

No. 5681

ROMANIA
and
GERMAN DEMOCRATIC REPUBLIC

Treaty concerning legal assistance in civil, family and
criminal cases. Signed at Bucharest, on 15 July 1958

Official texts: Romanian and German.

Registered by Romania on 28 April 1961.

ROUMANIE
et
RÉPUBLIQUE DÉMOCRATIQUE ALLEMANDE

Traité d'assistance juridique en matière civile, familiale et
pénale. Signé à Bucarest, le 15 juillet 1958

Textes officiels roumain et allemand.

Enregistré par la Roumanie le 28 avril 1961.

[TRANSLATION — TRADUCTION]

No. 5681. TREATY¹ BETWEEN THE ROMANIAN PEOPLE'S REPUBLIC AND THE GERMAN DEMOCRATIC REPUBLIC CONCERNING LEGAL ASSISTANCE IN CIVIL, FAMILY AND CRIMINAL CASES. SIGNED AT BUCHAREST, ON 15 JULY 1958

The Presidium of the Grand National Assembly of the Romanian People's Republic and the President of the German Democratic Republic, desiring to strengthen the fraternal bonds between their two countries and peoples and to develop co-operation in the sphere of legal relations, have decided to conclude a Treaty concerning legal assistance in civil, family and criminal cases, and for this purpose have appointed as their plenipotentiaries :

The Presidium of the Grand National Assembly of the Romanian People's Republic : Mr. Avram Bunaciu, Minister for Foreign Affairs;

The President of the German Democratic Republic : Dr. Lothar Bolz, Deputy Chairman of the Council of Ministers and Minister for Foreign Affairs, who, having exchanged their full powers, found in good and due form, have agreed as follows :

P A R T I***GENERAL PROVISIONS******Article I*****LEGAL PROTECTION**

1. Nationals of either Contracting Party and bodies corporate constituted in accordance with its laws (hereinafter called "nationals") shall enjoy in the territory of the other Contracting Party, in respect of their personal and property rights, the same legal protection as nationals of the latter Contracting Party.

2. Nationals of either Contracting Party shall have free and unimpeded access to the courts and the procurators' and State notaries' offices (hereinafter called "judicial authorities") and other authorities of the other Contracting Party having jurisdiction in civil, family and criminal cases, and may appear, present petitions and institute proceedings before such authorities under the same conditions as nationals of the latter Contracting Party.

¹ Came into force on 25 March 1959, one month after the exchange of the instruments of ratification, in accordance with article 79. The exchange of the instruments of ratification took place at Berlin on 25 February 1959.

Article 2

PROVISION OF LEGAL ASSISTANCE

1. The judicial authorities of the two Contracting Parties shall provide one another with legal assistance in civil, family and criminal cases.
2. The judicial authorities shall also provide legal assistance to other authorities having jurisdiction in the cases referred to in paragraph 1.

Article 3

METHOD OF COMMUNICATION

1. In providing legal assistance, the judicial authorities of the two Contracting Parties shall, save as otherwise provided in this Treaty, communicate with one another through their central organs.
2. Other authorities having jurisdiction in civil or family cases shall communicate with the judicial authorities of the other Contracting Party through the Ministry of Justice.

Article 4

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

Article 5

LANGUAGES

1. In communicating with one another, the judicial and other authorities of the Contracting Parties shall use their own language or the Russian language.
2. Applications for legal assistance and accompanying documents must be drawn up in the language of the applicant Contracting Party; they shall be accompanied by a certified translation into the language of the Contracting Party applied to.
3. The language of execution of an application for legal assistance shall be that of the Contracting Party applied to.

Article 6

CONTENTS OF APPLICATIONS FOR LEGAL ASSISTANCE

An application for legal assistance must contain the following particulars :

- (a) The title of the authority making the application;
- (b) The title of the authority to which the application is made;
- (c) The title of the case in which legal assistance is applied for;
- (d) The given names and surnames of the parties or of the persons accused, on trial or convicted, and their nationality, occupation and domicile or residence;
- (e) The given names, surnames and addresses of their legal representatives;
- (f) The necessary information concerning the nature of the application, including, in criminal cases, a description of the offence.

Article 7

PROCEDURE FOR EXECUTING APPLICATIONS

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

2. If the authority applied to is not competent to execute the application, it shall of its own motion transmit the application to the competent authority and shall at the same time notify the applicant authority accordingly.

