

No. 5868

**HUNGARY
and
UNION OF SOVIET SOCIALIST REPUBLICS**

Agreement concerning mutual legal assistance in matters relating to the temporary presence of Soviet forces in the territory of the Hungarian People's Republic. Signed at Budapest, on 24 April 1958

Official texts: Hungarian and Russian.

Registered by Hungary on 26 September 1961.

**HONGRIE
et
UNION DES RÉPUBLIQUES SOCIALISTES
SOVIÉTIQUES**

Accord d'assistance juridique pour les affaires résultant de la présence temporaire de troupes soviétiques sur le territoire de la République populaire hongroise. Signé à Budapest, le 24 avril 1958

Textes officiels hongrois et russe.

Enregistré par la Hongrie le 26 septembre 1961.

[TRANSLATION — TRADUCTION]

No. 5868. AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE HUNGARIAN PEOPLE'S REPUBLIC AND THE GOVERNMENT OF THE UNION OF SOVIET SOCIALIST REPUBLICS CONCERNING MUTUAL LEGAL ASSISTANCE IN MATTERS RELATING TO THE TEMPORARY PRESENCE OF SOVIET FORCES IN THE TERRITORY OF THE HUNGARIAN PEOPLE'S REPUBLIC. SIGNED AT BUDAPEST, ON 24 APRIL 1958

In accordance with article 7 of the Agreement concerning the legal status of Soviet forces temporarily stationed in the territory of the Hungarian People's Republic, signed at Budapest on 27 May 1957,² the Government of the Hungarian People's Republic and the Government of the Union of Soviet Socialist Republics have resolved to conclude this Agreement and have for this purpose appointed as their plenipotentiaries :

The Government of the Hungarian People's Republic :

Dr. Mihály Jahner-Bakos, Deputy Minister for Justice;

The Government of the Union of Soviet Socialist Republics :

V. N. Sukhodrev, Vice-Chairman of the Legal Commission of the Council of Ministers of the USSR;

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

CHAPTER I

GENERAL PROVISIONS

Article 1

The judicial, administrative and police authorities of the Hungarian People's Republic and the judicial authorities of the Soviet forces temporarily stationed in the territory of the Hungarian People's Republic shall render each other legal assistance in criminal, civil and administrative matters relating to the temporary presence of Soviet forces in the territory of the Hungarian People's Republic.

¹ Came into force on 15 July 1958, upon the exchange of the instruments of ratification at Moscow, in accordance with article 33.

² United Nations, *Treaty Series*, Vol. 407.

Article 2

Legal assistance shall include the execution of applications for the service of documents, the performance of specific acts required in connexion with judicial proceedings, such as interrogations, searches, seizures, ensuring the attendance of accused persons, witnesses and others and the delivery and transmission of material evidence, as well as the performance of other acts required in connexion with judicial proceedings and the transmission of information concerning previous convictions.

Article 3

In rendering legal assistance, the authority applied to shall follow the laws of its own State.

Article 4

1. In rendering legal assistance, the judicial, administrative and police authorities of the Hungarian People's Republic shall communicate directly with the Military Procurator and the Military Tribunal of the Soviet forces in Hungary and, as appropriate, with the military procurators and military tribunals of Soviet garrisons. The military procurators and military tribunals of the Soviet forces shall communicate directly with the competent Hungarian authorities.

2. In urgent cases, the competent authorities of the Hungarian People's Republic shall apply to the nearest Soviet military commander.

3. If the authority applied to is not competent, it shall immediately refer the matter to the appropriate authority and shall notify the applicant authority accordingly.

Article 5

1. The authority applied to shall notify the applicant authority, at its request, of the place and time of execution of the application.

2. Representatives of applicant authorities may be given permission to be present when acts required in connexion with judicial proceedings are performed by the authorities applied to, provided that no disclosure of military or State secrets is involved.

Article 6

If a document cannot be served at the address indicated in the application or if the address is unknown, the authority applied to shall of its own motion take the necessary steps to determine the recipient's address. If the address cannot be determined, the applicant authority shall be so informed and the document in question shall be returned to it.

Article 7

The competent authorities of the Soviet forces shall give individuals serving with the Soviet forces the necessary permission to give evidence before the Hungarian judicial authorities provided that this does not conflict with the security interests of the Soviet forces temporarily stationed in the territory of the Hungarian People's Republic.

Article 8

The Contracting Parties shall render legal assistance free of charge. The costs incurred in the performance of acts of legal assistance shall be borne by the Party performing such acts.

Article 9

In communicating with one another for purposes of legal assistance, the competent authorities of the Contracting Parties shall use the Hungarian or the Russian language.

Article 10

When the competent Hungarian authorities are trying cases under their jurisdiction which involve individuals serving with the Soviet forces and members of the families of such individuals, the said persons shall have the same rights and obligations as nationals of the Hungarian People's Republic at every stage of the proceedings; the same shall apply, in particular, when such persons are serving a sentence.

