

No. 4632

POLAND
and
GERMAN DEMOCRATIC REPUBLIC

Treaty (with Final Protocol) concerning legal relations in civil, family and criminal cases. Signed at Warsaw, on 1 February 1957

Official texts: Polish and German.

Registered by Poland on 5 January 1959.

POLOGNE
et
RÉPUBLIQUE DÉMOCRATIQUE ALLEMANDE

Traité (avec Protocole final) concernant les relations juridiques en matière civile, familiale et pénale. Signé à Varsovie, le 1^{er} février 1957

Textes officiels polonais et allemand.

Enregistré par la Pologne le 5 janvier 1959.

[TRANSLATION — TRADUCTION]

No. 4632. TREATY¹ BETWEEN THE POLISH PEOPLE'S REPUBLIC AND THE GERMAN DEMOCRATIC REPUBLIC CONCERNING LEGAL RELATIONS IN CIVIL, FAMILY AND CRIMINAL CASES. SIGNED AT WARSAW, ON 1 FEBRUARY 1957

The State Council of the Polish People's Republic and the President of the German Democratic Republic, sincerely desiring that the friendly relations and co-operation prevailing between the two countries and their peoples should find expression in the sphere of legal relations as in others,

Have agreed to conclude a treaty on legal relations in civil, family and criminal cases.

For this purpose they have appointed as their plenipotentiaries :

The State Council of the Polish People's Republic :

Mr. Tadeusz Rek, Under-Secretary of State in the Ministry of Justice;

The President of the German Democratic Republic :

Dr. Heinrich Toeplitz, Secretary of State in the Ministry of Justice,

who, having exchanged their full powers, found in good and due form, have agreed on the following provisions :

PART I

GENERAL PROVISIONS

Article 1

LEGAL PROTECTION

1. 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 of the other Party. The same shall also apply to corporations constituted in accordance with the legislation of either Contracting Party.

¹ Came into force on 11 October 1957, thirty days after the exchange of the instruments of ratification which took place at Berlin on 11 September 1957, in accordance with article 86.

At the time of the exchange of the instruments of ratification, an exchange of notes took place between the Ministers of Justice of the Polish People's Republic and the German Democratic Republic in the following terms :

During the negotiations preceding the conclusion of the aforementioned Treaty, the two Parties agreed that the provisions of article 43 of the Treaty shall not be regarded as establishing a legal principle applicable to cases other than those in which the testator's death and the opening of the will occurred after the entry into force of the Treaty.

2. They shall have free and unimpeded access to the authorities of the other Contracting Party having jurisdiction in civil, family or criminal cases; they may appear and present petitions before such authorities under the same conditions as citizens of the other Party.

Article 2

SCOPE OF LEGAL ASSISTANCE

The Contracting Parties shall provide each other with legal assistance by performing specific acts required in connexion with judicial proceedings, for example, by preparing and transmitting files and documents, by carrying out searches and seizures, by transmitting or delivering material evidence, by interrogating or taking evidence from witnesses, experts, litigants, accused persons and other interested person, by judicial inspection *in situ* and by executing applications for the service of documents.

Article 3

PROVISION OF LEGAL ASSISTANCE

1. The courts and the procurator's and State notarial offices of the two 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 and family cases.

Article 4

METHOD OF COMMUNICATION

1. In providing legal assistance, the authorities of the Contracting Parties referred to in article 3, paragraph 1, shall communicate with one another directly, save as otherwise provided herein in individual cases.

2. Other authorities having jurisdiction in civil and family cases shall direct their applications to the authorities referred to in article 3, paragraph 1, save as otherwise provided herein in individual cases.

Article 5

FORM OF APPLICATIONS FOR LEGAL ASSISTANCE

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

- (a) The title of the applicant authority;
- (b) The title of the authority applied to;
- (c) The title of the case in respect of which legal assistance is applied for;

- (d) The first names and family names of the parties, or of the accused or convicted persons, their citizenship, their occupation and their domicile or, where appropriate, residence;
- (e) The names and addresses of their authorized legal representatives;
- (f) Any necessary relevant information, including, in criminal cases, a description of the criminal offence.

2. In applying for legal assistance the Contracting Parties shall use bilingual forms, models of which they shall exchange.

Article 6

PROCEDURE FOR EXECUTING APPLICATIONS

1. In providing legal assistance, the authority applied to shall follow the laws of its own State. However, it may on request employ different judicial procedures, provided that such procedures do not conflict with mandatory legislative provisions of its own State.