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

4. After executing an application, the authority applied to shall return the relevant documents to the applicant authority. If it has not been able to provide the legal assistance requested, the authority applied to shall return the documents to the applicant authority and shall at the same time advise it of the circumstances which prevented the execution of the application.

Article 8

FORM OF DOCUMENTS

Documents transmitted in pursuance of this Treaty shall bear an official seal.

Article 9

IMMUNITY OF WITNESSES AND EXPERTS

1. No person of whatsoever nationality who, in response to a summons served on him by an authority of the Contracting Party applied to, appears as a

witness or an expert before an authority of the applicant Contracting Party may be prosecuted, detained or punished in the territory of the latter Contracting Party either for the offence which is the subject of the proceedings in which he was summoned or for any other offence committed before he crossed the frontier.

2. The witness or expert shall forfeit this protection if he fails to quit the territory of the applicant Contracting Party within one week from the date on which the authority taking evidence from him informs him that his presence is no longer necessary. Such period of one week shall not be deemed to include any period of time during which the witness or expert is unable through no fault of his own to quit the territory of the applicant Contracting Party.

Article 10

PROCEDURE FOR SERVING DOCUMENTS

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

2. The translation may be certified by an official translator, or by the applicant authority, or by the diplomatic or consular mission of one of the Contracting Parties.

3. An application for the service of documents must contain the exact address of the recipient and the designation of the document to be served.

4. 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.

Article 11

CONFIRMATION OF SERVICE OF DOCUMENTS

Service of documents shall be confirmed in accordance with the regulations in effect in the territory of the Contracting Party applied to.

Article 12

SERVICE OF DOCUMENTS ON OWN NATIONALS

Each Contracting Party shall have the right to serve documents on its own nationals through its diplomatic or consular missions, provided that the said nationals are willing to accept service.

Article 13

VALIDITY OF DOCUMENTS

1. Documents drawn up or attested in the territory of either Contracting Party by State authorities or public officials within the limits of their official powers, in the form prescribed by the laws in force and bearing an official seal, shall be valid in the territory of the other Contracting Party without further authentication. 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 Contracting Party.

Article 14

COSTS OF LEGAL ASSISTANCE

1. The Contracting Party applied to shall make no claim for repayment of the costs of legal assistance. Each Contracting 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, the sums recovered shall be retained by the Contracting Party whose authority recovered them.

Article 15

DENIAL OF LEGAL ASSISTANCE

Legal assistance may be denied if its provision might be prejudicial to the social and economic order of the Contracting Party applied to.

Article 16

INFORMATION ON LEGAL QUESTIONS

The Ministries of Justice and the General Procurators' Offices of the two Contracting Parties shall on request supply one another with information on legal questions.

P A R T II

SPECIAL PROVISIONS

Chapter I

LEGAL ASSISTANCE IN CIVIL AND FAMILY CASES

SECTION I. LEGAL COSTS

Article 17

Nationals of one Contracting Party appearing before the courts of the other Contracting Party and domiciled in the territory of either Contracting Party shall not be required to deposit security for legal costs on the sole ground that they are aliens or have no domicile, residence or office in the territory of the Contracting Party to which the court belongs.

Article 18

Nationals of either Contracting Party shall be exempted in the territory of the other Contracting Party from the payment of legal stamp tax and other legal costs, and shall be accorded legal assistance free of charge, under the same conditions and to the same extent as nationals of the latter Contracting Party.

Article 19

1. The certificates relating to personal and family status, income and property required for exemption from legal stamp tax and 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 domicile nor residence in the territory of either Contracting Party, a certificate issued or attested by the diplomatic or consular mission of his State shall suffice.

3. The authority ruling on a petition for exemption from legal stamp tax and costs may request additional information.

Article 20

A national of one Contracting Party who wishes to petition the competent authority of the other Contracting Party for exemption from legal stamp tax and costs and for free legal aid may make such petition in the form of an oral statement before the competent judicial authority of the place in which he has his domicile or residence. The said judicial authority shall draw up a record of his statement

and shall transmit such record, together with the documents referred to in article 19, paragraph 1, and the other documents submitted by the petitioner, to the judicial authority of the other Contracting Party.

SECTION II. PERSONAL STATUS AND FAMILY LAW

Article 21

LEGAL CAPACITY

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

Article 22

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 duly authorized diplomatic or consular representative shall be that prescribed by the law of the sending State.
3. The conditions determining capacity to marry shall be, for each prospective spouse, those prescribed by the law of the Contracting Party of which he is a national.