Article 11

In matters relating to the acceptance or transfer of jurisdiction under article 5, paragraph 3, of the Agreement of 27 May 1957, proposals shall be made and decisions taken: on the Hungarian side, by the General Procurator or Minister for Justice of the Hungarian People's Republic; on the Soviet side, by the Military Procurator or the Military Tribunal of the Soviet forces in Hungary, depending upon the authority which is conducting or is to conduct the case.

Article 12

In the event of a dispute relating to jurisdiction, the question shall be settled by the Hungarian-Soviet Mixed Commission, whose decision shall be binding. Pending the decision of the Mixed Commission, the competent authorities of the Contracting Parties shall determine by agreement what action must be taken urgently to preserve clues and evidence relating to an offence, to identify and arrest the offender, etc.

CHAPTER II

LEGAL ASSISTANCE IN CRIMINAL CASES

Article 13

The competent authorities of the Soviet forces shall immediately inform the competent Hungarian authorities whenever they learn that a serious offence subject to the jurisdiction of the Hungarian authorities has been committed by an individual serving with the Soviet forces or by a member of the family of such individual, and shall take immediate steps to investigate the case pending the arrival of a representative of the competent Hungarian authorities.

Article 14

The competent Hungarian authorities shall assist the judicial authorities of the Soviet forces in the prosecution of any individual serving with the Soviet forces or member of the family of such individual who has committed a serious offence subject to Soviet jurisdiction. In particular, they shall inform the judicial authorities of the Soviet forces whenever they learn of any serious offence which is subject to Soviet jurisdiction, take steps to identify the offender and, so far as possible, preserve clues and any material evidence.

Article 15

At the duty stations of Soviet forces (article 16 of the Agreement of 27 May 1957) such acts of legal assistance, required in connexion with judicial proceedings, as may be requested by the competent Hungarian authorities shall be performed by the competent Soviet authorities.

Article 16

1. In cases under Hungarian jurisdiction, the arrest or remand in custody, by order of the Hungarian authorities, of an individual serving with the Soviet forces or a member of the family of such individual shall be effected by the competent Soviet authorities unless the person concerned is caught at the scene of the offence. The warrant of arrest shall contain a short description of the circumstances and shall state where and when the offence was committed. A person detained by a Soviet authority at the request of the Hungarian authorities shall be handed over to the competent Hungarian authority.

2. If, in the case provided for in part 3, paragraph 87, of the Hungarian Code of Criminal Procedure, a person not serving with the Soviet forces is caught at the scene of an offence against the Soviet forces, individuals serving therewith or members of their families, and is detained by an individual serving with the Soviet forces, the person detained shall be handed over immediately to the nearest competent Hungarian authority.

Article 17

When cases involving individuals serving with the Soviet forces or members of the families of such individuals are under investigation and trial by the competent Hungarian authorities, these authorities shall, at the request of the Military Procurator of the Soviet forces, inform him of the progress of the case and permit him or his representative to be present when acts required in connexion with judicial proceedings are performed, to study the dossier on the case and to interview those in custody.

Article 18

1. Individuals serving with the Soviet forces or members of the families of such individuals charged with serious offences in the territory of the Hungarian People's Republic shall, except in the cases referred to in article 5, paragraph 2, of the Agreement of 27 May 1957, be tried by Hungarian courts as follows :

- (1) The Budapest Military Tribunal shall have sole jurisdiction in all cases in which Soviet military personnel are charged with serious offences and in cases in which non-military personnel are charged with serious offences subject under Hungarian law to the jurisdiction of military tribunals;
- (2) The Pest Central District Court and, where appropriate, the Budapest Metropolitan Court shall have sole jurisdiction, in accordance with the rules governing competence in all other cases.

2. The trial of a case by the Budapest Military Tribunal shall place no restriction on the institution of civil proceedings.

Article 19

In applying the law of the Hungarian People's Republic concerning the publicity of judicial proceedings, the security interests of the Soviet forces shall be taken into account.

Article 20

In cases under the jurisdiction of the Hungarian courts in which individuals serving with the Soviet forces or members of the families of such individuals are charged with serious offences, the accused or the competent Soviet authorities may choose a defence counsel or ask for a defence counsel to be appointed.

Article 21

If, in a criminal case against a person in military service with the Soviet forces temporarily stationed in the territory of the Hungarian People's Republic, the competent Hungarian judicial authority, in accordance with Hungarian law, hands over the case for disciplinary action, the competent Soviet military commander shall impose a disciplinary penalty.

Article 22

1. The competent Hungarian authorities shall immediately notify the Military Procurator of the Soviet forces in Hungary of any criminal charge brought against an individual serving with the Soviet forces or against a member of the family of such individual, and of the apprehension of any such person at the scene of the offence, and shall send the said Military Procurator a copy of the charge, notice of the committal for trial and a copy of the sentence.

2. In a case under the jurisdiction of the Soviet authorities in which the injured party is a Hungarian institution or national, the competent Soviet authorities shall transmit to the competent Hungarian authorities a copy of the sentence or other decision concluding the proceedings and shall, at the request of those authorities, inform them of the progress of the case.

Article 23

1. A sentence to deprivation of liberty, imposed by a Hungarian court on an individual serving with the Soviet forces or a member of the family of such individual, shall be carried out by the competent Hungarian authorities.

