

No. 4638

POLAND
and
UNION OF SOVIET SOCIALIST REPUBLICS

Treaty (with Additional Protocol) concerning legal assistance and relations in civil, family and criminal cases. Signed at Warsaw, on 28 December 1957

Official texts: Polish and Russian.

Registered by Poland on 5 January 1959.

POLOGNE
et
**UNION DES RÉPUBLIQUES SOCIALISTES
SOVIÉTIQUES**

Traité (avec Protocole additionnel) relatif à l'entraide judiciaire et aux relations juridiques en matière civile, familiale et pénale. Signé à Varsovie, le 28 décembre 1957

Textes officiels polonais et russe.

Enregistré par la Pologne le 5 janvier 1959.

[TRANSLATION — TRADUCTION]

No. 4638. TREATY¹ BETWEEN THE POLISH PEOPLE'S REPUBLIC AND THE UNION OF SOVIET SOCIALIST REPUBLICS CONCERNING LEGAL ASSISTANCE AND RELATIONS IN CIVIL, FAMILY AND CRIMINAL CASES. SIGNED AT WARSAW, ON 28 DECEMBER 1957

The State Council of the Polish People's Republic and the Presidium of the Supreme Soviet of the Union of Soviet Socialist Republics, being desirous of strengthening friendship and co-operation between the two States in the sphere of legal relations as in others, have decided to conclude a treaty concerning legal assistance and relations in civil, family and criminal cases, and for this purpose have appointed as their plenipotentiaries :

The State Council of the Polish People's Republic :

Mr. Marian Rybicki, Minister of Justice of the Polish People's Republic;

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

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

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 of either Contracting Party shall enjoy in the territory of the other Party the same legal protection of their persons and property as citizens of the other Party.

2. The provisions of paragraph 1 shall apply, as appropriate, to juridical persons.

¹ Came into force on 8 June 1958, thirty days after the exchange of the instruments of ratification which took place at Moscow on 8 May 1958, in accordance with article 85.

Article 2

PROVISION OF LEGAL ASSISTANCE AND SCOPE THEREOF

1. The courts and the procurator's and State notarial offices of the Contracting Parties shall provide one another with legal assistance in civil, family and criminal cases by performing specific acts required in connexion with judicial proceedings, for example, by carrying out searches, seizures and attachment of property, by transmitting or delivering articles, by interrogating accused persons, witnesses and experts, by taking evidence from litigants and other persons, by carrying out judicial inspections *in situ*, by executing applications for the service of documents, and by drawing up and transmitting records and documents.

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

Article 3

METHOD OF COMMUNICATION

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

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

Article 4

LANGUAGES

In communications between the Contracting Parties, the authorities of the Polish People's Republic shall use the Polish language and the authorities of the Union of Soviet Socialist Republics shall use the Russian language.

Article 5

OFFICIAL FORM OF APPLICATIONS

1. Applications transmitted under the terms of this Treaty shall bear a seal.

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

Article 6

APPLICATIONS FOR LEGAL ASSISTANCE

1. Applications for legal assistance must indicate the title of the case in respect of which legal assistance is applied for, the names of the parties and of their legal representatives, their domicile or residence, and any necessary in-

formation on the nature of the application, including, in criminal cases, a description of the *corpus delicti*. Applications for the service of documents must indicate in addition the address of the recipient and the nature of the document to be served.

2. If the exact address of the recipient is not known or the address indicated proves to be incorrect, but it is possible to determine the correct address, the authority applied to shall take the necessary steps to do so. If the authority applied to is unable to determine such address, it shall so inform the applicant authority, returning to it at the same time the document in question.

Article 7

PROCEDURE FOR EXECUTING APPLICATIONS

1. In executing an application for legal assistance, the authority applied to shall follow the laws of its own State; in so doing, it shall employ the same means of enforcement as in executing the applications of authorities of its own State.

2. The authority applied to shall, at the request of the applicant authority, employ judicial procedures in effect in the territory of the applicant Contracting Party, provided that such procedures do not conflict with the laws of the Party applied to.