2. If the authority applied to is not competent to execute the application, it shall of its own motion transmit the application to the competent authority, notifying the applicant authority accordingly.

3. The authority applied to shall, at the request of the applicant authority, notify the latter in due time of the date and place of execution of the application for legal assistance.

4. The authority applied to shall, after executing an application for legal assistance, return the documents to the applicant authority, or shall advise the latter of the circumstances which prevent execution of the application.

Article 7

IMMUNITY OF WITNESSES AND EXPERTS

1. No person of whatsoever citizenship who, in response to a request transmitted to him 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 either for the punishable offence which is the subject of the proceedings or for any other punishable 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 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 applicant authority informs him that his presence is no longer necessary.

Article 8

FORM OF DOCUMENTS

Documents transmitted in pursuance of this Treaty shall bear a seal.

Article 9

APPLICATIONS FOR THE SERVICE OF DOCUMENTS

1. In serving documents, the authority applied to shall employ the procedure in effect in its own country, provided that the document to be served is drawn up in the language of the authority applied to or is accompanied by a certified translation in that language. Otherwise, the authority applied to shall deliver the document to the recipient if he freely expresses his willingness to accept it.

2. An application for the service of documents must contain the exact address of the recipient and the designation of the documents 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 when returning to it the document in question.

Article 10

CONFIRMATION OF SERVICE OF DOCUMENTS

Service of documents shall be confirmed in accordance with the appropriate regulations in effect in the Contracting Party applied to. The authority applied to shall notify the applicant authority of the time and place of service.

Article 11

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 of any kind may be used in such service.

Article 12

RECOGNITION OF DOCUMENTS

1. Documents drawn up or attested in the territory of either Contracting Party by the competent State authority or public official in due form, and bearing an official seal, shall not require legalization in the territory of the other Party. The same shall apply to signatures attested in accordance with the regulations of either Contracting Party.

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 also.

Article 13

COSTS OF LEGAL ASSISTANCE

1. The Contracting Party applied to shall make no claim for repayment of the costs of legal assistance. Each Party shall assume all costs incurred in providing legal assistance in its territory, including expenses incurred in taking evidence.

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 therefor, they shall be retained by the Contracting Party which recovered them.

Article 14

DENIAL OF LEGAL ASSISTANCE

Legal assistance may be denied if its provision might be prejudicial to the sovereignty or security of the Contracting Party applied to. The conditions under which assistance may be denied shall be decided by the Minister of Justice or the General Procurator of the Contracting Party applied to.

Article 15

PROVISION OF INFORMATION

The Ministers of Justice and the General Procurators of the Contracting Parties shall, upon direct application, provide each other with information on legislation now or formerly in force in their respective States.

Article 16

LANGUAGES

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

2. In order to facilitate communication concerning the provision of legal assistance, translations into the language of the Contracting Party applied to should, if possible, be supplied even in cases where they are not required under this Treaty.

PART II

SPECIAL PROVISIONS

Chapter I

*LEGAL ASSISTANCE IN CIVIL AND FAMILY CASES**(a) COSTS**Article 17*

Citizens of one of the Contracting Parties appearing before the courts of the other Party shall not be required to deposit security on the sole ground that they are aliens or have no permanent domicile or residence in the country in question.

Article 18

Citizens of either Contracting Party shall be accorded temporary exemption from payment of legal costs in the territory of the other Party on the same conditions and to the same extent as the citizens of the State concerned.

Article 19

1. The document relating to personal or family status, income and property required for exemption from payment of legal costs 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 neither his domicile nor his residence in the territory of either Contracting Party, a document issued or certified by the diplomatic or consular mission of his State shall be acceptable.

3. The court which rules on the petition for temporary exemption from payment of legal costs may request the authority which issued the certificate for further information.

Article 20

1. A citizen of one of the Contracting Parties who wishes to petition a court of the other Party for temporary exemption from legal costs or for the appointment of counsel for the proceedings may make such petition 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 and transmit such record, together with the certificate referred to in article 19, paragraph 1, and the other documents submitted by the petitioner, to the competent court of the other Party.

2. The complaint or other application may be entered in the record at the same time as the petition for temporary exemption from payment of legal costs.

(b) SPECIAL PROVISIONS RELATING TO FAMILY CASES

Article 21

FORM OF MARRIAGE

1. The form of marriage shall be that prescribed by the law of the Contracting Party in whose territory the marriage takes place.

2. The form of a marriage solemnized by a competent diplomatic or consular representative shall be that prescribed by the law of the sending State.

