaty, in the language of the Contracting Party in whose territory enforcement is sought.

Article 19

A petition for authorization of enforcement in the territory of the other Contracting Party shall be submitted to the court which made the order as to costs, or to the court which disposed of the action at first instance. Such court shall then transmit the petition to the competent court of the other Party in the manner specified in article 3 of this Treaty.

Article 20

The costs of drawing up the certificate, of translation and of attesting the documents referred to in article 18 of this Treaty shall be fixed by the court which heard the action at first instance or by the court which is competent to authorize enforcement. The latter court shall also determine the costs of enforcement.

EXEMPTION FROM LEGAL COSTS AND FROM DEPOSIT OF SECURITY

Article 21

Citizens of either Contracting Party shall be exempted in the territory of the other Party from the payment of legal costs, including stamp tax and the deposit of security, under the same conditions and to the same extent as citizens of the other Party.

Article 22

1. Documents relating to personal or family status, earnings and property shall be issued by the competent authority 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 the Contracting Party in question, a document issued by a diplomatic or consular mission of his State shall be acceptable.

3. The judicial authority ruling on a petition for exemption from legal costs or security may require additional data to be furnished.

Article 23

1. A citizen of one of the Contracting Parties who wishes to petition a judicial authority of the other Party for exemption from costs or security may make such petition in the form of an oral statement before the competent judicial authority of the place in which he has his domicile or residence, and the said judicial authority shall draw up a record of his statement. It shall transmit such record, together with a certificate issued in accordance with article 22, paragraph 1, of this Treaty and the other documents submitted by the petitioner, to the judicial authority of the other Party.

2. A petitioner for exemption from costs or security may at the same time make an oral statement for the purpose of instituting judicial or other proceedings, and such oral statement shall also be entered in the record.

PERSONAL STATUS AND FAMILY LAW

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

RECOGNITION OF DECREES OF DISSOLUTION OR ANNULMENT OF MARRIAGE

Final decrees of courts of one of the Contracting Parties concerning the dissolution or annulment (declaration of nullity) of marriages of citizens of either Party shall be recognized in the territory of the other Party without further proceedings unless they conflict with final decrees previously pronounced by courts of such other Party.

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

ACTIONS TO CONTEST OR ESTABLISH PATERNITY

Article 26

Actions to contest or establish paternity 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 27

In the case of a child born out of wedlock, the legal relations between the child and his mother, or between the child and his father, shall be determined by the law of the Contracting Party of which the child is a citizen.

Article 28

Actions to contest or establish paternity or to establish that a child is the issue of a particular marriage shall be within the jurisdiction of the courts of the Contracting Party whose law is applicable under the terms of article 26 of this Treaty.

If both plaintiff and defendant have their domicile in the territory of the same Contracting Party, such actions shall also be within the jurisdiction of the courts of that Party, without prejudice to the provisions of article 26 of this Treaty.

Article 29

DECLARATION OF PERSONS AS MISSING OR DEAD; ESTABLISHMENT OF THE FACT OF DEATH

1. Proceedings for declaring persons missing or dead or for the establishment of the fact of death shall be within the jurisdiction of the judicial 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 judicial 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 interested person resident in its territory whose rights and interests are governed by its law.

3. In proceedings for declaring a person missing or dead, or for the establishment of the fact of his death, the judicial authorities of each Contracting Party shall apply the law of their own State.

GUARDIANSHIP AND CURATORSHIP

Article 30

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 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.

3. 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 guardian or curator is a citizen.

Article 31

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 the authority having jurisdiction under the terms of article 30, paragraph 1, of this Treaty.

2. In cases admitting of no delay, the authority of such other Party may itself take measures under its own law, provided that it at once notifies the authority having jurisdiction under the terms of article 30, paragraph 1, of this Treaty. Such measures shall remain in effect pending other measures by the authority having jurisdiction under article 30, paragraph 1, of this Treaty.