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

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

5. After executing an application for legal assistance, the authority applied to shall return the documents to the applicant authority; if unable to execute the application, it shall advise the applicant authority of the circumstances which prevent such execution.

SERVICE OF DOCUMENTS

Article 8

The service of documents shall be effected in accordance with the procedure laid down in article 7, provided that the document to be served is drawn up in the official language of the applicant Party and is accompanied by a certified translation into the language of the Party applied to. Otherwise, the authority applied to may confine itself to effecting service by delivering the document to the addressee if he is willing to accept it.

Article 9

1. A receipt signed by the recipient and indicating the date of service, or a certificate issued by the authority applied to attesting to the fact, manner and time of service, shall be deemed to constitute proof of service.

2. If the document to be served was submitted in duplicate, one copy shall be received or shall be accompanied by a certificate attesting to service.

Article 10

1. Either Contracting Party may serve documents on its own citizens in the territory of the other Party through the intermediary of its diplomatic or consular representatives.

2. No compulsion of any kind may be used in such service.

Article 11

SUMMONING BY ONE PARTY OF WITNESSES OR EXPERTS RESIDENT IN TERRITORY OF
OTHER PARTY

1. If in the course of a preliminary investigation or of judicial proceedings in the territory of one Contracting Party need arises for the appearance as a witness or an expert of a person resident in the territory of the other Party, application for service of a summons shall be made to the competent authority of the other Party.

2. Such summons shall contain no threat of penalties for failure to appear.

3. No person of whatsoever citizenship who, in response to a summons, appears voluntarily as a witness or an expert before a competent authority of the other Contracting Party may be prosecuted or detained in the territory of the latter Party for a punishable offence committed before he crossed the frontier of the applicant State, nor may he be prosecuted or detained because of his testimony or for the offense which is the subject of the proceedings.

4. The witness or expert shall forfeit this privilege if, being at liberty to do so, he fails to quit the territory of the applicant State within one month from the date on which he is informed that his presence is not required.

Article 12

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.

Article 13

COSTS OF LEGAL ASSISTANCE

All costs incurred in executing applications for legal assistance shall be assumed by the Contracting Party applied to.

Article 14

PROVISION OF INFORMATION

The Ministry of Justice or the General Procurator's Office of the Polish People's Republic and the Judicial Commission of the Council of Ministers of the Union of Soviet Socialist Republics shall, upon direct application, provide each other with information on legislation now or formerly in force in their respective States.

DOCUMENTS

Article 15

Documents duly drawn up or attested in the territory of either Contracting Party by the competent State authority, and bearing an official seal, shall not require legalization in order to be accepted in the territory of the other Party.

Article 16

The provisions of article 15 shall apply, *mutatis mutandis*, to private documents bearing a signature attested in conformity with the laws in force at the place where the document was drawn up.

Article 17

1. Extracts and copies of documents shall be accepted in the territory of the other Contracting Party only if they are attested by the authority which drew up or issued the document in question or by a State notarial office. This shall not apply to copies of documents relating to judicial proceedings which are transmitted in connexion with applications for legal assistance.

2. If the authority which issued the document in question no longer exists, copies shall be prepared and attested by the authority to which the files of the defunct authority were transferred for safekeeping.

Article 18

TRANSMITTAL OF CIVIL REGISTRATION CERTIFICATES AND OTHER DOCUMENTS

The Contracting Parties undertake to transmit to each other on request, free of charge, civil registration certificates and other documents relating to the personal rights and interests of citizens of the other Party.

PART II
SPECIAL PROVISIONS

Chapter I

LEGAL ASSISTANCE AND RELATIONS IN CIVIL AND FAMILY CASES

COSTS

Article 19

EXEMPTION FROM SECURITY FOR COSTS CONNECTED WITH THE CONDUCT OF JUDICIAL PROCEEDINGS

1. Citizens of one of the Contracting Parties appearing before the courts of the other Party shall not be required to deposit security for costs connected with the conduct of judicial proceedings on the sole ground that they are aliens or have no permanent domicile or residence in the territory of the latter Party.
2. This provision shall also apply to juridical persons.