Article 22

PERSONAL AND PROPERTY RELATIONS OF SPOUSES

1. The personal and property relations of spouses shall be those prescribed by the law of the State of which they are citizens.

2. Where one spouse is a citizen of one Contracting Party and the other a citizen of the other Party, their personal and property relations shall be those prescribed by the law of the Party in whose territory they have their domicile.

3. Where one of the spouses in the case specified in paragraph 2 is domiciled in the territory of one Contracting Party and the other in the territory of the other Party, their personal and property relations shall be those prescribed by the law of the Party in whose territory they had their last joint domicile.

4. The provisions of paragraphs 2 and 3 shall not apply to marriage settlements. Such settlements shall be governed by the law of the State in whose territory they were concluded.

Article 23

DISSOLUTION OF MARRIAGE

1. In actions for the dissolution of marriages the applicable law and, in principle, the courts having jurisdiction shall be those of the Contracting Party of which the spouses are citizens at the time when the proceedings are instituted. Where the spouses are domiciled in the territory of the other Party, the courts of that Party shall also have jurisdiction.

2. If at the time when proceedings for the dissolution of a marriage are instituted one of the spouses is a citizen of one Contracting Party and the other a citizen of the other Party and one of them resides in the territory of one Contracting Party and the other in that of the other Party, the courts of both Contracting Parties shall have jurisdiction. In rendering a decision, the courts shall apply the law of their own State.

Article 24

ANNULMENT OF MARRIAGE

1. The annulment or declaration of nullity of a marriage shall be permissible only if grounds exist for such action in accordance with the law both of the State in which the marriage was concluded and of the Contracting Party of which the spouses are citizens.

2. The provisions of article 23 shall apply, *mutatis mutandis*, in determining which courts have jurisdiction.

Article 25

DECLARATION OF PERSONS AS DEAD

1. Proceedings for declaring persons dead or for the establishment of the time of death shall be governed by the law and shall be within the jurisdiction of the authorities of the Contracting Party of which the missing person was a citizen at the time of his disappearance.

2. The authorities of one Contracting Party may declare a citizen of the other Party dead in the event that :

- (a) Such a declaration is requested by a person wishing to exercise the right of succession to movable or immovable property of the missing person which is situated in the territory of the former Party;
- (b) Such a declaration is requested by the spouse of the missing person, provided that at the time application is made the spouse is resident in the territory of the former Party.

LEGAL RELATIONS BETWEEN PARENTS AND CHILDREN

Article 26

1. Where parents and children are citizens of the same State, the legal relations between them shall be determined by the law of the State of which they are citizens.

2. Where a child is a citizen of one State and his parents are citizens of another, the legal relations between them shall be determined by the law of the State of which the child is a citizen; this shall also apply in actions to establish legitimacy.

Article 27

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

Article 28

Actions to contest or establish paternity shall be within the jurisdiction of the courts of the Contracting Party whose laws are applicable in accordance with articles 26 and 27. If both parties in the action have their domicile in the territory of the other Contracting Party, the courts of that Party shall also have jurisdiction.

Article 29

MAINTENANCE CLAIMS

In the case of maintenance claims other than those made in connexion with actions for the dissolution or annulment of a marriage, the court of the place where the person required to pay the maintenance grant has his domicile shall have sole jurisdiction.

GUARDIANSHIP AND CURATORSHIP

Article 30

1. The authority having jurisdiction in proceedings relating to guardianship or curatorship over citizens of the Contracting Parties shall, save as otherwise provided by this Treaty, be that 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.

Article 31

1. Where need arises to provide for guardianship or curatorship in the interests of a ward whose domicile, residence or property is in the territory of the other Contracting Party, the guardianship authority of such Party shall at once notify the guardianship authority of the Party having jurisdiction under the terms of article 30, paragraph 1.
2. In urgent cases, the guardianship authority of the other Contracting Party may itself take the necessary measures, provided that it at once notifies the guardianship authority having jurisdiction under the terms of article 30, paragraph 1, of the provisional measures adopted. Such measures shall remain in effect pending other measures by the latter guardianship authority.

Article 32

1. The guardianship authority having jurisdiction under the terms of article 30, paragraph 1, may transfer guardianship or curatorship to the guardianship authorities of the other Contracting Party if the ward's domicile, residence or property is in that State. Such transfer shall be effective only if the authority applied to specifically consents to assume guardianship or curatorship and notifies the applicant authority accordingly.

2. The guardianship authority acquiring jurisdiction under the terms of paragraph 1 shall exercise guardianship or curatorship 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 personal status, 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.

