

No. 6216

**POLAND
and
HUNGARY**

Treaty concerning legal relations in civil, family and criminal cases. Signed at Budapest, on 6 March 1959

Official texts: Polish and Hungarian.

Registered by Poland on 10 July 1962.

**POLOGNE
et
HONGRIE**

Traité concernant les relations juridiques en matière civile, familiale et pénale. Signé à Budapest, le 6 mars 1959

Textes officiels polonais et hongrois.

Enregistré par la Pologne le 10 juillet 1962.

[TRANSLATION — TRADUCTION]

No. 6216. TREATY¹ BETWEEN THE POLISH PEOPLE'S REPUBLIC AND THE HUNGARIAN PEOPLE'S REPUBLIC CONCERNING LEGAL RELATIONS IN CIVIL, FAMILY AND CRIMINAL CASES. SIGNED AT BUDAPEST, ON 6 MARCH 1959

The Council of State of the Polish People's Republic and the Presidential Council of the Hungarian People's Republic, desiring to strengthen co-operation between the two States in the sphere of legal relations as in others, have decided to conclude a Treaty concerning legal relations in civil, family and criminal cases and for this purpose have appointed as their plenipotentiaries :

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

Adam Willmann, Ambassador Extraordinary and Plenipotentiary of the Polish People's Republic at Budapest;

The Presidential Council of the Hungarian People's Republic :

Dr. Ferenc Nezvál, Minister for Justice of the Hungarian People's Republic,

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. Nationals of either Contracting Party shall enjoy in the territory of the other Contracting Party, in respect of their persons and property, the same legal protection as nationals of the latter Contracting Party.

¹ Came into force on 26 February 1960, thirty days after the exchange of the instruments of ratification, in accordance with article 88 (1). The instruments of ratification were exchanged at Warsaw on 27 January 1960. At the same time an exchange of notes took place between the Ministers for Justice of the Polish People's Republic and the Hungarian People's Republic in the following terms :

[TRANSLATION — TRADUCTION]

During the negotiations preceding the conclusion of the aforementioned Treaty, the two Parties agreed that the provisions of article 48 of the Treaty shall be applicable only to cases in which death has occurred, and an estate has consequently been left, after the entry into force of the said Treaty.

2. The provisions of paragraph 1 shall apply *mutatis mutandis* to legal persons.

Article 2

PROVISION OF LEGAL ASSISTANCE

1. The courts and the procurators' and State notaries' offices of the Contracting Parties shall provide one another with legal assistance in civil, family and criminal cases.

2. The authorities referred to in paragraph 1 shall also provide legal assistance to other authorities which deal with civil, family and criminal cases.

Article 3

METHOD OF COMMUNICATION

1. In providing legal assistance, the authorities of the Contracting Parties referred to in article 2, paragraph 1, shall communicate with one another directly, save as otherwise provided in this Treaty in individual cases.

2. Other authorities which deal with civil, family and criminal cases shall address their applications to the courts, save as otherwise provided in this Treaty in individual cases.

Article 4

SCOPE OF LEGAL ASSISTANCE

Legal assistance shall include the performance of specific acts required in connexion with judicial proceedings, especially the preparation and transmittal of files and documents, the execution of searches, seizures and attachment of property, the transmittal and delivery of articles, the collection of evidence through the interrogation of litigants, accused persons, witnesses, experts and other interested persons, the conduct of judicial inspections *in situ*, and the processing of applications for the service of documents.

Article 5

FORM OF APPLICATION FOR LEGAL ASSISTANCE

1. An application for legal assistance must contain the following particulars :

- (a) The title of the applicant authority;
- (b) The title of the authority applied to;
- (c) The title of the case in which legal assistance is applied for;
- (d) The surnames and given names, domicile or residence, nationality and occupation of the parties or of the persons accused, and in criminal cases,

where possible, the place and date of birth of the persons accused and the surnames and given names of their parents;

- (e) The names and addresses of their legal representatives or counsel;
- (f) The substance of the application and any information required for its execution, including, in criminal cases, a description of the offence.

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

Article 6

PROCEDURE FOR DEALING WITH APPLICATIONS

1. In dealing with an application for legal assistance, the authority applied to shall follow the laws of its own State.

2. The authority applied to shall, if the applicant authority so requests, employ the judicial procedures 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 deal with an application, it shall of its own motion transmit the application to the competent authority and shall notify the applicant authority accordingly.

4. If the address of the person named in an application is unknown or if the address indicated proves to be incorrect, the authority applied to shall take appropriate steps to determine the address. If the address cannot be determined, the authority applied to shall so notify the applicant authority, at the same time returning the application for legal assistance.

5. The authority applied to shall, if the applicant authority so requests, notify the latter, in due time, where and when the desired legal assistance is to be rendered.

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

Article 7

PROTECTION OF WITNESSES AND EXPERTS

1. No person of whatsoever nationality who, in response to a summons served on him by an authority of the Party applied to, appears as a witness or an expert before an authority of the applicant Party may be prosecuted or detained either for the offence which is the subject of the proceedings or for any other offence committed before he crossed the frontier of the applicant State, nor may he be punished for such offence in the territory of that State.

2. The witness or expert shall forfeit the protection defined in paragraph 1 if, being at liberty to do so, he fails to quit the territory of the applicant Party within one week from the date on which the interrogating authority informs him that his presence is no longer necessary.