Article 23

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

Article 24

DIVORCE

1. In an action for divorce, where both spouses are nationals of one Contracting Party and are domiciled, on the date of the petition for divorce, in the

territory of the other Contracting Party, the applicable law shall be that of the Contracting Party of which the spouses are nationals. The courts of both Contracting Parties shall have jurisdiction.

2. If on the date of the petition for divorce one spouse is a national of one Contracting Party and the other a national of the other Contracting Party, and both are domiciled in the territory of the same Contracting Party or one of them is domiciled in the territory of one Contracting Party and the other in the territory of the other Contracting Party, the courts of both Contracting Parties shall have jurisdiction with respect to an action for divorce. In rendering a decision, the courts shall apply the law of their own State.

Article 25

NULLITY OF MARRIAGE

1. The entry of a decree of nullity or the annulment of a marriage (nullity of marriage) by reason of informality shall be permissible only if grounds exist for such action in accordance with the law both of the place at which the marriage was solemnized and of the Contracting Party of which the spouses are nationals.

2. The entry of a decree of nullity or the annulment of a marriage (nullity of marriage) by reason of incapacity shall be permissible if grounds exist for such action in accordance with the law applicable under article 22, paragraph 3.

3. The provisions of article 24 shall apply, *mutatis mutandis*, in determining which courts have jurisdiction.

LEGAL RELATIONS BETWEEN PARENTS AND CHILDREN

Article 26

In actions to contest or deny (contest) or to establish paternity, and in those to contest or establish maternity, the applicable law shall be that of the Contracting Party of which the child is a national.

Article 27

The legal relations between a child born out of wedlock and his mother or father shall be those prescribed by the law of the Contracting Party of which the child is a national.

Article 28

1. Decisions on the legal relations referred to in articles 26 and 27 shall be within the jurisdiction of the courts of the Contracting Party of which the child is a national.

2. If both the applicant and the respondent are domiciled in the territory of one Contracting Party, the courts of that Contracting Party shall also have jurisdiction, without prejudice to the provisions of articles 26 and 27.

Article 29

DECLARATION OF PERSONS AS MISSING OR DEAD (DECLARATION OF DEATH) AND ESTABLISHMENT OF THE TIME OF DEATH

1. Judicial proceedings for declaring persons missing or dead (for declaration of death) or for the establishment of the time of death shall be within the jurisdiction of the courts of the Contracting Party of which the person concerned was a national at the time when he was last known to be alive.

2. However, the courts of one Contracting Party may declare a national of the other Contracting Party missing or dead (may declare him dead), or establish the time of his death, upon the application of any person domiciled in its territory and entitled under its law to make such application.

3. In the cases referred to in paragraphs 1 and 2, the courts of each Contracting Party shall apply the law of their own State.

GUARDIANSHIP AND CURATORSHIP

Article 30

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

2. The cases and conditions in which guardianship or curatorship shall be instituted or terminated shall be those prescribed by the law of the Contracting Party of which the prospective ward is a national.

3. The legal relations between a guardian or curator and his ward shall be those prescribed by the law of the Contracting Party whose authority appointed the guardian or curator.

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

Article 31

1. Where need arises to provide for guardianship or curatorship in the interests of a national of one Contracting Party whose domicile, residence or property is in the territory of the other Contracting Party, the authority of such other

Contracting Party shall at once notify the authority having jurisdiction under article 30, paragraph 1.

2. In cases admitting of no delay, the authority of such other Contracting Party may itself take measures under its own law, provided that it at once notifies the authority having jurisdiction under article 30, paragraph 1. The measures taken shall remain in effect until such time as the latter authority decides otherwise.

Article 32

1. The authority having jurisdiction under article 30, paragraph 1, may transfer jurisdiction in proceedings relating to guardianship or curatorship to an authority of the other Contracting Party if the ward has his domicile or residence or owns property in the territory of the latter Contracting Party. Such transfer shall become effective when the authority applied to consents to assume such jurisdiction and notifies the applicant authority accordingly.

2. The authority assuming jurisdiction in proceedings relating to guardianship or curatorship in accordance with paragraph 1 shall exercise it in the manner prescribed by the law of its own State. However, in the matter of capacity to conduct business or to make contracts it shall apply the law of the Contracting Party of which the ward is a national. It may not decide questions relating to his personal status.