EXEMPTION FROM LEGAL COSTS

Article 20

Citizens of either Contracting Party shall be exempted from the payment of legal costs in the territory of the other Party on the same basis and to the same extent as citizens of the other Party.

Article 21

1. Persons petitioning for exemption from legal costs shall submit a certificate relating to personal and family status, income and property issued by the competent authority of the Contracting Party in whose territory the petitioner has his domicile, or, if he has no domicile, by the authority at his place of residence.
2. A citizen of one of the Contracting Parties who wishes to petition a court of the other Party for exemption from legal costs or for the appointment of counsel for the proceedings may make such petition in the form of an oral statement before the competent court of the place in which he has his domicile or residence. The said court shall draw up a record of his statement and transmit such record, together with the certificate referred to in paragraph 1 and the other documents submitted by the petitioner, to the competent court of the other Party.
3. The complaint or other application may be entered in the record at the same time as the petition for exemption from payment of legal costs.

4. If the petitioner has no domicile or residence in the territory of either of the Contracting Parties, a certificate issued by a diplomatic or consular mission shall be acceptable.

LEGAL RELATIONS IN CIVIL AND FAMILY CASES

Article 22

LEGAL CAPACITY

1. The legal capacity of natural persons shall be determined according to the law of the Contracting Party of which the person concerned is a citizen.

2. The legal capacity of juridical persons shall be determined according to the law of the Contracting Party in whose territory the juridical person concerned is established.

DECLARATION OF INCAPACITY

Article 23

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

Article 24

If an authority 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 territory of the first Party, it shall so notify the competent authority of the other Party. If the authority thus notified indicates its willingness to leave further action in the matter to the authority at the place of domicile or residence of the person concerned, or if it fails to reply within three months, the latter authority 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 authority of the other Party.

Article 25

In urgent cases, the authority at 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 such arrangements as are necessary to protect the person concerned or his property. Such arrangements shall be communicated to the competent authority of the Party of which the person concerned is a citizen; they shall be revoked if the latter authority renders a different decision in the case.

Article 26

The provisions of articles 23 and 24 shall apply, *mutatis mutandis*, to the revocation of a declaration of incapacity.

Article 27

DECLARATION OF PERSONS AS MISSING OR DEAD

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

2. The authorities of one Contracting Party may declare a citizen of the other Party missing or dead, or establish the fact of his death, upon the application of any person resident in its territory whose rights and interests are governed by its law. Such decision shall have legal effect only in the territory of the Contracting Party by an authority of which the decision was rendered.

3. A decision rendered in accordance with the provisions of paragraph 2 may be revoked or modified by the authority which rendered it if, in the territory of the Contracting Party of which the missing person was a citizen, the said person is declared by an authority of that Party to be missing or dead and such declaration indicates a different date of his presumed death, or if the application for declaration of the person concerned as missing or dead is dismissed or rejected by an authority of the said Party in a manner prescribed by law.

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

Article 28

FORM OF MARRIAGE

The form of marriage shall be that prescribed by the law of the Contracting Party in whose territory the marriage takes place. For the purposes of recognition of a marriage contracted by citizens of one Party in the territory of the other Party, it shall be deemed legally sufficient if the form of marriage is that prescribed by the law of the Party of which the persons contracting the marriage are citizens.

Article 29

PERSONAL AND PROPERTY RELATIONS OF SPOUSES

1. The personal and property relations of spouses shall be those prescribed by the law of the Contracting Party in whose territory they have their joint domicile.

2. Where one of two spouses having the same citizenship is domiciled in the territory of one Contracting Party and the other in that of the other Party, their personal and property relations shall be those prescribed by the law of the Party of which they are citizens.