Article 8

FORM OF DOCUMENTS

Documents transmitted in pursuance of this Treaty must be signed and must bear an official seal.

Article 9

APPLICATIONS FOR THE SERVICE OF DOCUMENTS

1. In serving documents, the authority applied to shall follow the laws of its own State, provided that the document to be served is accompanied by a certified translation into the language of the Party applied to. Otherwise, the authority applied to shall deliver the document to the recipient only if he is willing to accept it.

2. An application for the service of documents must state the exact address of the recipient and the subject of the document to be served.

3. If a document cannot be served at the address indicated in the application, the authority applied to shall of its own motion take the necessary steps to determine the recipient's address. If such address cannot be determined, the applicant authority shall be so notified and the document in question shall be returned at the same time.

Article 10

PROOF OF SERVICE OF DOCUMENTS

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.

Article 11

COSTS OF LEGAL ASSISTANCE

1. The Party applied to shall make no claim for repayment of the costs of legal assistance. Each Contracting Party shall bear the costs incurred in providing legal assistance in its territory, including, in particular, 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 Party which recovered them.

Article 12

PROVISION OF INFORMATION

1. The Ministers for Justice of the Contracting Parties shall transmit to each other directly the texts of such laws as may be promulgated after the entry into force of this Treaty.

2. The Ministers for Justice and the General Procurators of the Contracting Parties shall, upon application, provide one another directly with information concerning the law in force or formerly in force in their respective States and concerning the practice of the judicial authorities.

Article 13

LANGUAGES

1. In their legal relations with one another, the authorities of the Contracting Parties shall use their own language or the Russian language.

2. In order to facilitate legal relations, documents and annexes should if possible be accompanied by a certified translation into the language of the Party applied to, even in cases where the provisions of this Treaty do not so require.

Article 14

DENIAL OF LEGAL ASSISTANCE

Legal assistance may be denied if its provision might be prejudicial to the sovereignty or security of the Party applied to.

Article 15

INTERROGATION OF OWN NATIONALS AND SERVICE OF DOCUMENTS ON THEM

1. Either Contracting Party may, through its diplomatic or consular missions, serve documents on its own nationals and interrogate them as litigants, witnesses or experts in the territory of the other Contracting Party.

2. No compulsion may be used in carrying out the service and interrogation referred to in paragraph 1.

DOCUMENTS

Article 16

1. Documents issued or attested in the territory of either Contracting Party by a competent State authority acting within the limits of its powers, in due form and bearing an official seal, shall not require legalization for use in the territory of the other Contracting Party.

2. Documents issued by a competent authority of either Contracting Party which are considered official documents in the territory of that Party shall have the evidential value of official documents in the territory of the other Contracting Party also.

Article 17

1. Copies of and extracts from documents intended for use in the territory of the other Contracting Party must be attested by the authority which drew up or issued the document in question or by a State notary's office. This provision shall not apply to copies of and extracts from court records which are transmitted in connexion with applications for legal assistance.

2. If the authority which drew up the document in question no longer exists, copies and extracts shall be issued and attested by the authority to which the document was transferred for safekeeping.

TRANSMITTAL OF CIVIL REGISTRATION CERTIFICATES AND
OTHER DOCUMENTS*Article 18*

1. Each Contracting Party shall transmit to the other Contracting Party complete copies of civil registration certificates relating to nationals of the latter Party which include entries made after the entry into force of this Treaty. Such copies shall be transmitted at quarterly intervals, free of charge, through the diplomatic channel.

2. Each Contracting Party shall transmit free of charge for official use, at the request of the courts, State notaries' offices or other authorities of the other Party, complete copies of civil registration certificates and other documents relating to the personal rights and interests of nationals of the latter Party. Correspondence on such matters shall be exchanged directly between the interested authorities of the two Contracting Parties.

3. Applications by nationals of either Contracting Party for the release of extracts from the civil registers of the other Contracting Party, or of other documents which are in the territory of the latter Party, may be sent directly to the competent registry office or other authority of the latter Party. The

authorities concerned shall transmit the desired documents to the diplomatic or consular mission of their State in the territory of the former Contracting Party, which shall deliver them to the applicant upon payment of the prescribed fees.

Article 19

1. Where the registry offices of either Contracting Party make any entry in or correction to the registers which relates to the civil status of a national of the other Contracting Party, a complete copy of the civil registration certificate containing the entry or correction shall be transmitted to the latter Party.

2. Each Contracting Party shall transmit to the other Contracting Party copies of any judicial or administrative decisions which relate to the civil status of nationals of the latter Contracting Party. Such documents must contain all available information concerning nationality.

3. In the cases specified in paragraphs 1 and 2, the documents shall be transmitted quarterly, free of charge, through the diplomatic channel.

Article 20

APPLICATION OF CURRENCY LAWS

Transfers of money or other forms of currency, pursuant to this Treaty, from the territory of one Contracting Party to the territory of the other Contracting Party shall be effected in accordance with the currency laws of the sending Party.

PART II

SPECIAL PROVISIONS

Chapter I

LEGAL RELATIONS IN CIVIL AND FAMILY CASES — COSTS

Article 21

EXEMPTION FROM SECURITY FOR LEGAL COSTS

1. Nationals of one Contracting Party, domiciled in the territory of either Party, who appear before the courts of the other Contracting Party shall not be required to deposit security for legal costs.