Article 33

ADOPTION

1. Adoption or the termination, the declaration of nullity, or the annulment (termination) of adoption shall be carried out in accordance with the law of the Contracting Party of which the adopter is a national at the time of the adoption or the termination, declaration of nullity, or annulment (termination) of adoption.

2. If the child is a national of the other Contracting Party, the adoption shall also be subject to its consent. If the law of the said Contracting Party so prescribes, the consent of the child, of his legal representative or of the guardianship authorities shall also be obtained.

3. If the child is adopted by a married couple of whom one spouse is a national of one Contracting Party and the other a national of the other Contracting Party, the adoption or the termination, the declaration of nullity, or the annulment (termination) of adoption shall be carried out in accordance with the law of both Contracting Parties.

4. In proceedings for adoption or the termination, the declaration of nullity, or the annulment (termination) of adoption, the authority having jurisdiction shall be that of the Contracting Party of which the adopter is a national at the

time of the adoption or the termination, the declaration of nullity, or the annulment (termination) of adoption. In the case specified in paragraph 3, the authority having jurisdiction shall be that of the Contracting Party in whose territory the married couple have or last had their joint domicile or residence.

SECTION III. TRANSMITTAL OF CIVIL REGISTRATION AND OTHER DOCUMENTS

Article 34

1. The authorities of each Contracting Party shall, on application, transmit to the authorities of the other Contracting Party, through their central organs, certificates concerning the civil registration, educational qualifications and employment experience of nationals of the applicant Contracting Party.
2. The application shall contain the necessary particulars. The documents shall be drawn up in the language of the Contracting Party applied to and shall be transmitted free of charge.

SECTION IV. PROVISIONS RELATING TO SUCCESSION

Article 35

PRINCIPLE OF EQUAL RIGHTS

1. Nationals of either Contracting Party shall enjoy the same rights as nationals of the other Contracting Party as regards the capacity to make or revoke wills disposing of property situated, or of rights to be exercised, in the territory of the latter Contracting Party and as regards the capacity to succeed, by inheritance or will, to such property or rights. The property or rights shall descend to them under the same conditions as those applying to nationals of the latter Contracting Party domiciled in its territory.
2. Documents attesting the right to succession, including certificates of succession or certificates of executorship, issued by the competent authority of one Contracting Party shall also serve as attestation of the relevant facts in the territory of the other Contracting Party.

Article 36

LAW OF SUCCESSION

1. Succession to movable property shall be determined by the law of the Contracting Party of which the decedent was a national at the time of his death.
2. Succession to immovable property shall be determined by the law of the Contracting Party in whose territory the property is situated.

*Article 37***ESCHEAT**

Where, under the law of one Contracting Party which is applicable under the provisions of article 36, an escheated estate reverts to the State, movable property shall revert to the State of which the decedent was a national at the time of his death and immovable property shall revert to the State in whose territory it is situated.

*Article 38***WILLS**

1. The capacity to make or revoke a testamentary disposition and the legal effects of defective testamentary dispositions shall be those prescribed by the law of the Contracting Party of which the testator was a national at the time of making or revoking the testamentary disposition. The same law shall also determine the admissible types of testamentary dispositions.

2. The form of the testamentary disposition and of its revocation shall be that prescribed by the law of the Contracting Party of which the testator was a national or by the law of the Contracting Party in whose territory the testamentary disposition was made or revoked.

*Article 39***JURISDICTION IN MATTERS OF SUCCESSION**

1. Proceedings in matters of succession to movable property shall, with the exception specified in paragraph 4, be within the jurisdiction of the authorities of the Contracting Party of which the decedent was a national at the time of his death.

2. Proceedings in matters of succession to immovable property shall be within the jurisdiction of the authorities of the Contracting Party in whose territory such property is situated.

3. The provisions of paragraphs 1 and 2 shall apply, *mutatis mutandis*, in determining jurisdiction in disputes concerning succession.

4. If the entire movable estate of a deceased national of one Contracting Party is situated in the territory of the other Contracting Party, jurisdiction shall, upon petition by an heir or a legatee, and subject to the consent of all heirs, be assumed by the authorities of the latter Contracting Party.

*Article 40***NOTIFICATION OF DEATH**

1. If a national of one Contracting Party dies in the territory of the other Contracting Party, the competent authority shall immediately notify the diplo-

matic or consular mission of the former Contracting Party of such death, communicating to it at the same time whatever information is available concerning the heirs, their domicile or residence, the size and value of the estate and the existence of a will. The same rule shall apply where the competent authority of one Contracting Party learns that a national of the other Contracting Party who has died in the territory of a third State has left property in the territory of the former Contracting Party.