Article 32

1. The authority having jurisdiction under the terms of article 30, paragraph 1, may transfer guardianship or curatorship to an authority of the other Contracting Party if the ward has his domicile or residence or owns property in the territory of the latter Party. Such transfer shall become effective when the authority receiving the request for transfer assumes the guardianship or curatorship and notifies the requesting authority accordingly.

2. The authority assuming guardianship or curatorship in accordance with paragraph 1 above shall exercise it in the manner prescribed by the law of its own State. However, in the matter of juridical personality or legal capacity it shall apply the law of the Party of which the ward is a citizen. It may not decide questions of personal status.

Article 33

ADOPTION

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

2. If the child is a citizen of the other Party, the adoption or termination of adoption shall be subject to the consent of the other Party.

3. 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 or termination of adoption shall be carried out in accordance with the law of both Parties.

4. In matters of adoption or termination of adoption, the authority having jurisdiction shall be an authority of the Contracting Party of which the adopter is a citizen at the time of the adoption or termination of adoption. In the case specified in paragraph 3 above, the authority having jurisdiction shall be an authority of the Contracting Party in whose territory the spouses have or had a common domicile or residence.

Article 34

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. Such documents shall be sent to the other Party, untranslated and free of charge, through the diplomatic channel.

SUCCESSION

Article 35

PRINCIPLE OF EQUALITY

Citizens of either Contracting Party shall enjoy the same rights as citizens of the other Party resident in the territory of the latter as regards the capacity to make or revoke wills disposing of property situated in the territory of the

other Party or of rights to be exercised in the territory of the other Party, and as regards the capacity to succeed to such property or rights. The property or rights shall descend to them under the same conditions as those applying to citizens of the Contracting Party resident in its territory.

Article 36

LAW OF SUCCESSION

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 37

ESCHEAT

Escheated movables shall revert to the State of which the testator was a citizen at the time of his death; escheated immovables shall revert to the State in whose territory they are situated.

Article 38

WILLS

1. 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. The same law shall also determine the admissible types of testamentary dispositions.
2. 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 dispositions.

Article 39

JURISDICTION

1. Proceedings in matters of succession to movables shall, with the exception specified in paragraph 4 below, be conducted by the judicial authorities of the Contracting Party of which the testator was a citizen at the time of death.

2. Proceedings in matters of succession to immovables shall be conducted by the judicial authorities of the Party in whose territory the immovable is situated.

3. The provisions of paragraphs 1 and 2 above shall apply, *mutatis mutandis*, to disputes arising in connexion with the opening of the 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 the other heirs, be conducted by the judicial authorities of the latter Party.

Article 40

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 the diplomatic or consular authority of the former Party thereof without delay, communicating to it whatever information is available concerning the heirs, their domicile or residence, the size and value of the estate and the existence of a will. The same shall apply in cases where the competent authority of one of the Contracting Parties learns that a citizen of the other Party who has died outside the territories of both Parties has left property in its territory.

2. If the diplomatic or consular authority learns of the death of a citizen of its State before receiving notice thereof from the competent authority, it shall notify the judicial authority competent to take measures for the protection of the estate.

Article 41

COMPETENCE OF DIPLOMATIC AND CONSULAR AUTHORITIES IN SUCCESSION PROCEEDINGS

1. In all succession proceedings arising in the territory of one of the Contracting Parties, the diplomatic or consular authorities of the other Party shall have the right to represent their citizens before the judicial or other authorities concerned if such citizens are not present and are not otherwise represented; 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 in transit through such territory, his personal effects shall be delivered without any formal proceedings to the diplomatic or consular authority of the Party of which he was a citizen.

Article 42

OPENING AND PUBLICATION OF WILLS

The opening and publication of a will shall be within the jurisdiction of the judicial authorities of the Contracting Party in whose territory the will is to be found. A certified copy of the will, the minute concerning the condition and content thereof and, according to circumstances, a certified copy of the minute of publication of the will and, on request, the original will itself shall be transmitted to the judicial authority of the State of which the testator was a citizen or to the judicial authority of the other Contracting Party which is conducting the proceedings in the case.