Article 33

ADOPTION

1. Adoption or termination of adoption shall be governed by the law of the Contracting Party of which the adopter is a citizen at the time of the adoption or termination of adoption.

2. Where the child is a citizen of the other Party, the consent of the child, of his legal representative and of the competent public authority of that Party, if the law of that Party so prescribes, shall also be required.

3. If the child is adopted by a married couple of whom one spouse is a citizen of one Contracting Party and the other spouse a citizen of the other Party, the adoption or termination of adoption shall be carried out in accordance with the law in effect in the territory of both Parties.

4. In matters of adoption or termination of adoption the authorities having jurisdiction shall be those 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, the authority having jurisdiction shall be the authority in whose district the married couple have, or last had, a common domicile or residence.

DECLARATION OF INCAPACITY

Article 34

Proceedings for declaring persons incapable shall be governed by the law and shall be within the jurisdiction of the courts of the Contracting Party of which the person to be declared incapable is a citizen.

Article 35

If a court of one Contracting Party finds that grounds exist for declaring incapable a citizen of the other Party who has his domicile or residence in the district served by that court, it shall so notify the competent court of the other Party. If the court thus notified indicates its willingness to leave further action in the matter to the first court, or if it fails to reply within three months, the first court may conduct the proceedings for a declaration of incapacity in accordance with the laws of its State, provided that it takes such action on grounds for which provision is also made by the law of the Party of which the person concerned is a citizen. The decision concerning the declaration of incapacity shall be communicated to the competent court of the other Party.

Article 36

In urgent cases, the court of the place of domicile or residence of a person who is to be declared incapable and who is a citizen of the other Contracting Party may make or cause to be made such provisional arrangements as are necessary to protect the person concerned or his property. Such arrangements shall be communicated to the court of the Party of which the person concerned is a citizen; they shall be revoked if the latter court renders a different decision in the case.

Article 37

The provisions of articles 34 and 35 shall apply, *mutatis mutandis*, to the revocation of a declaration of incapacity.

*(c) TRANSMITTAL OF CIVIL REGISTRATION CERTIFICATES**Article 38*

1. The Contracting Parties shall transmit to each other extracts from their civil registers comprising documents relating to citizens of the other Party which are registered after the entry into force of this Treaty. Such extracts shall be transmitted at quarterly intervals, free of charge, through the diplomatic channel.

2. The registry offices of each Contracting Party shall, upon the request of the courts, State notarial offices or other authorities of the other Party, transmit extracts from their civil registers free of charge, for official use. They shall transmit such extracts directly to the authorities concerned.

3. Applications by citizens of either Contracting Party for the preparation and transmittal of extracts from the civil register of the other Party may be addressed directly to the competent registry office. The latter shall transmit the document to the diplomatic or consular mission of its State in the territory of the First Party, which shall deliver it to the applicant upon payment of the prescribed fee.

Article 39

If the registry offices of either Contracting Party alter or correct a civil registration document relating to a citizen of the other Party, a certified extract from the civil register, containing the alteration or correction, shall be transmitted to the other Party. The provisions of article 38, paragraph 1, sentence 2, shall apply.

(d) PROVISIONS RELATING TO SUCCESSION

Article 40

PRINCIPLE OF EQUAL RIGHTS

1. 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 property or rights. The property or rights shall descend to them under the same conditions as those applying to citizens of the other Contracting Party resident in its territory.

2. Documents attesting the right to succession, including certificates of succession or certificates of execution of a will, issued by the competent authorities of one of the Contracting Parties shall also serve as attestation of the relevant facts in the territory of the other Party.

Article 41

APPLICABLE LAW

1. Succession to the estates of citizens of the Contracting Parties shall be determined by the law of the Party of which the testator was a citizen.

2. Where the law of the Contracting Party in whose territory property belonging to the estate is situated imposes restrictions on the disposition of such property for citizens of that Party as well as for aliens, succession to such property shall be determined by the law of the Party in whose territory it is situated.

Article 42

CAPACITY TO INHERIT

Citizens of either Contracting Party who claim rights of succession in the territory of the other Party must possess the capacity to inherit under the law both of the other Party and of the Party of which they are citizens.

Article 43

RIGHTS OF SUCCESSION OF THE STATE

Where under the law of the Contracting Parties an estate reverts to the State, movables shall revert to the State of which the decedent was a citizen at the time of his death and immovables to the State in whose territory they are situated.

Article 44

WILLS

1. The form of a 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 place where the testamentary disposition was made is complied with. The same shall apply to the revocation of testamentary dispositions.