3. Where one spouse is a citizen of one Contracting Party and the other a citizen of the other Party, and one is domiciled in the territory of one Party and the other in that 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. Matters pertaining to the personal and property relations of spouses shall be within the jurisdiction of the authorities of the Contracting Party whose law is applicable under the terms of paragraphs 1, 2 and 3.

Article 30

ESTABLISHMENT OF THE EXISTENCE OF MARRIAGE; DISSOLUTION OR ANNULMENT OF MARRIAGE

1. In actions to establish the existence of a marriage and in actions for the dissolution or annulment of marriages, the applicable law and 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. A marriage contracted by citizens of one Contracting Party in the territory of the other Party may be annulled if grounds exist for such action in accordance with the law both of the Party in whose territory the marriage was contracted and of the Party of which the spouses are citizens.

3. If at the time when proceedings to establish the existence of a marriage or proceedings for the dissolution or annulment 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 is resident in the territory of one Contracting Party and the other in that of the other Party, the courts of both Parties shall have jurisdiction in such actions. The courts shall apply the law of their own State.

RELATIONS BETWEEN PARENTS AND CHILDREN

Article 31

1. The legal relations between parents and children shall be those prescribed by the law of the Contracting Party in whose territory they have their common domicile.

2. If the domicile of either parent or of one of the children is in the territory of the other Contracting Party, their legal relations shall be those prescribed by the law of the Contracting Party of which the child is a citizen.

Article 32

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

Article 33

Matters pertaining to the legal relations between parents and children shall be within the jurisdiction of the authorities of the Contracting Party whose law is applicable under the terms of articles 31 and 32.

ADOPTION

Article 34

1. Matters relating to adoption shall be dealt with in accordance with the law of the Contracting Party of which the adopter is a citizen.
2. If the child is adopted by a husband and wife, one being a citizen of one of the Contracting Parties and the other a citizen of the other Party, the adoption shall be carried out in accordance with the law in effect in the territory of both Parties.
3. If the child is a citizen of one of the Contracting Parties and the adopter a citizen of the other Party, adoption or termination of adoption shall be subject to the consent of the child, if this is prescribed by the law of the Party of which he is a citizen, and to the consent of his legal representative and of the competent public authority of that Party.

Article 35

In matters relating to adoption the authority having jurisdiction shall be an authority of the Contracting Party of which the adopter is a citizen. In the case specified in article 34, paragraph 2, the authority having jurisdiction shall be an authority of the Contracting Party in whose territory the spouses have, or recently had, a common domicile or residence.

Article 36

The provisions of articles 34 and 35 shall apply, *mutatis mutandis*, to the termination of adoption.

GUARDIANSHIP AND CURATORSHIP

Article 37

1. In matters relating to guardianship over minors, the applicable law and the authorities having jurisdiction shall be those of the Contracting Party of which the minor is a citizen.

2. Where a minor is a citizen of one Contracting Party but has his domicile or residence in the territory of the other Party, the authorities of the latter Party may appoint a guardian in accordance with the law of that Party if such action is required in the interests of the minor and provided that a guardian has not yet been appointed in the State of which the minor is a citizen. Notice of the appointment of a guardian, together with a brief statement of the relevant facts, shall be transmitted to the competent authority of the Party of which the minor is a citizen. Guardianship shall be transferred to the latter Party, at its request, by the authority of the other Party.

Article 38

1. Where a guardian has been appointed for a minor who is a citizen of one of the Contracting Parties and the said minor's domicile or residence is subsequently transferred to the territory of the other Party, the authority which has exercised guardianship until that time may request an authority of the other Party to assume the further exercise of such guardianship.

2. Where a minor for whom a guardian has been appointed by an authority of one Contracting Party owns property in the territory of the other Party, the authority exercising guardianship may request the competent authority of the other Party to appoint a curator to administer such property.

Article 39

A guardian shall exercise guardianship both over the person and over all the movable and immovable property of his ward, irrespective of where the ward resides or where the property is situated. This shall not apply to the cases specified in article 38, paragraph 2.