2. If the diplomatic or consular mission learns that a death has occurred in the circumstances described in paragraph 1, it shall so notify the authority competent to take the necessary measures for the protection of the estate.

Article 41

RIGHTS OF DIPLOMATIC OR CONSULAR MISSIONS IN SUCCESSION PROCEEDINGS

1. In all succession proceedings in the territory of one Contracting Party, the diplomatic or consular mission of the other Contracting Party shall have the right to represent its nationals before any authority if such nationals are absent and have not appointed their representatives; in such cases, no special power of attorney shall be necessary.

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

Article 42

OPENING OF WILLS

The opening of a will shall be within the jurisdiction of the competent authority of the Contracting Party in whose territory the will is to be found. A certified copy of the will, the minute concerning the condition and content thereof, where appropriate a certified copy of the minute concerning the opening of the will and, on request, the original of the will shall be transmitted to the competent authority of the other Contracting Party if the testator was a national thereof or if an authority of that Contracting Party is competent to conduct the succession proceedings.

Article 43

MEASURES FOR THE PROTECTION OF THE ESTATE

1. The authorities of each Contracting Party shall take, in accordance with their laws, such measures as are necessary for the protection or administration

of an estate left in their territory by a deceased national of the other Contracting Party.

2. They shall immediately report the measures taken under paragraph 1 to the diplomatic or consular mission of the other Contracting Party, which may participate in carrying out such measures. At the request of the diplomatic or consular mission, the measures taken under paragraph 1 may be modified, rescinded or postponed.

3. The authority belonging to the Contracting Party of which the deceased was a national and having jurisdiction under article 39, paragraph 1, may request the rescission of the measures taken under paragraph 1.

Article 44

DELIVERY OF THE ESTATE

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

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

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

(c) The competent authorities have approved, where such approval is required, the export of the things constituting the estate; moneys shall be transferred in accordance with the currency laws in force.

SECTION V. RECOGNITION AND ENFORCEMENT OF JUDGEMENTS

Article 45

RECOGNITION OF JUDGEMENTS IN MATTERS NOT RELATING TO PROPERTY

1. Final judgements of courts and of guardianship and curatorship authorities of one Contracting Party in matters not relating to property shall have legal effect in the territory of the other Contracting Party without further proceedings, provided that no court or guardianship or curatorship authority of the latter Contracting Party has previously rendered a final judgement in the matter or has exclusive jurisdiction under this Treaty.

2. The provisions of paragraph 1 shall also apply to judgements rendered before the entry into force of this Treaty.

RECOGNITION AND ENFORCEMENT OF JUDGEMENTS IN MATTERS RELATING TO PROPERTY

Article 46

Each Contracting Party shall, in its territory, recognize and authorize the enforcement, in accordance with the following provisions, of :

- (a) Final judgements, in civil and family cases relating to property, rendered in the territory of the other Contracting Party after the entry into force of this Treaty;
- (b) Final awards of damages in criminal cases, rendered in the territory of the other Contracting Party after the entry into force of this Treaty.

Article 47

1. The authorization of enforcement shall be within the jurisdiction of the courts of the Contracting Party in whose territory enforcement is sought.
2. An application for authorization of enforcement shall be made to the court which rendered judgement in the case at first instance. It shall then be transmitted to the court competent to issue authorization of enforcement. Application may also be made direct to the latter court.
3. The application shall be accompanied by a translation, certified in accordance with article 10, paragraph 2, into the language of the Party applied to.

Article 48

1. An application for authorization of enforcement must be accompanied by the following :
 - (a) The complete text of the judgement and, if such text does not show that the judgement has become final, a certificate to that effect;
 - (b) If the losing party did not participate in the proceedings, the originals or certified copies of documents showing that he was served with a summons in due time and proper form;
 - (c) Translations of the documents specified in (a) and (b), duly certified in accordance with article 10, paragraph 2.
2. An application for authorization of enforcement may be accompanied by an application for enforcement.

Article 49

1. The procedure for authorization of enforcement and for enforcement shall be determined by the law of the Contracting Party in whose territory enforcement takes place.
2. The court which authorized enforcement shall rule on any objections thereto.