2. The capacity to make or revoke a testamentary disposition 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.

3. The legal effects upon testamentary dispositions of defects contained therein 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.

Article 45

JURISDICTION IN MATTERS OF SUCCESSION

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

2. In the case specified in article 41, paragraph 2, the succession authorities having jurisdiction shall be those of the Contracting Party in whose territory the property belonging to the estate is situated.

3. The jurisdictions specified in this article shall apply, *mutatis mutandis*, to actions relating to claims to succession.

4. If the entire estate of a deceased citizen of one Contracting Party is situated in the territory of the other Party, the competent succession authority of the other Party shall, upon petition by an heir or a legatee, and subject to the consent of all heirs, assume the functions of the succession authority referred to in paragraph 1.

Article 46

NOTIFICATION OF DEATH

1. If a citizen of one of the Contracting Parties dies in the territory of the other Party, the local authority shall immediately notify the diplomatic or consular mission of the former Party of such death, 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.

2. If the diplomatic or consular mission learns of the death first, it shall notify the competent succession authority with a view to the protection of the estate.

Article 47

RIGHT OF DIPLOMATIC AND CONSULAR MISSIONS TO ACT IN MATTERS OF SUCCESSION

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 such Party, where such citizens do not take part in the proceedings and have appointed no other 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 48

OPENING OF WILLS

The opening and publication of a will shall be within the jurisdiction of the competent succession authority of the Contracting Party in whose territory the will is to be found. If the testator had his residence in the territory of the other Party, the competent succession authority shall be furnished with a copy of the will and a minute concerning the condition, content and, if necessary, opening and publication thereof; on request, the original will shall also be transmitted.

Article 49

MEASURES FOR THE PROTECTION OF THE ESTATE

1. The succession authorities of each Contracting Party shall take, in accordance with their law, such measures as are necessary to ensure the protection or the administration of estates left in the territory of their State by citizens of the other Party. The succession authority having local jurisdiction shall be the authority in whose district all or most of the estate is situated.

2. The diplomatic or consular mission shall be informed immediately of any measures taken under paragraph 1; it may participate in carrying out such measures either direct or through its representative. At the request of the diplomatic or consular mission, measures taken under paragraph 1 and any other necessary measures may be modified, postponed or rescinded.

3. Measures taken under paragraph 1 of this article must be rescinded at the request of the succession authority of the home country (article 45, paragraph 1).

Article 50

DELIVERY OF THE ESTATE

1. If, after the completion of succession (probate, partition) proceedings, the decedent's movable estate 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 estate or the moneys realized shall be delivered to the diplomatic or consular mission of such Party.

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

- (a) The deceased's creditors have failed to present their claims within three months after having been duly summoned to do so or the claims, having been presented, have been paid or secured;
- (b) All estate duties and other duties owed by the testator have been paid or secured;
- (c) The competent authorities have approved the export of the estate, where such approval is required. Moneys shall be transferred in accordance with the applicable currency laws.

(e) RECOGNITION AND ENFORCEMENT OF JUDGEMENTS

Article 51

RECOGNITION OF JUDGEMENTS IN MATTERS NOT RELATING TO PROPERTY

Final decisions of courts of either Contracting Party in matters not relating to property shall be effective in the territory of the other Party without the

necessity of holding formal proceedings for recognition, provided that, at the time the decision takes final effect, one of the litigants is a citizen of the State whose court rendered the decision and that no court of the other Party has previously rendered a final decision in the matter or has exclusive jurisdiction under this Treaty.

RECOGNITION OF JUDGEMENTS IN MATTERS RELATING TO PROPERTY

Article 52

Final judgements in civil and family cases relating to property rendered in the territory of either Contracting Party shall be recognized in the territory of the other Party, provided that they were rendered after the entry into force of this Treaty.

Article 53

1. Awards of arbitration tribunals, and amicable arrangements arrived at before such tribunals, shall be deemed equivalent to final judgements within the meaning of article 52, provided that at least one of the parties was a body corporate established in the territory of one of the Contracting Parties.

2. Judgements of courts relating to civil damages in criminal cases shall also be regarded as final judgements within the meaning of article 52.

ENFORCEMENT OF JUDGEMENTS

Article 54

1. The competent courts of either Contracting Party shall, on application by the plaintiff, issue authorization for the enforcement of judgements rendered by the courts of the other Party, where such judgements are recognized in their own territory under article 52.

