

No. 6223

**POLAND
and
UNION OF SOVIET SOCIALIST REPUBLICS**

**Agreement concerning mutual legal assistance in matters
relating to the temporary stationing of Soviet forces
in Poland. Signed at Warsaw, on 26 October 1957**

Official texts: Polish and Russian.

Registered by Poland on 10 July 1962.

**POLOGNE
et
UNION DES RÉPUBLIQUES SOCIALISTES
SOVIÉTIQUES**

**Accord d'assistance juridique pour les affaires résultant de
la présence temporaire de troupes soviétiques en
Pologne. Signé à Varsovie, le 26 octobre 1957**

Textes officiels polonais et russe.

Enregistré par la Pologne le 10 juillet 1962.

[TRANSLATION — TRADUCTION]

No. 6223. AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE POLISH PEOPLE'S REPUBLIC AND THE GOVERNMENT OF THE UNION OF SOVIET SOCIALIST REPUBLICS CONCERNING MUTUAL LEGAL ASSISTANCE IN MATTERS RELATING TO THE TEMPORARY STATIONING OF SOVIET FORCES IN POLAND. SIGNED AT WARSAW, ON 26 OCTOBER 1957

The Government of the Polish People's Republic and the Government of the Union of Soviet Socialist Republics, in conformity with the provisions of the Treaty concerning the legal status of Soviet forces temporarily stationed in Poland, signed at Warsaw on 17 December 1956,² have resolved to conclude this Agreement and for this purpose have appointed as their Plenipotentiaries :

The Government of the Polish People's Republic :

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

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 :

Article 1

1. The competent authorities of the Contracting Parties shall render each other assistance in matters relating to the prosecution of persons who have committed the serious or lesser offences referred to in the Treaty of 17 December 1956 concerning the legal status of Soviet forces temporarily stationed in Poland.

2. Assistance in matters relating to the prosecution of persons who have committed serious or lesser offences shall include :

(1) Co-operation with the competent authorities of the other Contracting Party in the performance by such authorities of acts required in connexion with judicial proceedings in cases subject to the jurisdiction of that Party;

¹ Came into force on 8 May 1958 by the exchange of the instruments of ratification at Moscow, in accordance with article 17.

² United Nations, *Treaty Series*, Vol. 266, p. 179.

- (2) The performance, as legal assistance, of acts required in connexion with judicial proceedings in cases subject to the jurisdiction of the other Party at the request of the competent authorities of that Party.

Legal assistance may, in particular, take the form of the serving of summonses on and the interrogation of accused persons, witnesses and experts, searches, inspection of places and articles, the collection of material evidence, the seizure of articles which may serve to establish the facts of the case, the identity of the offender, etc.;

3. For the purposes of this Agreement, the term “ competent authorities ” means :

On the Polish side—the courts of law and the organs of the Procurator’s Office, the civil police, and the organs of State administration having jurisdiction in the matters covered by this Agreement;

On the Soviet side—the military tribunals, organs of the Military Procurator’s Office and the military commandants of garrisons.

Article 2

1. The competent authorities of either of the Contracting Parties shall immediately inform the competent authorities of the other Party whenever they learn that a serious or lesser offence subject to the jurisdiction of such other Party has been committed by an individual serving with the Soviet forces or by a member of the family of such individual; in such cases, the Polish authorities shall also inform the military commandant of the nearest Soviet garrison.

2. In the circumstances referred to in paragraph 1 of this article, the competent authorities of either of the Contracting Parties shall detain any person suspected of having committed an offence if requested to do so by the competent authorities of the Party to whose jurisdiction the case is subject, and they may also take such action without being requested to do so in cases where a person who has committed an offence has been apprehended at the scene of the offence or in flight; the person detained shall be handed over immediately to the nearest competent authorities of the Party to whose jurisdiction the case is subject. Pending the arrival of a representative of the competent authorities of the Party to whose jurisdiction the case is subject, the competent authorities of the other Party shall take the required steps to preserve clues and evidence relating to the offence and, where necessary, to identify and detain the person by whom it was committed.

3. In cases subject to the jurisdiction of the Polish authorities, the competent Polish authorities shall immediately inform the Military Procurator of the Soviet forces in Poland and the military commandant of the nearest garrison of such forces whenever an individual serving with the Soviet forces or a member of the family of such an individual is the subject of criminal proceedings or is detained or arrested.

Article 3

If information is received that a person not serving with the Soviet forces has committed an offence against the Soviet forces temporarily stationed in the territory of the Polish People's Republic, individuals serving therewith or members of their families, the competent Soviet authorities :

- (1) Shall immediately inform the competent Polish authorities of the matter;
- (2) Shall take all the necessary steps at the duty stations of the Soviet forces, pending the arrival of a representative of the competent Polish authorities, to preserve clues and evidence relating to the offence and, where necessary, to identify the person by whom it was committed;
- (3) May detain the offender if he was apprehended at the scene of the offence if there is a danger that he might abscond and if there is no representative of the competent Polish authorities at the scene of the offence; the detained person shall be handed over immediately to the nearest competent Polish authorities.