Article 40

The provisions of articles 37, 38 and 39 shall apply, *mutatis mutandis*, to curatorship and to guardianship (curatorship) over persons who have been declared incapable.

Article 41

FORM OF LEGAL TRANSACTIONS

The form of legal transactions shall be that prescribed by the law which is applicable to the transaction itself; it shall, however, be deemed sufficient if the law of the place where the transaction is concluded is complied with, provided that no doubt exists as to the identity of the place in question.

SUCCESSION

Article 42

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 43

ESCHEAT

Where under the law of the Contracting Parties an escheated estate (one to which the State is the statutory heir) reverts to the State, movables shall revert to the State of which the deceased was a citizen at the time of his death and immovables to the State in whose territory they are situated.

Article 44

FORM OF WILLS

The form of testamentary dispositions 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 45

JURISDICTION IN MATTERS OF SUCCESSION

1. Proceedings in matters of succession to movables shall, with the exception specified in paragraph 2 below, be conducted by the authorities of the Contracting Party of which the testator was a citizen at the time of death.
2. If the entire movable estate of a deceased citizen of one of the Contracting Parties is situated in the territory of the other Party, proceedings in matters of succession to such estate shall, upon petition by an heir or a legatee, and subject to the consent of all the heirs, be conducted by the authorities of the latter Party.
3. Proceedings in matters of succession to immovables shall be conducted by the authorities of the Contracting Party in whose territory the immovable is situated.
4. The provisions of this article shall apply, *mutatis mutandis*, to disputes relating to matters of succession.

Article 46

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 of estates left in their territory by deceased citizens of the other Party.

2. The authorities competent to take measures for the protection of estates left by citizens of the other Contracting Party shall immediately notify the consul of the latter Party of the testator's death and of any persons claiming rights of succession to the estate, communicate to him whatever information is available concerning persons having rights of succession, including their places of residence, inform him whether a will exists, and advise him of the size and value of the estate and of the measures taken for its protection.

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

4. The movable property and papers of the deceased shall be delivered to a diplomatic or consular representative at the latter's request.

Article 47

OPENING AND PUBLICATION OF WILLS

The opening and publication of wills shall be within the jurisdiction of the competent succession authority of the Contracting Party in whose territory the will is found. If the testator was a citizen of the other Party, the competent authority of that Party shall be furnished with a copy of the will and of the minute concerning the opening thereof; on request, the original will shall also be transmitted. A copy of the will may also be transmitted to such other authority as is competent to take measures for the protection of the estate.

Article 48

The diplomatic or consular representative of one Contracting Party shall have the right to defend the interests of citizens of that Party before the authorities of the other Party in matters relating to succession if such citizens do not reside in the territory of the other Party and have not appointed a representative; in such cases no special power of attorney shall be necessary.

Article 49

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 representative of the country of which he was a citizen.

Article 50

DELIVERY OF THE ESTATE

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

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

3. The estate may be delivered to the heirs if :

- (a) All claims of the creditors of the deceased presented within the period prescribed by the law of the Contracting Party in which the estate is situated have been paid or secured;
- (b) All estate duties have been paid or secured;
- (c) The competent authorities have approved the export of the estate, where such approval is required.

4. Moneys shall be transferred in accordance with the currency laws in effect in the territories of the Contracting Parties.

*RECOGNITION AND ENFORCEMENT OF JUDGEMENTS**Article 51*

RECOGNITION OF JUDGEMENTS IN MATTERS RELATING TO ESTABLISHMENT OF THE EXISTENCE OF MARRIAGE AND TO THE DISSOLUTION OR ANNULMENT OF MARRIAGE

Final decisions of courts of either Contracting Party rendered in respect of citizens of the Parties in matters relating to establishment of the existence of marriage and to the dissolution or annulment of marriage shall be recognized in the territory of the other Party without further proceedings, provided that no court of the other Party has previously rendered a final decision in the matter. This provision shall also apply to decisions rendered before the entry into force of this Treaty.