2. Amicable arrangements arrived at before courts and enforceable documents shall be treated in the same way as court judgements. Awards of arbitration tribunals of the other Contracting Party and amicable arrangements arrived at before them shall be treated in the same way as awards or amicable arrangements made by or arrived at before domestic arbitration tribunals.

3. The law applicable to the issue of authorization of enforcement and to enforcement shall be that of the Contracting Party in whose territory such proceedings take place.

Article 55

1. Judgements on applications for authorization of enforcement shall be rendered by the court of the other Contracting Party in whose district the respondent is domiciled or enforcement is sought.

2. The application shall be made either to the court which rendered judgement in the case at first instance or to the court of the other Contracting Party which is competent to execute the application. An application made to the court of first instance shall be forwarded to the court of the other Party which is competent to execute it.

Article 56

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

- (a) An official copy of the judgement, with confirmation that it has become final;
- (b) If the respondent did not participate in the proceedings, the originals or certified copies of documents showing that he was served in due time and proper form with a summons or with other official notice of the initiation of the proceedings;
- (c) Certified translations of the application and of the documents specified in (a) and (b).

2. An application for authorization of enforcement may be accompanied by the application for the execution of enforcement.

Article 57

OBJECTIONS BY THE RESPONDENT

The court considering the application for authorization of enforcement shall permit the respondent to state his objections either to the admissibility of enforcement or to the claim defined in the judgement for which enforcement is sought, provided that such objections are admissible under the law of the Contracting Party in whose territory the judgement was rendered.

Article 58

REFUSAL TO ENFORCE JUDGEMENTS

Apart from the cases provided for in article 14, authorization for the enforcement of judgements may be refused if :

- (a) The courts of the Contracting Party in whose territory the judgement was rendered were not competent under the law of the Party in whose territory enforcement is sought;

- (b) The respondent did not participate in the proceedings and neither he nor his representative was served in due time with a summons or with other official notice of the initiation of the proceedings, or he was summoned or notified only by public notice or in some other form not in accordance with the provisions on legal assistance contained in this Treaty;
- (c) 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 by a court of the Contracting Party in whose territory enforcement is sought. However, this provision shall not apply if the judgement whose enforcement is sought was rendered on grounds which, under the law of the Party whose court is deciding on the application, permit a request to be made for modification of a final judgement.

ENFORCEMENT OF DECISIONS RELATING TO PAYMENT OF LEGAL COSTS

Article 59

1. If a party to proceedings exempt under article 17 from depositing security is required in pursuance of a final decision to pay legal or non-legal costs, the competent court of the other Contracting Party shall on application issue without charge authorization for the enforcement of the decision regarding the repayment of costs to the party concerned.

2. Legal costs shall include the costs of obtaining the certificate, translation and certification thereof provided for in article 60.

3. Decisions within the meaning of paragraph 1 shall include decisions fixing costs.

Article 60

1. The court deciding on an application for authorization of the enforcement of a decision for the payment of legal costs in accordance with article 59 shall confine itself to determining whether :

- (a) The decision whose enforcement is sought is accompanied by a certificate confirming that it has become final;
- (b) The documents referred to in (a) are accompanied by a certified translation of that part of the decision which fixes the amount of the costs to be repaid.

2. The costs of making the translation referred to in paragraph 1 (b) shall be regarded as part of the costs of enforcement.

Article 61

1. So far as concerns the recovery of unpaid legal costs, the court of the Contracting Party in whose territory the claim for payment of costs is made which dealt with the matter at first instance shall request the competent court

of the other Party to recover legal costs. The latter shall initiate the enforcement proceedings and transmit the sum recovered to the diplomatic or consular mission of the other Party.

2. The request shall be accompanied by :
 - (a) The bill of costs;
 - (b) A certificate confirming that the decision on which enforcement is based has become final;
 - (c) Certified translations of the documents referred to in (a) and (b).

3. Article 60, paragraph 2, shall be applicable *mutatis mutandis*.

Article 62

DELIVERY OF ARTICLES

The delivery of articles to a plaintiff resident in the territory of the other Contracting Party shall be effected in accordance with the regulations in force for the export of articles or the transfer of funds.

Article 63

COSTS OF ENFORCEMENT

The calculation and recovery of costs arising in connexion with enforcement shall be subject to the same rules as those applied in the enforcement of judgements of courts of the Contracting Party in whose territory the judgement is enforced.

Chapter II

LEGAL ASSISTANCE IN CRIMINAL CASES

Article 64

EXTRADITABLE OFFENCES

1. Each Contracting Party shall extradite to the other on request, in accordance with the terms of this Treaty, persons 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 offences which are punishable under the law of both Contracting Parties with deprivation of liberty for a term of not less than one year or with a heavier penalty (hereinafter called "extraditable offences").