2. The exemption provided for in paragraph 1 shall also be accorded to nationals of the Contracting Parties domiciled in the territory of any State with which the Party granting the exemption has an agreement concerning reciprocal enforcement of judgements.

3. The provisions of paragraphs 1 and 2 shall apply *mutatis mutandis* to legal persons.

ENFORCEMENT OF AWARDS OF COSTS

Article 22

1. If a litigant exempt under article 21 from depositing security for legal costs is required in pursuance of a final judgement to pay such costs, the competent court of the other Contracting Party shall on application, and without charge, issue authorization for the enforcement of (enforce) the award of costs.

2. Legal costs shall include the cost of the certificate showing that the judgement is final and the cost of translation and certification.

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

Article 23

1. The court ruling under article 22 on the authorization of enforcement (on the enforcement) of an award of costs shall do so without interrogating the parties and shall confine itself to determining whether :

- (a) The judgement whose enforcement is sought is accompanied by a certificate showing that it is final;
- (b) The award is accompanied by a certified translation of that part of the judgement which fixes the amount of the costs and by a certified translation of the certificate showing that it is final.

2. The cost of the translations specified in paragraph 1, sub-paragraph (b), shall be regarded as part of the costs of enforcement.

Article 24

Application for the institution of enforcement proceedings in the territory of the other Contracting Party may be made :

- (a) To the court which made the award of costs or to the court which dealt with the case at first instance; such court shall transmit the application to the competent court of the other Contracting Party in the manner specified in article 3, paragraph 1;
- (b) Direct to the court of the other Contracting Party which is competent to institute enforcement proceedings.

Article 25

1. Where unpaid legal costs and sums advanced by the State are to be recovered, the court, of the Contracting Party in whose territory the award of

costs was made, which dealt with the case at first instance shall apply to the competent court of the other Contracting Party for recovery of the sums in question. The court applied to shall institute enforcement proceedings and remit the sum recovered to the diplomatic or consular mission of the former Contracting Party.

2. The application must be accompanied by :

- (a) The award of costs;
- (b) A certificate showing that the judgement on which the application is based has become final;
- (c) Certified translations of the documents specified in sub-paragraphs (a) and (b).

3. The provisions of article 23, paragraph 2, shall apply *mutatis mutandis* to the cost of translating the documents referred to in paragraph 2.

EXEMPTION FROM COSTS

Article 26

1. Nationals of either Contracting Party shall be accorded in the territory of the other Contracting Party, in either adversary or non-adversary proceedings, including enforcement proceedings, exemption from legal costs and stamp tax, time to pay stamp tax, and free legal representation under the same conditions and to the same extent as nationals of the latter Party.

2. Any exemption from legal costs and stamp tax, or time to pay stamp tax, accorded by the law of one Contracting Party or granted by a court of that Party shall also be accorded in all proceedings instituted in the same case before a court of the other Contracting Party.

Article 27

1. A certificate relating to the petitioner's personal and family status, property and earnings (income) shall be issued by [the competent authority of the Contracting Party in whose territory the petitioner has his domicile or—if he has no domicile—his residence.

2. If the petitioner has neither domicile nor residence in the territory of either Contracting Party, the certificate may be issued by the diplomatic or consular mission of his State of nationality.

3. The court ruling on a petition for exemption from costs may, in the manner specified in article 3, request further information from the authority which issued the certificate.

Article 28

1. A national of one Contracting Party, domiciled or resident in the territory of either Contracting Party, who wishes to be accorded exemption from legal

costs and stamp tax, time to pay stamp tax, or free legal representation before a court of the other Party may make his petition to that effect in the form of an oral statement before the competent district court of his place of domicile or residence. The said court shall, in the manner specified in article 3, paragraph 1, transmit a record of his statement, together with the certificate referred to in article 27, paragraph 1 or 2, and the other documents submitted as annexes by the petitioner, to the competent court of the other Contracting Party. The provisions of article 6, paragraph 3, shall also apply in such cases.

2. The record and annexes must be accompanied by the translation provided for in article 13, paragraph 2.

3. The complaint or other application instituting proceedings may be made orally and entered in the record at the same time as the petition for exemption from legal costs.

LEGAL CAPACITY

Article 29

1. The legal capacity of individuals shall be determined according to the law of the Contracting Party of which the individual concerned is a national.

2. The legal capacity of legal persons shall be determined according to the law of the Contracting Party under whose law they were constituted.

Article 30

DECLARATION OF PERSONS AS MISSING OR DEAD

1. The authorities competent to declare a person missing or dead or to establish the fact of death, and the law applicable in such matters, shall be those of the Contracting Party of which the person concerned was a national at the time when he was last known to be alive.

2. The authorities of one Contracting Party may declare a national of the other Party missing or dead, or establish the fact of his death :

- (a) Upon application by a person wishing to claim statutory succession to movable or immovable property of the missing person situated in the territory of the former Party;
- (b) Upon application by the spouse of the missing person, provided that the said spouse is resident in the territory of the former Party at the time of the application.

FAMILY CASES

Article 31

FORM OF MARRIAGE

1. The form of marriage shall be that prescribed by the law of the Contracting Party before whose authority the marriage is solemnized.
2. The conditions determining capacity to marry shall be, for each prospective spouse, those prescribed by the law of the Contracting Party of which he or she is a national.