Article 52

RECOGNITION AND ENFORCEMENT OF JUDGEMENTS IN CIVIL AND FAMILY CASES

The Contracting Parties shall reciprocally recognize and enforce :

- (a) Final judgements of courts and notarial offices in civil and family cases, and decisions of competent authorities in matters relating to guardianship or curatorship, 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 of courts relating to damages in criminal cases.

Article 53

PREREQUISITES FOR RECOGNITION OF JUDGEMENTS

Judgements shall be recognized provided that :

- (a) The competent authority has confirmed the fact that the judgement has become final;
- (b) Under the terms of this Treaty, the case is not within the exclusive jurisdiction of an authority of the Contracting Party in whose territory the judgement is to be recognized;
- (c) Neither party in the proceedings was denied the opportunity to defend himself or, in the case of persons not entitled to participate in legal proceedings, denied proper representation;
- (d) The judgement does not conflict with other judgements rendered previously by an authority of the other Contracting Party in an action between the same parties based on the same grounds and does not relate to an action instituted previously which is the subject of proceedings before an authority of the other Party;
- (e) In rendering a judgement in a case where the law of the other Party was applicable such law was in fact applied, or the law of the Party whose authority rendered the judgement, being the law applied in the case in question, was essentially the same as that of the other Party.

Article 54

1. A court of the Contracting Party in whose territory enforcement is to take place may, on application, issue authorization for the enforcement of a judgement rendered by a court of the other Party or of an amicable arrangement arrived at before a court, provided that the prerequisites for recognition of such judgement or arrangement are met.

2. Enforceable documents shall be treated in the same way as court judgements.

3. The regulations governing the issue of authorization of enforcement shall be those of the Contracting Party in whose territory enforcement is to take place.

Article 55

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, 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 56

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.

ENFORCEMENT OF DECISIONS RELATING TO PAYMENT OF COSTS

Article 57

1. If a party to proceedings exempt under article 19 from depositing security for costs connected with the conduct of judicial proceedings is required in pursuance of a final decision to pay such 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. Costs connected with the conduct of judicial proceedings shall include the costs of certification and translation.

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

Article 58

1. The court authorizing the enforcement in accordance with article 57 of a decision for the payment of costs connected with the conduct of judicial proceedings shall confine itself to determining whether :

(a) The decision of which enforcement is sought is accompanied by a certificate confirming that it has become final;

(b) The decision is accompanied by a certified translation of that part of such decision which fixes the amount of the costs to be paid.

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

Article 59

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 court shall initiate the enforcement proceedings and transmit the sum recovered to the diplomatic or consular representative of the other Party.

2. The request shall be accompanied by :

- (a) The bill of costs;
- (b) A certificate confirming that the decision has become final;
- (c) Certified translations of the documents referred to in (a) and (b).

3. Article 58, paragraph 2, shall be applicable, *mutatis mutandis*, to the costs of translation of the documents referred to in paragraph 2 hereof.

Article 60

DELIVERY OF ARTICLES AND TRANSFER OF FUNDS

The delivery of articles and the transfer of funds to citizens of the other Contracting Party shall be effected in accordance with the regulations for the export of articles or the transfer of funds in force in the exporting State.

Article 61

COSTS OF ENFORCEMENT

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

Chapter II

LEGAL ASSISTANCE AND RELATIONS IN CRIMINAL CASES *EXTRADITION AND CONVEYANCE OF OFFENDERS AND ACCUSED* *PERSONS*

Article 62

EXTRADITABLE OFFENCES

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

Article 63

NON-EXTRADITION OF CITIZENS OF THE CONTRACTING PARTY APPLIED TO

Extradition shall not take place if the person claimed is a citizen of the Contracting Party applied to.

Article 64

Extradition shall also 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 65

OBLIGATION TO PROSECUTE

1. Each Contracting Party undertakes to prosecute under its own law any of its citizens accused of having committed an extraditable offence in the territory of the other Party.