*Article 50***REFUSAL OF RECOGNITION AND OF ENFORCEMENT**

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

- (a) If the losing party did not participate in the proceedings either because he or his representative was not served with a summons in statutory form and due time or because he was summoned only by public notice;
- (b) If the judgement conflicts with an earlier judgement which has become final and which was rendered in an action between the same parties, on the same matter and based on the same grounds, by a court of the Contracting Party in whose territory recognition or enforcement is sought. This provision shall not apply where, under the law of the court deciding on the application, the earlier judgement may be modified or superseded by a new judgement in virtue of a change in the circumstances on which it was based.

*Article 51***AMICABLE ARRANGEMENTS**

The provisions of articles 46 to 50 shall also apply to amicable arrangements arrived at before judicial authorities.

ENFORCEMENT OF AWARDS OF COSTS*Article 52*

1. If a litigant exempt under article 17 from depositing security is required in pursuance of a final judgement to pay costs to the other party, the competent court in the territory of the other Contracting Party shall on application issue free of charge authorization for the enforcement of the award.
2. Legal costs shall include the costs of issuing the certificate, and of translating or certifying the documents, provided for in article 53.

Article 53

1. The court authorizing the enforcement of the award shall confine itself to determining whether the award has become final.
2. An application for authorization of enforcement shall be accompanied by a certified copy of the award of costs, a certificate to the effect that the award has become final, and certified translations of these documents.

Article 54

1. Where unpaid legal costs are to be recovered, the court of the Contracting Party in whose territory the award of costs was made shall apply to the competent court of the other Contracting Party for recovery of the said costs. The latter court shall enforce the award and remit the sum recovered to the diplomatic or consular mission of the first Contracting Party.

2. The application shall be accompanied by a copy of the decision fixing the amount of the legal costs, a certificate to the effect that the decision has become final, and certified translations of these documents.

*Article 55***DELIVERY OF ARTICLES**

The delivery of articles or transfer of funds to a creditor domiciled 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 56***COSTS OF ENFORCEMENT**

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

Chapter II**LEGAL ASSISTANCE IN CRIMINAL CASES***Article 57***OBLIGATION TO EXTRADITE**

1. Each Contracting Party undertakes to extradite to the other on application, under the conditions laid down in this Treaty, persons in its territory who are required to answer a criminal charge or to serve a sentence.

2. Extradition shall be admissible only for offences which, under the law of both Contracting Parties, are punishable with deprivation of liberty for a term exceeding one year or with a heavier penalty (hereinafter called "extraditable offences"), and for the execution of final sentences imposing such penalties.

Article 58

REFUSAL OF EXTRADITION

Extradition shall not take place if :

- (a) The person claimed is a national of the Contracting Party applied to;
- (b) The offence was committed in the territory of the Contracting Party applied to;
- (c) Under the law of the Contracting Party applied to, exemption from prosecution or punishment has been acquired by lapse of time or for other legal reasons;
- (d) The person claimed has already been prosecuted in the territory of the Contracting Party applied to for the same offence and has been sentenced or discharged by a court or other authority, and such sentence or discharge has become final;
- (e) Under the law of both Contracting Parties, a prosecution for the offence can be instituted only by a private complainant.

Article 59

OBLIGATION TO PROSECUTE

1. Each Contracting Party undertakes to prosecute under its own law, on the application of the other Contracting Party, one of its nationals who is believed on the basis of sufficient evidence to have committed an extraditable offence in the territory of the latter Contracting Party.

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

3. The Contracting Party applied to shall notify the applicant Contracting Party of the result of the prosecution.

Article 60

METHOD OF COMMUNICATION

In matters of extradition the Ministers for Justice and the General Procurators of the two Contracting Parties shall communicate with each other directly.

Article 61

DOCUMENTS TO ACCOMPANY REQUISITIONS 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 of a sentence, a certified copy of the final sentence; these documents shall contain particulars of the offence committed, the time and place of its commission and its legal definition and, if the offence resulted in material loss or injury, the actually determined or probable extent of such loss or injury;
- (b) The text of the statute of the applicant Contracting Party defining the offence;
- (c) So far as possible, particulars regarding the nationality of the person claimed, documents and information concerning his domicile or residence, biographical particulars, a personal description, photographs and finger-prints.