Article 32

PERSONAL AND PROPERTY RELATIONS OF SPOUSES

1. The personal and property relations of spouses who are nationals of the same Contracting Party shall be determined by the law of that Party.
2. Where one spouse is a national of one Contracting Party and the other a national of the other Party, their personal and property relations shall be determined by the law of the Party in whose territory they have or last had their joint domicile.

*Article 33*ESTABLISHMENT OF THE EXISTENCE OR NON-EXISTENCE OF A MARRIAGE;
DISSOLUTION OR ANNULMENT OF MARRIAGE

1. In actions to establish the existence or non-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 nationals when the petition is filed. If the spouses are domiciled in the territory of the other Contracting Party, the courts of that Contracting Party shall also have jurisdiction.
2. A marriage between nationals of one Contracting Party, solemnized before an authority of the other Contracting Party, may be annulled if grounds exist for such action under the law both of the Contracting Party before whose authority the marriage was solemnized and of the Contracting Party of which the spouses are nationals.
3. If, at the time when proceedings to establish the existence or non-existence of a marriage or proceedings for the dissolution or annulment of a marriage are instituted, one spouse is a national of one Contracting Party and the other a national of the other Contracting Party, the court competent to hear the petition shall be that of the Party in whose territory both spouses are domiciled. The said court shall apply the law of its own State.

4. If, in the case provided for in paragraph 3, one spouse 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 be competent to hear the petition. The courts shall apply the law of their own State.

LEGAL RELATIONS BETWEEN PARENTS AND CHILDREN

Article 34

The law applicable to legal relations between parents and children and to actions to establish or contest paternity or maternity shall be that of the Contracting Party of which the child is a national. If the child is domiciled in the territory of the other Party, the law of that Party shall be applicable if it is more favourable to the child's interests.

Article 35

1. The court competent to rule on the legal relations specified in article 34 shall be that of the Contracting Party of which the child is a national.

2. If both parties to the case are domiciled in the territory of one Contracting Party, the court of that Party shall also have jurisdiction.

Article 36

ADOPTION

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

2. If the child is a national of one Contracting Party and the adopter a national of the other Contracting Party, adoption shall be subject to the child's consent, if required by the law of the former Contracting Party, and to the consent of his legal representative and of the competent guardianship authority of that Contracting Party.

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 must satisfy the legal requirements of both Contracting Parties.

4. In proceedings for adoption, the authorities having jurisdiction shall be those of the Contracting Party of which the adopter is a national at the time of the adoption. In the case specified in paragraph 3, the authority having jurisdiction shall be that in whose district the married couple have or last had their joint domicile.

5. The provisions of the preceding paragraphs shall apply *mutatis mutandis* to the termination of adoption.

GUARDIANSHIP AND CURATORSHIP

Article 37

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

2. The legal relations between a guardian or curator and his ward shall be determined by the law of the Contracting Party whose guardianship authority appointed the guardian or curator.

3. The obligation to accept the office of guardian or curator shall be determined by the law of the Contracting Party of which the prospective guardian or curator is a national.

4. A national of one Contracting Party may be appointed the guardian or curator of a national of the other Contracting Party if he is domiciled in the territory of the Contracting Party where he is to serve in that capacity and his appointment is in the best interests of his prospective ward.

Article 38

1. Where need arises to arrange 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 Party shall so notify forthwith the guardianship authority of the Contracting Party of which the person concerned is a national.

2. In cases admitting of no delay, the guardianship authority of such other Contracting Party may make appropriate provisional arrangements, provided that it so notifies forthwith the guardianship authority of the Contracting Party of which the person in need of legal protection is a national. The provisional arrangements shall remain in effect until such time as the latter authority decides otherwise.

Article 39

1. The guardianship authority of one Contracting Party may request the competent authority of the other Contracting Party to exercise guardianship or curatorship, or to make arrangements, in the interests of a person in need of legal protection who is a national of the former Party but whose domicile, residence or property is in the territory of the latter Party. The authority applied to shall notify the applicant authority, in the manner specified in article 3, of the arrangements made.

2. An authority acquiring jurisdiction through the transfer of guardianship or curatorship shall apply the law of its own State; however, in matters relating to legal capacity it shall apply the law of the Contracting Party of which the ward is a national. The said authority shall not be entitled to decide questions relating to the ward's civil status but may give its consent to marriage where such consent is required by the law of the Contracting Party of which the ward is a national.

DECLARATION OF INCAPACITY

Article 40

In proceedings for declaring persons incapable, the applicable law and the authorities having jurisdiction shall be those of the Contracting Party of which the person to be declared incapable is a national.

Article 41

If an authority of one Contracting Party finds that grounds exist for declaring incapable a national of the other Contracting Party who has his domicile or residence in the said authority's jurisdiction, it shall so notify the competent authority of the other Contracting Party. If the authority thus notified indicates 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 authority at the place of domicile or residence may conduct the proceedings for a declaration of incapacity in accordance with the law of its own State, provided that it does so on grounds which are also recognized for this purpose by the law of the Contracting Party of which the person concerned is a national. The decision concerning the declaration of incapacity shall be communicated to the competent authority of the other Contracting Party.