The Party in whose territory the offence was committed shall submit to the other Party a request for prosecution, accompanied by documents and other material relating to the offence and by any articles which may serve as evidence.

2. The Party whose citizen is prosecuted shall notify the other Party of the result of the prosecution and, if sentence has been passed, shall transmit a copy of the sentence.

Article 66

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 copy of the final sentence or other judicial determination of the case; a description of the circumstances of the offence, including, in particular, the time and place of its commission and its legal definition, and, in the case of an offence against property, the extent of the damage which the offender caused or intended to cause, in so far as such information is available;

- (b) The text of the criminal statutes which define the offence in question in the territory of the Contracting Party requesting extradition;
- (c) A personal description and biographical particulars of the person claimed, information concerning his citizenship and domicile, and his photograph and fingerprints if they are available.

Article 67

SUPPLEMENTARY INFORMATION ACCOMPANYING THE REQUISITION FOR EXTRADITION

1. If the information communicated is insufficient to permit compliance with the requisition for extradition, the Contracting Party applied to may request supplementary information. It may set the applicant Party a time-limit of one to two months for communication of such information. This time-limit may be extended on request.

2. If the applicant Party fails to transmit within the specified time-limit the information required for compliance with the requisition for extradition, the State applied to shall release the person claimed from custody.

ARREST OF PERSONS LIABLE TO EXTRADITION

Article 68

Upon receipt of a requisition for extradition and the accompanying documents, the Contracting Party applied to shall take immediate steps in accordance with its own law to arrest the person claimed.

Article 69

1. In urgent cases, a person against whom proceedings have been initiated may be arrested even before receipt of the requisition for extradition, if an application is made for his arrest and the application specifies that there exists a warrant for such arrest or a final sentence and notice is given at the same time that the requisition for extradition is being transmitted. An application for arrest may be made by the competent courts or procurator's offices to the competent authorities of the Contracting Party applied to by post, telegraph, telephone or wireless in the manner specified in article 79.

2. The competent authorities of either Contracting Party may arrest a person resident in the territory of the Party concerned in the absence of the application referred to in paragraph 1 above 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 the provisions of paragraph 1 or 2 above, the other Party shall be notified immediately.

Article 70

1. A person arrested in accordance with article 69, paragraph 1, may be released if the requisition for his extradition is not received within two months from the date on which notice of his detention was sent in accordance with article 69, paragraph 3.

2. A person arrested in accordance with article 69, paragraph 2, may be released if notice that a requisition for extradition will be made is not received from the other Contracting Party within one month from the date on which the notice provided for in article 69, paragraph 3, was sent.

Article 71

POSTPONEMENT OF EXTRADITION

If the person claimed is under trial for another offence in the territory of the Contracting Party applied to, he may be extradited upon the termination of the proceedings or the completion or remission of the sentence.

Article 72

TEMPORARY EXTRADITION

1. In the case specified in article 71, the person claimed may be extradited temporarily, on receipt of an application for such extradition with a statement of grounds, if the postponement of extradition might prejudice the criminal proceeding.

2. A temporarily extradited person shall be returned as soon as the preliminary investigation or judicial proceedings are completed.

Article 73

SURRENDER OF THE PERSON CLAIMED

The Contracting Party applied to shall notify the other 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 from the date on which he was conveyed to the appointed place, such person may be released from custody.

Article 74

RE-EXTRADITION

If an extradited person in some manner evades justice and reappears in the territory of the Contracting Party which extradited him, he shall be detained and re-extradited, upon receipt of a requisition from the competent authorities, without the necessity of new proceedings.

Article 75

CONCURRENT REQUISITIONS FOR EXTRADITION

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

Article 76

LIMITS TO THE PROSECUTION OF EXTRADITED PERSONS

An extradited person may not, without the consent of the Contracting Party which extradited him, be prosecuted or punished for an offence other than that for which he was extradited. He may not be surrendered to a third State without the consent of the other Party.