Article 4

1. With the consent of the competent Soviet authorities, the competent Polish authorities may perform acts required for the purpose of judicial proceedings at the duty stations of Soviet forces or in connexion with the incoming or outgoing mail of Soviet military units.

2. At the request of the competent Polish authorities, the acts referred to in paragraph 1 of this article shall be performed by the competent Soviet authorities as legal assistance.

3. The arrest of an individual serving with the Soviet forces or a member of the family of such an individual at a duty station of the Soviet forces shall be effected by the Military Procurator of the Soviet forces on the basis of a warrant issued by a Polish court or Procurator; the warrant of arrest shall contain a short statement of the circumstances of the offence and, if possible, an indication of where and when it was committed.

Article 5

In cases where offences subject to the jurisdiction of the Polish Party are committed by members of the Soviet forces, the legislation concerning the criminal liability of members of the Polish armed forces shall apply.

In the event of the arrest of and preferral of criminal charges against members of the Soviet forces, the principles and procedures applicable to members of the Polish armed forces shall be observed.

Article 6

During the consideration by the competent Polish authorities of cases against individuals serving with the Soviet forces temporarily stationed in the Polish

People's Republic or members of the families of such individuals, the following rules shall be observed :

- (1) At every stage of the proceedings, including the enforcement of the penalty, the accused (or convicted) person shall enjoy the same rights as an accused (or convicted) person who is a Polish citizen;
- (2) The public may be excluded from the trial at the request of the competent Soviet authorities;
- (3) The competent Polish authorities shall, at the request of the Military Procurator of the Soviet forces, permit him to be present when acts required in connexion with judicial proceedings are performed and to study the dossier of the case, inform him of the progress of the case, permit him to interview those in custody, and transmit to him copies of the sentence or other decision concluding the proceedings;
- (4) If the accused is not in custody, the Soviet authorities shall ensure that he appears in response to a summons by the competent Polish authorities;
- (5) Where there are good reasons for doing so, the Minister of Justice of the Polish People's Republic may, at the request of the Commander of the Soviet forces or of the accused, permit Soviet lawyers to act as counsel for the defence; such requests shall receive sympathetic consideration.

Article 7

1. Penalties imposed by Polish courts and other competent Polish authorities in cases which involve individuals serving with the Soviet forces or members of the families of such individuals and which are subject to the jurisdiction of the Polish Party shall be enforced by the Polish authorities, and the Soviet authorities shall be under a duty to facilitate the enforcement of such penalties. In particular, in cases where a sentence involving deprivation of liberty is not imposed conditionally and takes legal effect, the Soviet authorities shall be under a duty to detain the convicted person and hand him over to the competent Polish authorities.

2. Individuals serving with the Soviet forces or members of the families of such individuals on whom Polish courts have passed a sentence of deprivation of liberty which is not conditional may not leave the territory of the Polish People's Republic until they have served their sentence.

3. The Minister of Justice of the Polish People's Republic may, at the request or with the agreement of the competent Soviet authorities, transfer to such authorities the responsibility for executing a sentence of deprivation of liberty passed by a Polish court on an individual serving with the Soviet forces or a member of the family of such an individual. In such cases, paragraph 2 of this article shall not apply. Applications by either of the Contracting Parties for the assumption or transfer of responsibility for the execution of a sentence shall be sympathetically considered.

Article 8

1. In cases under the jurisdiction of the Soviet courts or other Soviet authorities in which serious or lesser offences have been committed by individuals serving with the Soviet forces or members of the families of such individuals, such courts and authorities shall function in the territory of the Polish People's Republic within the area of the duty stations of the Soviet forces.

2. During the consideration by Soviet courts or other Soviet authorities of the cases referred to in paragraph 1 of this article, the following rules shall be observed :

- (1) Outside the duty stations of Soviet forces, the competent Soviet authorities may carry out only an inspection of the scene of the offence and searches of premises occupied by individuals serving with the Soviet forces or by members of the families of such individuals;
- (2) If it proves necessary to interrogate a witness or expert who is not an individual serving with the Soviet forces or a member of the family of such an individual, or to carry out with respect to such a witness or expert any other acts required in connexion with judicial proceedings, such as search, seizure, etc., such acts shall be carried out, as legal assistance, by the competent Polish court or Polish procurator at the request of the competent Soviet authorities;
- (3) If it proves necessary for the competent Soviet authorities to undertake the direct interrogation of a person referred to in sub-paragraph 2 of this article, such a person shall be summoned through the competent Polish procurator; no compulsion of any kind may be used against a person so summoned; the costs involved in summoning witnesses or experts shall be defrayed by the Soviet authorities in accordance with Polish law;
- (4) The competent Polish authorities shall render assistance to the competent Soviet authorities in the performance of acts required in connexion with judicial proceedings by the latter, in particular, by giving assistance in the identification and detention of offenders, the interrogation of witnesses and experts in the cases referred to in sub-paragraph 3 of this article, in preserving clues and evidence relating to offences, etc.;
- (5) Where the injured party is a Polish citizen or institution or a citizen or institution of a third State, such injured party shall enjoy the same rights in the course of the proceedings as an injured party who is a Soviet citizen or institution;
- (6) Cases involving offences against Polish citizens or institutions or citizens or institutions of a third State shall normally be heard by a court of first instance