Article 42

In cases admitting of no delay, the authority at the place of domicile or residence of a national of the other Contracting Party who is to be declared incapable may make such provisional arrangements as are necessary to protect the person concerned or his property. Copies of the relevant decisions shall be transmitted to the competent authority of the Contracting Party of which the person concerned is a national. The said arrangements shall be cancelled if the latter authority renders a different decision in the case.

Article 43

The provisions of articles 40 and 41 shall apply *mutatis mutandis* to the revocation of a declaration of incapacity.

CIVIL CASES RELATING TO PROPERTY

Article 44

FORM OF LEGAL TRANSACTIONS

1. 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.

2. The form of legal transactions relating to immovable property shall be that prescribed by the law of the Contracting Party in whose territory the property is situated.

*Article 45*APPLICABLE LAW AND COURTS HAVING JURISDICTION
IN MATTERS RELATING TO IMMOVABLE PROPERTY

1. In matters relating to immovable property, including those relating to rent for accommodation and land, the applicable law and the courts having jurisdiction shall be those of the Contracting Party in whose territory the property is situated. Similarly, in matters relating to restricted rights *in rem* in respect of immovable property, the applicable law and the courts having jurisdiction shall be those of the Contracting Party in whose territory the property encumbered or to be encumbered by such rights is situated.

2. The provisions of paragraph 1 shall not apply to the property relations of spouses or to matters of succession.

MATTERS OF SUCCESSION

Article 46

PRINCIPLE OF EQUAL RIGHTS

Nationals of either Contracting Party shall enjoy the same status as nationals of the other Contracting Party domiciled in the latter's territory as regards statutory or testamentary succession to property situated in the territory of the latter Contracting Party and as regards the capacity to make or revoke wills disposing of such property.

Article 47

APPLICABLE LAW

1. In matters of succession, the applicable law shall be that of the Contracting Party of which the decedent was a national at the time of his death.

2. Where the law of the Contracting Party in whose territory property belonging to the estate is situated imposes restrictions on the right of nationals

of that Party to succeed to such property, such restrictions shall also apply to nationals of the other Contracting Party.

Article 48

RIGHT OF SUCCESSION OF THE STATE

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

Article 49

WILLS

1. The form of a testamentary disposition shall be determined by the law of the Contracting Party of which the testator was a national at the time of making the testamentary disposition. It shall, however, be deemed sufficient if the law of the place where the testamentary disposition was made is complied with. The same shall apply to the revocation of a testamentary disposition.

2. The capacity to make or revoke a testamentary disposition shall be determined by the law of the Contracting Party of which the testator was a national at the time of making the testamentary disposition. The same law shall determine the admissible types of testamentary dispositions.

3. The legal effects of informality in testamentary dispositions shall be determined by the law of the Contracting Party of which the testator was a national at the time of making the testamentary disposition.

Article 50

JURISDICTION IN MATTERS OF SUCCESSION

The authorities having jurisdiction in succession proceedings and in adversary proceedings on claims to succession shall be those of the Contracting Party of which the decedent was a national at the time of his death. However, upon petition by an heir and subject to the consent of all known heirs, the succession proceedings shall be conducted by the authorities of the Contracting Party in whose territory the estate is situated.

Article 51

NOTIFICATION OF DEATH

1. If a national of one Contracting Party dies in the territory of the other Contracting Party, the local authorities shall so notify the diplomatic or consular mission of the former Contracting Party forthwith, communicating to it whatever

information is available concerning the heirs and legatees, their domicile or residence, the size and value of the estate and the existence of a will.

2. If an estate is left in the territory of one Contracting Party and it is learned that a national of the other Contracting Party is an heir or legatee, the local authorities shall so notify the diplomatic or consular mission of the latter Party forthwith.

Article 52

RIGHTS OF DIPLOMATIC AND CONSULAR MISSIONS

The diplomatic or consular mission of either Contracting Party shall have the right to represent nationals of its own State before the authorities of the other Contracting Party in succession proceedings and in adversary proceedings on claims to succession if such nationals do not take part in the proceedings and have appointed no representatives; in such cases no special power of attorney shall be necessary.

Article 53

OPENING AND PUBLICATION OF WILLS

1. The succession authority competent to open and publish a will shall be that of the Contracting Party which has custody of the will. A copy of the will, a copy of the minute concerning its publication and, on application, the original will shall be transmitted to the competent authority of the Contracting Party of which the testator was a national at the time of his death.

2. The provisions of paragraph 1 shall also apply *mutatis mutandis* to the transmittal of a minute concerning the depositions of witnesses in whose presence a testamentary disposition was made by oral declaration.

Article 54

PROTECTION OF THE ESTATE

1. The succession authorities of each Contracting Party shall take, in accordance with the law of their own State, such measures as are necessary for the protection or administration of an estate which is left in the territory of that Party by a national of the other Contracting Party or which passes to a national of the latter Party.

2. The competent diplomatic or consular mission shall be informed immediately of any measures taken under paragraph 1; it may participate, through its representative, in carrying out such measures.

3. Measures taken under paragraph 1 must be rescinded at the request of the succession authority of the Contracting Party of which the decedent was a national.