Article 43

MEASURES FOR THE PROTECTION OF THE ESTATE

1. The authorities of each Contracting Party shall, in accordance with their laws, take such measures as are necessary to ensure the protection or the administration of estates left in their territory by deceased citizens of the other Party.

2. The measures taken under paragraph 1 above shall be immediately reported to the diplomatic or consular authority of the other Party, which may participate in carrying them out. If such diplomatic or consular authority so proposes, the measures taken under paragraph 1 above shall be modified, rescinded or postponed.

The movable property and papers of the deceased shall be delivered to the diplomatic or consular authority at its request.

Article 44

DELIVERY OF THE ESTATE

If, after the completion of succession proceedings in the territory of one of the Contracting Parties, the movable estate of the deceased, or the moneys realized from the sale of his movable or immovable estate, are to descend to heirs domiciled or resident in the territory of the other Party, such property or moneys shall be delivered to the diplomatic or consular authority of the latter Party, provided that:

(a) Where the law of the country in which the estate is situated so provides, the State notary's office has duly summoned the deceased's creditors to present their claims within a period of three months;

(b) All estate duties and all claims presented by creditors have been secured or paid; and

(c) The competent authorities have approved the export of the things constituting the estate or the transfer of the moneys realized from their sale.

RECOGNITION AND ENFORCEMENT OF JUDGEMENTS IN CIVIL AND FAMILY CASES

Article 45

The Contracting Parties shall reciprocally recognize and enforce :

(a) Final judgements of judicial authorities in civil and family cases, or decisions of guardianship or curatorship authorities relating to matters within their competence, rendered in the territory of the other Party in respect of legal relations arising after the entry into force of this Treaty; and

(b) Final judgements and sentences in criminal cases so far as they relate to damages for injury resulting from the commission of an offence.

Article 46

ENFORCEMENT OF JUDGEMENTS IN CIVIL AND FAMILY CASES

1. The consideration of applications for authorization of enforcement shall be within the jurisdiction of the courts of the Contracting Party in whose territory enforcement is sought.

2. The application for authorization of enforcement shall be made to the court which rendered judgement in the case at first instance. It shall then be transmitted to the court competent to decide on the application.

3. The formal requirements for the application shall be determined in accordance with the law of the Party in whose territory enforcement is sought.

4. The application shall be accompanied by a translation in the language of the Party to which the application is directed; the translation shall be certified in the manner specified in article 9, paragraph 2, of this Treaty.

Article 47

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 was served at least once, in due time and proper form, with a summons to appear in court;

(c) Translations of the documents specified in (a) and (b) above, duly certified in accordance with article 9, paragraph 2, of this Treaty.

Article 48

If the court has any doubts as to issuing authorization of enforcement, it may 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 additional information.

Article 49

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 considering the application for authorization of enforcement objections either to the admissibility of the application 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 50

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

Article 51

REFUSAL TO RECOGNIZE OR ENFORCE JUDGEMENTS IN CIVIL AND FAMILY CASES

Recognition of a judgement or authorization of enforcement may be refused :

(a) If the applicant or the respondent did not participate in the proceedings either because he or his representative was not served in due time and proper form with a summons to appear in court or because he was summoned only by public notice or in some other form not in accordance with the provisions of this Treaty; or

(b) 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

ENFORCEMENT OF AMICABLE ARRANGEMENTS

The provisions of articles 45 to 51 of this Treaty relating to judgements shall also apply to amicable arrangements arrived at before judicial authorities.

Chapter II

LEGAL ASSISTANCE IN CRIMINAL CASES

Article 53

OBLIGATION TO EXTRADITE

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

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

Article 54

REFUSAL OF EXTRADITION

Extradition shall not take place if :

(a) The person claimed is a citizen of the Contracting Party applied to;
(b) The offence was committed in the territory of the Party applied to;
(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) Prosecution is within the exclusive jurisdiction of the judicial authorities of the Party applied to;

(e) The person claimed has already been prosecuted in the territory of the Party applied to for the same offence and sentenced or discharged, and such sentence or discharge has become final.