in the territory of the Polish People's Republic; the court shall permit the Polish Military Procurator to be present at the hearing;

- (7) In the cases referred to in sub-paragraph 6 of this article, the competent Soviet authorities shall, at the request of the Polish Military Procurator, inform him of the progress of the case and transmit to him copies of the sentence or other decision concluding the proceedings;
- (8) Sentences passed by Soviet courts shall not be carried out in the territory of the Polish People's Republic; this does not apply to sentences imposing a penalty of detention for a term of not more than three months.

Article 9

1. In proceedings conducted by the competent Polish authorities in cases which relate to offences against the Soviet forces temporarily stationed in the territory of the Polish People's Republic, individuals serving with such forces or members of the families of such individuals and in which the injured party is a Soviet citizen or institution, the said injured party shall enjoy the same rights as when the injured party is a Polish citizen or institution.

2. Polish courts and procurators shall, at the request of the Military Procurator of the Soviet forces, keep him informed of the progress of cases referred to in paragraph 1 of this article and shall transmit to him copies of the sentence or other decision concluding the proceedings.

Article 10

In cases relating to the offences referred to in article 8, paragraph 2, sub-paragraph 6, and in article 9 of this Agreement, the competent authorities of the Contracting Parties shall, so far as possible, grant each other access to the documents in the case. Requests for such access shall receive sympathetic consideration.

Article 11

1. In matters relating to the acceptance or transfer of jurisdiction under article 9, paragraph 3, of the Treaty concerning the legal status of Soviet forces temporarily stationed in Poland, proposals shall be made and decisions taken :

On the Polish side, by the court or procurator of the voivodship or by the court or procurator of the military district;

On the Soviet side, by the Military Tribunal or the Military Procurator of the Soviet forces in Poland, depending on the authority which is conducting or is to conduct the case.

2. Jurisdiction cannot be transferred if sentence has already been passed in the case, even if the sentence has not yet taken legal effect.

Article 12

In the event of a difference of opinion concerning jurisdiction over cases involving the commission of serious or lesser offences by individuals serving with the Soviet forces temporarily stationed in the territory of the Polish People's Republic or by members of the families of such individuals, pending the settlement of the dispute by the Soviet-Polish Mixed Commission set up under article 19 of the Treaty concerning the legal status of Soviet forces temporarily stationed in Poland, the competent authorities of the Contracting Parties shall determine by agreement what urgent action must be taken to preserve clues and evidence relating to an offence, to identify and arrest the offender, etc. If agreement cannot be reached, urgent action shall be taken :

By the Polish authorities, where the serious or lesser offence was committed outside the duty stations of the Soviet forces;

By the Soviet authorities, where the serious or lesser offence was committed at a Soviet duty station.

Article 13

1. In the cases referred to in this Agreement, the competent Polish authorities shall communicate directly with the Military Tribunal and the Military Procurator of the Soviet forces in Poland or with the military commandant of the nearest Soviet garrison. The military tribunals and military procurators of the Soviet forces shall communicate directly with the competent Polish authorities.

2. 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 14

Legal assistance under this Agreement shall be rendered free of charge. The costs incurred in the performance of acts of legal assistance shall be borne by the Party performing such acts.

Article 15

The authorities of the Contracting Parties shall communicate with each other and perform the acts referred to in this Agreement in the Polish or Russian language.

Article 16

In matters not regulated by this Agreement, the rules in force with respect to the provision of legal assistance between the Polish People's Republic and the Union of Soviet Socialist Republics shall apply.

Article 17

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 at Moscow.

Article 18

This Agreement shall remain in force for so long as the Treaty between the Government of the Union of Soviet Socialist Republics and the Government of the Polish People's Republic concerning the legal status of Soviet forces temporarily stationed in Poland, signed at Warsaw on 17 December 1956, remains in force, and may be amended by agreement between the Contracting Parties.

This Agreement is done at Warsaw on 26 October 1957 in two copies, each in the Polish 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 Polish People's
Republic :
M. RYBICKI

For the Government
of the Union of Soviet Socialist
Republics :
V. SUKHODREV