DELIVERY OF THE ESTATE

Article 55

1. If, after the completion of succession proceedings, the movable estate or the proceeds of sale of the movable or immovable estate are to pass to heirs or legatees who are nationals of the other Contracting Party, such estate or proceeds shall be delivered to the heirs or legatees or, if they did not take part in the proceedings and have appointed no representative, to the diplomatic or consular mission of the said Party.

2. The estate or proceeds may be delivered to the heirs or legatees if :

- (a) All claims filed by the decedent's creditors within the time-limit prescribed by the law of the Contracting Party in which the estate is situated have been settled or secured; however, this condition shall lapse where the decedent's creditors fail to show, within six months from the date of his death, that their claims are legitimate or are under examination before the competent State authorities;
- (b) The estate taxes and other duties have been paid or secured;
- (c) The competent authorities have approved, where such approval is required, the export of the things constituting the estate or the transfer of the proceeds.

Article 56

1. If the value of the movable estate left by a national of one Contracting Party who died in the territory of the other Contracting Party, as estimated by the authorities of the latter Party, does not exceed :

in the Polish People's Republic : 10,000 zlotys, or

in the Hungarian People's Republic : 10,000 forints,

and none of the persons entitled to such estate is domiciled in the territory of the latter Contracting Party or has appointed a representative in that territory, the estate shall be delivered, without succession proceedings, to the diplomatic or consular mission of the Contracting Party of which the decedent was a national. Before the estate is delivered to the heirs or legatees, the diplomatic or consular mission shall settle or secure all claims presented by the decedent's creditors within one month from the date of his death.

2. The amounts specified in paragraph 1 may be changed by the Contracting Parties through an exchange of notes.

3. 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 succession proceedings, to the diplomatic or consular mission.

RECOGNITION AND ENFORCEMENT OF JUDGEMENTS

Article 57

RECOGNITION OF JUDGEMENTS IN CASES NOT RELATING TO PROPERTY

1. Final judgements of authorities of either Contracting Party in cases not relating to property shall be effective in the territory of the other Contracting Party without formal recognition provided that, when the judgement becomes final, at least one of the parties to the case is a national of the Party whose authority rendered the judgement and that no authority of the other Party has previously rendered a final judgement in the case 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 OF JUDGEMENTS IN CASES RELATING TO PROPERTY

Article 58

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

Article 59

1. Settlements arrived at in court shall be deemed equivalent to final judgements within the meaning of article 58.

2. Such parts of the judgements of criminal courts as relate to awards of damages shall be recognized in accordance with article 58.

ENFORCEMENT OF JUDGEMENTS

Article 60

1. On application by the plaintiff, the court of the Contracting Party in whose territory enforcement is sought shall issue authorization for the enforcement of (shall enforce) a judgement rendered by a court of the other Contracting Party, provided that such judgement is enforceable and that authorization of enforcement (enforcement) is not precluded under the provisions of article 63.

2. Application must be made either to the court which heard the case at first instance or to the court of the other Contracting Party which is competent to deal with the application. The court of first instance shall transmit the application, in the manner specified in article 3, to the competent court of the other Contracting Party for the necessary action.

Article 61

1. The law applicable to the issue of authorization of enforcement (to enforcement), further enforcement proceedings and legal remedies against enforcement shall be that of the Contracting Party in whose territory enforcement is sought. The court having jurisdiction of subject-matter and territorial jurisdiction in such cases shall also be determined by the law of the said Contracting Party. The respondent may have recourse, before the court ruling on an application for authorization of enforcement (for enforcement), to such legal remedies against enforcement as are permissible under the law of the Contracting Party in whose territory the judgement was rendered.

2. Where, either because a petition has been filed for the reopening of the case or because recourse has been had to an extraordinary legal remedy, enforcement is suspended in the territory of the Contracting Party whose court rendered the judgement, the issue of authorization of enforcement or, if such authorization has been issued, enforcement must be suspended in the territory of the Contracting Party which is enforcing the judgement.

3. Before ruling on an application for authorization of enforcement (for enforcement), the court may call upon the parties to make statements or to supply missing information and may interrogate them. It may also request the court which rendered the judgement to furnish clarification.

Article 62

An application for authorization of enforcement (for enforcement) must be accompanied by the following :

- (a) An official copy of the operative part of the judgement, with a certificate showing that it is 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 institution of proceedings;
- (c) Certified translations of the application and of the documents specified in sub-paragraphs (a) and (b).

Article 63

The court shall refuse to authorize enforcement (to enforce a judgement) :

- (a) If the judgement whose enforcement is sought is not accompanied by a certificate showing that it is final;

- (b) If the respondent did not participate in the proceedings and there is no proof that he or his representative was served with a summons at least once, in proper form and due time, in accordance with the provisions of this Treaty, or if the respondent was under a legal incapacity and had no representative;
- (c) If a court of the Contracting Party applied to has already rendered judgement in an action between the same parties, on the same legal grounds and relating to the same claim, and the judgement has become final. This provision shall not apply where there has been a material change in the circumstances on the basis of which the extent or duration of the performance required by the earlier judgement was determined.

Article 64

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

Article 65

The delivery of movable property to nationals of the other Contracting Party shall be effected in accordance with the export regulations in force in the territory of the Party making the delivery.

Chapter II

LEGAL RELATIONS IN CRIMINAL CASES

Article 66

EXTRADITABLE OFFENCES

1. Each Contracting Party shall extradite to the other, on application, persons in its territory who are required to answer a criminal charge or to serve a sentence.