Article 55

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 suspected of having committed an extraditable offence in the territory of the other Party.

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

3. The Contracting Party applied to shall notify the requesting Party of the result of the prosecution and, if sentence has been passed and has become final, shall transmit a copy of the sentence.

Article 56

METHOD OF COMMUNICATION

In matters of extradition or prosecution the channel of communication shall be between the Procurator's Office of the Union of Soviet Socialist Republics and the Procurator's Office of the Mongolian People's Republic.

Article 57

REQUISITION FOR EXTRADITION

The requisition for extradition shall be accompanied by:

(a) A certified copy of the warrant of arrest or, if extradition is requested for purposes of execution, a certified copy of the final sentence; these documents shall contain particulars of the nature of the offence, the time and place of its commission and its legal definition and, if the offence resulted in material loss or injury, the extent of such loss or injury;

(b) The text of the statute of the applicant Party defining the offence;

(c) If the person claimed is a convicted person who has already served a part of his sentence, particulars as to the part of the sentence still to be served;

(d) Such particulars as are available regarding the citizenship of the person claimed; documents and information concerning his domicile or residence; and particulars concerning his identity, including a personal description, photographs and finger-prints.

Article 58

SUPPLEMENTARY INFORMATION

1. If any doubts arise as to the commission of an extraditable offence, or if the requisition for extradition does not contain all the necessary particulars, the Contracting Party applied to may request supplementary information, for the receipt of which a time-limit of one to two months shall be fixed. This time-limit may be extended for serious reasons at the request of the applicant Party.

2. If the applicant Party fails to furnish the supplementary information within the specified time-limit, the Party applied to may release the person claimed from custody.

Article 59

DETENTION PENDING EXTRADITION

Upon receipt of the requisition, the Contracting Party applied to shall take immediate steps to detain the person claimed, save in cases in which extradition may not take place.

Article 60

DETENTION PENDING RECEIPT OF REQUISITION FOR EXTRADITION

1. A person may be detained pending receipt of the requisition for his extradition, if an application has been made for his detention. It must be specified in such application that there exists a warrant of arrest or a final sentence in respect of the person claimed, and that the application will be followed by a requisition for extradition. An application for detention pending receipt of the requisition for extradition may be transmitted by post, telegraph, telephone or wireless.

2. A person may be detained in the absence of the application referred to in paragraph 1 above if there is reason to believe that he has committed an extraditable offence in the territory of the other Party.

3. Notification of detention pending receipt of the requisition for extradition shall be sent immediately to the other Party.

Article 61

RELEASE FROM DETENTION IN THE EVENT OF NON-RECEIPT OF THE REQUISITION FOR EXTRADITION

1. A person detained in accordance with article 60, paragraph 1, of this Treaty may be released if the requisition for his extradition is not received within two months from the date on which notification of his detention was sent.

2. A person detained in accordance with article 60, paragraph 2, of this Treaty may be released if the requisition for his extradition is not received within one month 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 completion or remission of the sentence.

Article 63

TEMPORARY EXTRADITION

1. If the postponement of extradition as provided in article 62 of this Treaty 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 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 the extradited person fails to quit the territory of the applicant Contracting Party within one month after the conclusion of the criminal proceedings or, in the event of his conviction, within one month after the completion or remission of the sentence, or if he returns thereto. 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.

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 one month after the date fixed for his surrender, such person may be released from custody.

Article 67

RE-EXTRADITION

If an extradited person evades prosecution and returns to 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 articles 57 and 58 of this Treaty.

Article 68

NOTIFICATION OF RESULTS OF PROSECUTION

The Contracting Parties shall inform each other of the results of proceedings taken against persons extradited to them. If such persons are convicted and sentenced, a copy of the sentence shall be transmitted after it has become final.