3. Neither Contracting Party shall extradite to the other Party one of its own citizens.

Article 65

REFUSAL OF EXTRADITION

Extradition shall not take place if :

- (a) The offence was committed in the territory of the Party applied to;
- (b) 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;
- (c) The offender has already been sentenced for the same offence or discharged by a court or other authority of the Contracting Party applied to;
- (d) Proceedings in respect of the offence are initiated under the law of both Parties by way of private complaint.

Article 66

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 have committed extraditable offences in the territory of the other Party.

2. The request shall be addressed by the Minister of Justice or the General Procurator of the requesting Party to the Minister of Justice or the General Procurator of the other Party. The request shall be accompanied by all the available evidence relating to the case.

3. The Contracting Party applied to shall notify the requesting Party of the result of the prosecution. If sentence has been passed in the case and has become final, a copy of the sentence shall be enclosed with the notification.

Article 67

METHOD OF COMMUNICATION

In matters of extradition the Ministers of Justice and the General Procurators of the Contracting Parties shall communicate with each other directly concerning questions within their competence.

Article 68

REQUISITION FOR EXTRADITION

1. The requisition for extradition shall be accompanied :
- (a) If extradition is requested for purposes of execution—by an official copy of the sentence with confirmation that it has become final;

(b) In the case of other requisitions—by a certified copy of the warrant of arrest, a description of the offence explaining the circumstances of the case, and the text of the relevant legislative provisions. If the offence resulted or may result in material damage, the extent of such damage shall also be specified.

2. The requisition for extradition shall also so far as possible be accompanied by a personal description and biographical particulars of the person claimed, particulars regarding his citizenship and residence and his photograph and finger-prints.

3. The applicant Party shall not be bound to enclose with its requisition proof of the guilt of the person claimed.

Article 69

SUPPLEMENTARY INFORMATION ACCOMPANYING THE REQUISITION FOR EXTRADITION

1. If the information communicated is insufficient to permit a decision regarding 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 on request.

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

ARREST OF PERSONS LIABLE TO EXTRADITION

Article 70

Upon receipt of a requisition for extradition, the Contracting Party applied to shall take immediate steps to arrest the person claimed.

Article 71

1. A person liable to extradition shall 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 corresponding judicial decision, and that a requisition for extradition will be made. An application for arrest may be transmitted directly by the competent courts or other public authorities by post, telegraph, telephone or wireless.

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

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

Article 72

1. A person detained in accordance with article 71, paragraph 1, may be released if a properly executed requisition for his extradition is not received within two months from the date on which notification of his arrest was sent.

2. A person detained in accordance with article 71, paragraph 2, may be released if an application pursuant to article 71, paragraph 1, is not received within one month from the date on which notification of his arrest was sent.

Article 73

POSTPONEMENT OF EXTRADITION

If the person claimed is under trial or has been convicted for another offence, the authorities which consider the requisition may rule that the extradition shall be postponed until the termination of the proceedings or the completion or remission of the sentence.

Article 74

TEMPORARY EXTRADITION

1. In the cases referred to in article 73, a person may be extradited temporarily on request, if the postponement of extradition might result in exemption from prosecution being acquired by lapse of time or might prejudice seriously the investigation of an offence.

2. The person extradited shall be returned after the completion of the criminal proceeding for the period of which he was extradited.

Article 75

CONCURRENT REQUISITIONS FOR EXTRADITION

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

Article 76

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 extradited to a third State for an offence which was committed before his extradition and which is not the offence

for which he was extradited. Such consent may not be refused if the Party applied to is required under this Treaty to extradite the person concerned for the said offence.

2. Consent in accordance with paragraph 1 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 the 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.

3. The consent of the Contracting Party applied to shall not be required if the extradited person makes a statement before a court that he is willing to stand trial. In that case, a certified copy of the court record containing such statement shall be transmitted to the Party applied to.

Article 77

EXTRADITION

The Contracting Party applied to undertakes to notify the applicant Party of the time and place of extradition. If the applicant Party fails to accept the person claimed within one month after the date on which the notification was sent, such person may be released from custody.

Article 78

RE-EXTRADITION

If an extradited person evades prosecution and returns to the territory of the Contracting Party applied to, he shall be arrested and re-extradited upon receipt of a requisition without the production of further supporting documents.