2. Extradition shall take place only for offences which are punishable under the law of both Contracting Parties with deprivation of liberty for a term exceeding one year or with a heavier penalty (hereinafter called "extraditable offences"), or if a final sentence to deprivation of liberty for a term exceeding one year is to be executed.

Article 67

REFUSAL OF EXTRADITION

Extradition shall not take place if :

- (a) The person claimed is a national of the Contracting Party applied to;

- (b) The person claimed committed the offence in the territory of the Party applied to;
- (c) Under the law of the Party applied to, exemption from prosecution or punishment has been acquired, by lapse of time or for other reasons, by the person claimed;
- (d) The person claimed has already been sentenced for the same offence—whether or not the sentence has become final—or discharged for a good and sufficient reason by a court of the Party applied to;
- (e) Under the law of either Contracting Party, a prosecution for the offence in question must be instituted by private complaint, unless, in accordance with the code of criminal procedure of the applicant Party, the procurator has assumed responsibility for lodging the complaint.

Article 68

OBLIGATION TO PROSECUTE

1. Each Contracting Party undertakes to prosecute under its own law, on application by the other Contracting Party, any of its nationals who have committed an extraditable offence in the territory of the latter Contracting Party. The application must be accompanied by documentary evidence of the commission of the offence.
2. If charges have not yet been filed, the application for prosecution shall be addressed by the General Procurator of the one Contracting Party to the General Procurator of the other Party. If charges have been filed, the application shall be addressed by the Minister for Justice of the one Contracting Party to the Minister for Justice of the other Party.
3. The Contracting Party applied to shall notify the applicant Party of the result of the proceedings; if sentence has been passed, a copy of the sentence shall be transmitted.

Article 69

COMMUNICATION IN MATTERS OF EXTRADITION

In matters of extradition the Ministers for Justice of the Contracting Parties shall communicate with each other directly. The General Procurators of the two Parties shall also communicate with each other directly within the limits of their competence.

Article 70

REQUISITION FOR EXTRADITION

1. A requisition for extradition for purposes of criminal prosecution must be accompanied by a certified copy of the warrant of arrest, a description of

the circumstances of the offence, and the text of the legislative provisions relating to the extraditable offence and the penalty therefor; in the case of offences against property, the extent of the damage which resulted or could have resulted from the offence must also be specified.

2. A requisition for extradition for purposes of execution of a sentence must be accompanied by a copy of the sentence, showing the grounds therefor, a certificate showing that it is final, and the text of the legislative provisions relating to the offence committed.

3. A requisition for extradition must be accompanied, if possible, by a personal description and biographical particulars of the person claimed, information concerning his nationality and residence, and his photograph and fingerprints.

4. The applicant Party shall not be bound to submit to the Party applied to, together with the requisition, proof of the guilt of the person claimed.

Article 71

INFORMATION TO SUPPLEMENT A REQUISITION FOR EXTRADITION

If the information communicated is insufficient to permit a decision on a requisition for extradition, the Party applied to may request supplementary information. The said Party may set the applicant Party a time-limit of one to two months for the communication of such information. Such time-limit may be extended at the request of the applicant Party.

Article 72

DETENTION PENDING EXTRADITION

Upon receipt of a requisition for extradition, the Party applied to shall take immediate steps to detain the person claimed, save in cases in which extradition is precluded under the terms of this Treaty.

Article 73

PROVISIONAL DETENTION PENDING EXTRADITION

1. A person may be detained provisionally pending receipt of the requisition for his extradition if the applicant Party applies for such detention, at the same time specifying that a warrant has been issued for his arrest, or that final sentence has been passed on him, and that a requisition for extradition will be transmitted. Such application may be made by post, telegraph, telephone or wireless.

2. The competent authorities of either Contracting Party may detain a person provisionally even in the absence of such application if there is sufficient

reason to believe that he has committed in the territory of the other Party an offence for which he is liable to extradition under the terms of this Treaty.

3. Where an arrest has been made under paragraph 1 or 2, the other Contracting Party must be notified immediately.

Article 74

RELEASE OF PERSONS DETAINED PENDING EXTRADITION

1. The Contracting Party applied to may release a person detained on the basis of a requisition for extradition if the applicant Contracting Party fails to furnish the information required to supplement the requisition within the time-limit specified in article 71.

2. A person detained provisionally under article 73 may be released if a requisition for his extradition is not received within two months after the dispatch of notification of his arrest.

3. The release of a person detained pending extradition shall be communicated to the other Contracting Party.

Article 75

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 shall be postponed pending the conclusion of the proceedings or the completion or remission of the sentence.

Article 76

TEMPORARY EXTRADITION

1. In the case specified in 75, the article person claimed shall be extradited temporarily at the request of the applicant Contracting Party if the postponement of extradition would result in exemption from prosecution being acquired by lapse of time or might otherwise prejudice the prosecution.

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

Article 77

CONCURRENT REQUISITIONS FOR EXTRADITION

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

Article 78

LIMITS TO THE PROSECUTION OF EXTRADITED PERSONS

1. An extradited person may not, without the consent of the Party applied to, be prosecuted 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. Consent to prosecution may not be refused if the offence was committed in the territory of the applicant Contracting Party and is an extraditable offence under the terms of this Treaty.