2. The Soviet military authorities shall assume these functions if so requested by the competent Hungarian court.

CHAPTER III

LESSER OFFENCES

Article 24

1. Where an individual serving with the Soviet forces, or a member of the family of such individual, other than a person in military service, is found guilty of a lesser offence in a case subject to the jurisdiction of the Hungarian authorities, sentence shall be imposed by the competent Hungarian authorities in accordance with the law of the Hungarian People's Republic.

2. When a person in military service with the Soviet forces is convicted of a lesser offence, the competent Hungarian authorities shall notify the nearest Soviet military commander with a view to the imposition of a disciplinary penalty.

CHAPTER IV

LEGAL ASSISTANCE IN CIVIL CASES

Article 25

1. The provisions of articles 9 and 10 of the Agreement of 27 May 1957 concerning compensation for material damage shall apply to all claims arising out of :

- (1) Damage caused by unlawful acts and sources of increased danger for which Soviet military units, military establishments, individuals serving with the Soviet forces and members of the families of such individuals, or institutions and nationals of the Hungarian People's Republic, are responsible;
- (2) Obligations under contracts concluded between Soviet military units and military establishments on the one hand and institutions and nationals of the Hungarian People's Republic on the other;
- (3) Other acts or omissions as a result of which Soviet military units or individuals serving therewith may, in the performance of their official duties, cause damage to institutions and nationals of the Hungarian People's Republic.

2. Legal costs and necessary expenses incurred, in connexion with the trial of a case, by the party in whose favour judgement is given shall also be recoverable.

Article 26

Claims arising out of the contractual relations of individuals serving with the Soviet forces and members of their families with institutions and nationals of the Hungarian People's Republic shall be decided by the Hungarian courts in accordance with Hungarian law. Judgements rendered in such cases shall be enforced against individuals serving with the Soviet forces and members of their families by the Military Tribunal of the Soviet forces in Hungary on the basis of a copy of the Hungarian court's judgement, and against Hungarian nationals by the appropriate Hungarian court.

Article 27

The proceedings shall be conducted by the regional (metropolitan) court, irrespective of the amount claimed.

Article 28

1. Proceedings against an individual serving with the Soviet forces or a member of the family of such individual shall be instituted before the Budapest Metropolitan Court or, where appropriate, before the court in whose jurisdiction the damage was caused.

2. Jurisdiction in proceedings against a Hungarian national shall be determined in accordance with the general rules of Hungarian civil procedure.

3. If it is not known who caused the damage, the competent authorities of the Contracting Parties shall assist each other to identify the offender.

4. If it is established beyond doubt that damage within the meaning of article 25 of this Agreement has been caused by an individual serving with the Soviet forces or by a member of the family of such individual, and the said person is unable to appear as respondent before the appropriate Hungarian court because he is no longer in the territory of the Hungarian People's Republic, proceedings shall be instituted against the Soviet Military Command in Hungary.

Article 29

Soviet military units, individuals serving therewith and members of their families may be represented by the Soviet Military Command, a representative of which shall be entitled to appear in court with power of attorney.

Article 30

1. Individuals serving with the Soviet forces and members of their families appearing before Hungarian courts shall not be required to deposit security for legal costs.

2. The persons referred to in paragraph 1 shall be exempt from payment of court expenses under the same conditions and to the same extent as nationals of the Hungarian People's Republic. Documents relating to personal or family status, income and property shall be issued by the competent authorities of the Soviet forces.

Article 31

1. Compensation for the damage referred to in article 25 of this Agreement shall be payable on the Hungarian side by the Ministry of Finance of the Hungarian People's Republic, and on the Soviet side by the Ministry of Defence of the Union of Soviet Socialist Republics through the Soviet Military Command in Hungary.

2. The procedure for calculating compensation for damage shall be determined by the Ministry of Finance of the Hungarian People's Republic and the Soviet Military Command in Hungary.

Article 32

Hungarian nationals in the employ of Soviet military units and establishments temporarily stationed in the territory of the Hungarian People's Republic shall be subject to the provisions of Hungarian labour and social insurance law.

CHAPTER V

FINAL PROVISIONS

Article 33

This Agreement shall be ratified and shall enter into force on the date of the exchange of the instruments of ratification, which shall take place in Moscow.

Article 34

This Agreement shall remain in force for so long as the Agreement between the Government of the Hungarian People's Republic and the Government of the Union of Soviet Socialist Republics concerning the legal status of Soviet forces temporarily stationed in the territory of the Hungarian People's Republic, signed at Budapest on 27 May 1957, remains in force, and may be amended by agreement between the Contracting Parties.

This Agreement is done at Budapest on 24 April 1958 in two copies, each in the Hungarian and Russian languages, both texts being equally authentic.

IN WITNESS WHEREOF the aforementioned plenipotentiaries have signed this Agreement and have thereto affixed their seals.

For the Government
of the Hungarian People's
Republic :

JAHNER-BAKOS Mihály

For the Government
of the Union of Soviet Socialist
Republics :

V. SUKHODREV