Article 69

CONVEYANCE IN TRANSIT

1. Each Contracting Party shall, on application being made, authorize the conveyance through its territory of any person extradited by a third State to the other Party.

2. An application for authorization of such conveyance shall be made and considered in the same manner as a requisition for extradition.

3. A Contracting Party shall not be bound to authorize the conveyance in transit of a person who is not extraditable under this Treaty.

Article 70

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 56 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 56 of this Treaty of the Contracting Party applied to shall authorize the conveyance of such person through the territory of its State, without prejudice to the provisions of article 8 of this Treaty.

Article 71

DELIVERY OF ARTICLES

1. Each Contracting Party undertakes to deliver to the other :

(a) Articles acquired through the commission of an extraditable offence, or the value of such articles;

(b) Articles which may be important as evidence in criminal proceedings; such articles shall be delivered even if the offender cannot be extradited by reason of death, escape or any other circumstances.

2. If the Contracting Party applied to has need of the claimed articles as evidence in criminal proceedings, it may postpone the delivery of the articles until such proceedings are concluded.

3. These provisions shall not affect the rights of third parties to the articles delivered. After the conclusion of the proceedings such articles shall be returned free of charge to the Contracting Party which delivered them.

Article 72

REFUSAL OF LEGAL ASSISTANCE IN CRIMINAL CASES

Legal assistance in criminal cases shall not be provided if :

- (a) It is requested in connexion with an act which is not punishable under the criminal law of the Contracting Party applied to;
- (b) It is requested in connexion with a non-extraditable offence.

Article 73

NOTIFICATION OF SENTENCES

Each Contracting Party shall annually communicate to the other Party information concerning final sentences pronounced by its courts with respect to citizens of the other Party, at the same time providing for the transmittal of the finger-prints of the convicted persons, if such finger-prints are available.

PART III

FINAL PROVISIONS

Article 74

RATIFICATION

This Treaty shall be subject to ratification. The instruments of ratification shall be exchanged as soon as possible in Moscow.

Article 75

ENTRY INTO FORCE

1. This Treaty shall enter into force one month after the exchange of the instruments of ratification. It shall remain in force for a period of five years from the day on which it entered into force.

2. If neither of the Contracting Parties gives notice of termination of the present Treaty not later than six months before the expiry of the five-year 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 76

AUTHENTIC TEXTS

This Treaty has been drawn up in duplicate in the Russian and Mongolian 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 Ulan Bator on 25 August 1958.

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

A. ZAKHAROV

For the Presidium
of the Great People's Khural
of the Mongolian People's
Republic :

P. SHAGDARSUREN

EXCHANGE OF LETTERS

I

Ulan Bator, 25 August 1958

Sir,

I have the honour to confirm herewith the understanding reached between us to the effect that, as from the entry into force of the Treaty between the USSR and the Mongolian People's Republic concerning the reciprocal provision of legal assistance in civil, family and criminal cases signed this day,¹ the Convention of 28 June 1930 between the Union of Soviet Socialist Republics and the Mongolian People's Republic concerning the enforcement of judgements in certain types of civil cases and the Agreement concerning the reciprocal extradition of offenders, concluded in the form of an exchange of notes between the Embassy of the Union of Soviet Socialist Republics in the Mongolian People's Republic and the Ministry of Foreign Affairs of the Mongolian People's Republic on 28 February 1931, shall cease to have effect.

I have the honour to be, etc.

A. ZAKHAROV

Mr. Shagdarsuren
Chairman of the Delegation of the Mongolian
People's Republic
Ulan Bator

II

Ulan Bator, 25 August 1958

Sir,

[See letter I]

I have the honour to be, etc.

P. SHAGDARSUREN

Mr. Zakharov
Chairman of the Delegation of the Union
of Soviet Socialist Republics
Ulan Bator

¹ See p. 154 of this volume.