Article 62

SUPPLEMENTARY INFORMATION

1. If there is any doubt as to the commission of an extraditable offence, or if the requisition for extradition does not contain all the necessary particulars, the Contracting Party applied to may request supplementary information and fix a time-limit of one to two months for its receipt; this time-limit may be extended for serious reasons at the request of the applicant Contracting Party.
2. If the applicant Contracting Party fails to furnish the supplementary information within the specified time-limit, the Contracting Party applied to may release the person claimed from custody.

DETENTION PENDING EXTRADITION

Article 63

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

Article 64

1. A person may be detained pending receipt of the requisition for his extradition if an application to that effect has been received from the applicant Contracting Party. Such application shall cite the warrant of arrest issued or final sentence delivered in respect of the person claimed and shall state that the

requisition for extradition will be transmitted later. An application for detention pending receipt of the requisition for extradition may be made by post, telegraph, telephone or wireless.

2. A person may be detained 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 Contracting Party.

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

Article 65

A person detained in accordance with article 64 may be released if the requisition for his extradition is not received within one month from the date on which notification of his arrest was sent.

Article 66

POSTPONEMENT OF EXTRADITION

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

Article 67

TEMPORARY EXTRADITION

1. If the postponement of extradition provided for in article 66 may result in exemption from prosecution being acquired by lapse of time or may seriously prejudice the investigation of an offence, the person claimed may be extradited temporarily on receipt of a requisition with statement of grounds.

2. A temporarily extradited person shall be returned after the conclusion of the criminal proceedings for the purpose of which he was extradited.

Article 68

CONCURRENT REQUISITIONS FOR EXTRADITION

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

Article 69

LIMITS TO PROSECUTION

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

2. Such consent shall not be required if the extradited person, not being a national of the Contracting Party in whose territory he is, fails to quit such territory within one month after the conclusion of the criminal proceedings or, in the event of his conviction, within one month after the execution 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 Contracting Party.

Article 70

SURRENDER

The Contracting Party applied to shall notify the applicant Contracting Party of the place and time of surrender. If the applicant Contracting Party fails to accept the person claimed within fifteen days after the date fixed for his surrender, such person may be released from custody.

Article 71

RE-EXTRADITION

If an extradited person evades prosecution, the delivery of judgement or the execution of sentence and returns to the territory of the Contracting Party applied to, he shall be re-extradited upon receipt of a new requisition, without production of the documents and information specified in articles 61 and 62.

Article 72

NOTIFICATION OF RESULTS OF PROSECUTION

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

Article 73

CONVEYANCE IN TRANSIT

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

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

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

Article 74

TEMPORARY DELIVERY OF PERSONS HELD IN CUSTODY

1. If need arises for the interrogation as a witness of a person who is held in custody in the territory of the other Contracting Party, the authorities of that Contracting Party who are specified in article 60 may arrange for such person to be conveyed to the territory of the applicant Contracting Party, subject to his being kept in custody and returned as soon as possible after interrogation.

2. If need arises for the interrogation as a witness of a person who is held in custody in a third State, the authorities of the Contracting Party applied to who are specified in article 60 shall authorize the conveyance of such person through the territory of their State, in either direction, without prejudice to the provisions of article 9.

Article 75

DELIVERY OF ARTICLES

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

(a) Articles or sums of money acquired through the commission of an extraditable offence, without prejudice to the legal provisions governing the export of articles or the transfer of funds;

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

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

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

Article 76

NOTIFICATION OF SENTENCES

Each Contracting Party shall communicate to the other Contracting Party information concerning final sentences passed by its courts on nationals of the other Party, at the same time transmitting the finger-prints of the convicted persons if such finger-prints are available.

Article 77

INFORMATION ON PREVIOUS CONVICTIONS

Each Contracting Party shall, on application by the courts or procurators' offices of the other Contracting Party, transmit free of charge information regarding the previous convictions of persons charged with or on trial for a criminal offence in the territory of the applicant Contracting Party.

P A R T III

FINAL PROVISIONS

Article 78

This Treaty shall be subject to ratification. The exchange of the instruments of ratification shall take place at Berlin as soon as possible.

Article 79

The Treaty shall enter into force one month after the exchange of the instruments of ratification. It shall remain in force for a term of five years from the date of entry into force.

Unless one of the Contracting Parties denounces the Treaty not later than six months before the expiry of the five-year term, it shall be extended in force for successive terms of five years.

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

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

DONE at Bucharest, on 15 July 1958.

For the Presidium
of the Grand National Assembly
of the Romanian People's
Republic :
A. BUNACIU

For the President
of the German Democratic
Republic :
Dr. Lothar BOLZ