2. The consent of the Contracting Party applied to shall not be required if:

- (a) The extradited person fails to quit the territory of the applicant Party within one month after the conclusion of the criminal proceedings or, in the event of his conviction, within one month after the completion or remission of the sentence; such period of one month shall not be deemed to include any period during which the extradited person is unable through no fault of his own to quit the territory of the applicant Party;
- (b) The extradited person quits the territory of the applicant Party but voluntarily returns thereto;
- (c) The extradited person makes a statement before a court that he is willing to stand trial; in that case, a certified copy of the court record containing such statement shall be transmitted to the Contracting Party applied to.

Article 79

SURRENDER

The Contracting Party applied to shall notify the applicant Party of the place and time of surrender. If the applicant Party fails to accept the person claimed within one month after the dispatch of the notification, such person may be released from custody.

Article 80

RE-EXTRADITION

If an extradited person evades prosecution and returns to the territory of the Contracting Party applied to, it shall not be necessary to submit a new requisition in order to secure his re-extradition. The Party applied to shall base its decision regarding extradition on the documents (article 70) annexed to the requisition already submitted. Before taking such decision, the Party applied to may ask the applicant Party, pursuant to article 71, to state whether in the intervening period the accused has acquired immunity to prosecution for the offence he committed.

Article 81

CONVEYANCE IN TRANSIT

1. Each Contracting Party undertakes to convey through its territory, on application by the other Party, any person whom a third State wishes to extradite to the latter Party. There shall be no obligation to provide conveyance where there would be no obligation under this Treaty to grant extradition.

2. An application for conveyance in transit shall be made and dealt with according to the same rules as a requisition for extradition.

3. The authorities of the Contracting Party applied to shall effect conveyance in whatever manner they find most appropriate.

Article 82

NOTIFICATION OF RESULTS OF PROSECUTION

The applicant Party shall notify the Party applied to of the results of proceedings taken against the person extradited. If the said person is sentenced, a copy of the sentence shall be transmitted after it has become final. This provision shall also apply to the cases specified in article 78.

Article 83

COSTS

The costs of extradition shall be borne by the Contracting Party in whose territory they were incurred, whereas the costs of conveyance in transit (article 81) shall be borne by the applicant Party.

Article 84

TEMPORARY DELIVERY OF PERSONS HELD IN CUSTODY

1. If a person who is held in custody in the territory of the Party applied to, and against whom charges have not yet been filed, is summoned for interrogation as a witness or an expert, the General Procurator of the Party applied to may arrange for such person to be delivered to the territory of the applicant Party. If charges have been filed, the decision regarding delivery shall be taken by the Minister for Justice of the Contracting Party applied to. A person so delivered shall be kept in custody and returned immediately after interrogation.

2. If need arises for the authorities of the applicant Party to interrogate, as a witness or an expert, a person held in custody in the territory of a third

State, the Minister for Justice of the Party applied to shall authorize the conveyance of such person through the territory of the latter Party, in either direction. The protection defined in article 7 shall also be accorded to a witness or an expert conveyed in transit.

Article 85

DELIVERY OF ARTICLES

1. Articles acquired by the offender through the commission of an extraditable offence, or articles acquired by him as their equivalent, and any other articles in the custody of the authorities of the Party applied to which may serve as evidence in the case shall be delivered to the applicant Contracting Party at its request, even if the offender cannot be extradited by reason of his death or of any other circumstance which precludes his prosecution.

2. If the articles claimed are needed in other criminal proceedings, the Contracting Party applied to may temporarily retain them.

3. These provisions shall not affect the rights of third parties to the articles claimed. After the conclusion of the proceedings, such articles shall be returned free of charge to the Contracting Party applied to for transmittal to the persons entitled to them.

4. The provisions of article 20 shall not apply to the delivery of articles under the preceding paragraphs.

Article 86

NOTIFICATION OF SENTENCES

1. Each Contracting Party shall notify the other Contracting Party of final sentences passed by its courts on nationals of the latter Contracting Party. This provision shall also apply to subsequent decisions relating to such sentences.

2. Notification shall be effected through the exchange at quarterly intervals, by the central authorities of the two Contracting Parties which keep the registers of convictions, of relevant extracts from the said registers.

Article 87

INFORMATION FROM THE REGISTER OF CONVICTIONS

On application by the courts and procurators' offices of one Contracting Party, the central authorities of the other Contracting Party which keep the registers of convictions shall furnish information from the said registers free of charge.

PART III

*FINAL PROVISIONS**Article 88*

1. 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 Warsaw as soon as possible.

2. This Treaty is concluded for a term of five years from the date of its entry into force. It shall be extended automatically for successive terms of five years unless one of the Contracting Parties denounces it six months before the expiry of the current term.

Article 89

On the date of entry into force of this Treaty, the Convention between Poland and Hungary regarding extradition and judicial assistance in criminal matters, signed at Budapest on 24 April 1936,¹ shall cease to have effect.

This Treaty has been drawn up at Budapest on 6 March 1959, in duplicate in the Polish and Hungarian languages, both texts being equally authentic.

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

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

Adam WILLMANN

For the Presidential Council
of the Hungarian People's Republic :

Dr. Ferenc NEZVÁL

¹ League of Nations, *Treaty Series*, Vol. CLXXXI, p. 115.