Article 79

CONVEYANCE OF OFFENDERS IN TRANSIT

1. Each Contracting Party shall at the request of the other Party convey through its territory any person extradited by a third State to the other Party. The Contracting Parties shall not be bound to authorize conveyance in transit in cases where extradition is not provided for under the terms of this Treaty.

2. A request under paragraph 1 shall be submitted and treated in the same manner as a requisition for extradition.

Article 80

NOTIFICATION OF RESULTS OF PROSECUTION

The applicant Contracting Party shall inform the Party applied to of the results of proceedings taken against extradited persons. Where sentence is passed, a copy of such sentence shall be transmitted after it has become final. This provision shall also apply to the cases referred to in article 76 of this Treaty.

Article 81

CASES WHERE PROVISION OF LEGAL ASSISTANCE IS NOT OBLIGATORY

Apart from the cases referred to in article 14, there shall be no obligation to provide legal assistance in criminal cases if :

- (a) The criminal proceedings relate to a non-extraditable offence;
- (b) The courts or procurator's offices of the Contracting Party applied to are not competent to execute the application.

Article 82

TEMPORARY DELIVERY OF ARRESTED PERSONS

1. If need arises for the interrogation of a witness or expert who is held in custody in the territory of the Contracting Party applied to, the Minister of Justice or General Procurator of the latter Party 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 the interrogation is completed.

2. If a person held in custody in a third State is summoned for interrogation as a witness or expert by the authorities of the requesting State, the Minister of Justice or the General Procurator of the Party applied to shall authorize the conveyance of such person through the territory of his State, provided that such person is guaranteed the protection prescribed in article 7.

Article 83

DELIVERY OF ARTICLES

1. Each Contracting Party undertakes to deliver to the other on request :
- (a) Articles acquired through the commission of an extraditable offence;
 - (b) Articles having relevance to the extraditable offence;
 - (c) Articles which may be important as material evidence in criminal proceedings, even if the offender cannot be extradited by reason of death, escape or any other circumstances.

2. If the articles claimed are needed by a court or a procurator's office of the Contracting Party applied to as material evidence in criminal proceedings, their delivery may be postponed until such proceedings are concluded.

3. These provisions shall not affect the rights of third parties to the articles to be delivered. After the conclusion of the proceedings such articles shall be returned to the Contracting Party applied to for transmittal to the person entitled to them.

Article 84

NOTIFICATION OF SENTENCES

1. Each Contracting Party shall notify to the other Party the final sentences pronounced by its courts with respect to citizens of the other Party.

2. For this purpose, extracts from the register of convictions relating to such sentences shall be transmitted at quarterly intervals by the Ministers of Justice or the General Procurators of the Contracting Parties. The finger-prints of the convicted persons shall be transmitted at the same time, if such finger-prints are available.

Article 85

INFORMATION FROM THE REGISTER OF CONVICTIONS

Information from the register of convictions of either Contracting Party shall be furnished free of charge at the direct request of the courts or procurator's offices of the other Party.

PART III

FINAL PROVISIONS

Article 86

This Treaty shall be subject to ratification. The instruments of ratification shall be exchanged as soon as possible at Berlin. The Treaty shall enter into force thirty days 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. Unless either of the Parties gives notice of termination of the Treaty not later than six months before the expiry of such period, the Treaty shall continue in effect for a further five-year period, and similarly thereafter.

This Treaty has been drawn up in duplicate in the Polish and German 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 Warsaw, on 1 February 1957.

For the State Council
of the Polish People's
Republic :
T. REK

For the President
of the German Democratic
Republic :
Dr. Heinrich TOEPLITZ

FINAL PROTOCOL

On signing this day the Treaty concerning legal relations in civil, family and criminal cases,¹ the plenipotentiaries of the Contracting Parties declare the following :

I

Questions relating to the interpretation of this Treaty, and particularly those arising as a result of changes in the legislation of the Contracting Parties, shall be settled by consultation between the Ministers of Justice of the two Parties.

II

The Ministers of Justice and the General Procurators of the two Contracting Parties shall, for the purpose of facilitating legal relations, exchange lists of courts, procurator's offices and State notarial offices. They shall inform each other of any changes that are made.

III

The Contracting Parties are in agreement that the term "civil cases" shall be deemed to include disputes brought before labour courts and that the labour courts of the German Democratic Republic shall be placed on an equal footing with the authorities referred to in article 3, paragraph 1.

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

Warsaw, 1 February 1957.

For the State Council
of the Polish People's
Republic :
T. REK

For the President
of the German Democratic
Republic :
Dr. Heinrich TOEPLITZ

¹ See p. 168 of this volume.