Article 77

CONVEYANCE IN TRANSIT

1. Each Contracting Party shall, at the request of the other Party, authorize the conveyance through its territory of any person extradited by a third State to the other Party. This shall not apply in cases where extradition is not required under the terms of this Treaty.

2. A request for authorization of such conveyance shall be submitted in the same manner as a requisition for extradition.

Article 78

NOTIFICATION OF RESULTS OF PROSECUTION

The Contracting Party to which a person is extradited shall inform the Party which extradited him of the results of the proceedings taken against him and, if such person is convicted and sentenced, shall transmit a copy of the sentence.

Article 79

METHOD OF COMMUNICATION

In matters of extradition the Ministry of Justice or the General Procurator's Office of the Polish People's Republic and the Procurator's Office of the Union of Soviet Socialist Republics shall communicate with each other direct.

Article 80

REFUSAL OF LEGAL ASSISTANCE

Apart from the cases referred to in article 12, legal assistance in criminal cases may be refused if:

(a) The subject of the proceedings is a non-extraditable offence;

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

Article 81

TEMPORARY DELIVERY OF ARRESTED PERSONS

If need arises for the interrogation of a witness who is held in custody in the territory of the Contracting Party applied to, the authorities specified in article 79 of the latter Party may arrange for such person to be delivered to the territory of the applicant Party, subject to his being kept in custody. The witness shall be returned as soon as the interrogation is completed.

Article 82

CONVEYANCE OF WITNESSES IN TRANSIT

If a person held in custody in a third State is summoned for interrogation as a witness by the authorities of the applicant State, the authorities specified in article 79 of the Party applied to shall authorize the conveyance of such person through the territory of their State, without prejudice to the provisions of article 11.

Article 83

DELIVERY OF MATERIAL EVIDENCE

1. The competent authorities of the two Contracting Parties undertake to deliver to each other, on request, articles acquired by accused persons through the commission of a crime, money or other valuables obtained for such articles, and articles which may serve as evidence during the criminal proceeding.

2. The delivery of such articles shall take place, if possible, at the same time as the extradition of the offender. However, they shall be delivered even if the offender cannot be extradited by reason of death, escape or other circumstances.

3. If the articles in question are needed in another criminal proceeding, the Party applied to may temporarily retain them or stipulate that they must be returned as soon as possible.

4. These provisions shall not affect the rights of third parties to the articles in question; after the conclusion of the proceedings, such articles shall be returned to the Contracting Party applied to for transmittal to the persons entitled to them.

Article 84

NOTIFICATION OF SENTENCES

1. 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.

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

PART III

Article 85

FINAL PROVISIONS

This Treaty shall be ratified and shall enter into force thirty days after the exchange of the instruments of ratification, which shall take place at Moscow.

It shall remain in force for a period of five years from the date on which it entered into force and shall automatically be renewed for successive periods of five years unless either of the Contracting Parties gives notice of termination of the Treaty six months before the expiry of the current five-year period.

This Treaty was drawn up at Warsaw on 28 December 1957, in duplicate, in the Polish and Russian languages, both texts being equally authentic.

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

For the State Council
of the Polish People's
Republic :

M. RYBICKI

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

N. PATOLICHEV

ADDITIONAL PROTOCOL

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

I

Communication in matters pertaining to legal assistance, as provided in articles 3 and 18 of the Treaty, may, in so far as relates to the Ukrainian Soviet Socialist Republic, the Byelorussian Soviet Socialist Republic and the Lithuanian Soviet Socialist Republic, be maintained directly between the competent central authorities of the Polish People's Republic and the competent central authorities of the aforementioned Soviet Republics.

II

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 Ministry of Justice or the General Procurator's Office of the Polish People's Republic and the Judicial Commission of the Council of Ministers of the Union of Soviet Socialist Republics or the Procurator's Office of the Union of Soviet Socialist Republics.

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

Warsaw, 28 December 1957.

For the State Council
of the Polish People's
Republic :

M. RYBICKI

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

N. PATOLICHEV

¹ See p. 54 of this volume.