

**No. 6295**

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**POLAND  
and  
CZECHOSLOVAKIA**

**Treaty concerning the conduct of legal relations in civil,  
family and criminal matters. Signed at Warsaw, on  
4 July 1961**

*Official texts: Polish and Czech.*

*Registered by Poland on 29 August 1962.*

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**POLOGNE  
et  
TCHÉCOSLOVAQUIE**

**Traité concernant les relations juridiques en matière  
civile, familiale et pénale. Signé à Varsovie, le 4 juillet  
1961**

*Textes officiels polonais et tchèque.*

*Enregistré par la Pologne le 29 août 1962.*

## [TRANSLATION — TRADUCTION]

No. 6295. TREATY<sup>1</sup> BETWEEN THE POLISH PEOPLE'S REPUBLIC AND THE CZECHOSLOVAK SOCIALIST REPUBLIC CONCERNING THE CONDUCT OF LEGAL RELATIONS IN CIVIL, FAMILY AND CRIMINAL MATTERS. SIGNED AT WARSAW, ON 4 JULY 1961

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The State Council of the Polish People's Republic and the President of the Czechoslovak Socialist Republic,

Being desirous of further strengthening friendly relations and developing co-operation between the two States and their peoples in the sphere of law as in others, have decided to conclude a Treaty concerning the conduct of legal relations in civil, family and criminal matters, and for this purpose have appointed as their Plenipotentiaries :

The State Council of the Polish People's Republic :

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

The President of the Czechoslovak Socialist Republic :

Mr. Alois Neuman, Minister for Justice of the Czechoslovak Socialist Republic;

who, having exchanged their full powers, found in good and due form, have agreed on the following provisions :

## PART I

## GENERAL PROVISIONS

*Article 1*

## LEGAL PROTECTION

1. Nationals of either Contracting Party shall enjoy in the territory of the other Contracting Party the same legal protection in personal and property matters as nationals of the other Party.

2. Nationals of either Contracting Party shall have free access to the authorities of the other Contracting Party having jurisdiction in civil, family or criminal matters; they may appear, present petitions, institute proceedings and lodge complaints before such authorities and may apply to them for the performance of any other acts necessary for the enforcement of their rights.

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<sup>1</sup> Came into force on 19 April 1962, thirty days after the exchange of the instruments of ratification which took place at Prague on 20 March 1962, in accordance with article 94.

3. The provisions of paragraphs 1 and 2 shall apply, as appropriate, to bodies corporate.

*Article 2*

METHOD OF COMMUNICATION

1. The courts and the procurator's and notarial offices of the Contracting Parties shall communicate with one another directly in so far as legal relations between them are concerned.

2. Other authorities having jurisdiction in civil, family or criminal matters shall communicate with one another through the authorities referred to in paragraph 1.

*Article 3*

LANGUAGES

In communicating with one another under the terms of this Treaty, the authorities of the Contracting Parties shall use their own or the Russian language.

*Article 4*

INFORMATION ON LEGAL QUESTIONS

1. The Ministries of Justice of the Contracting Parties shall transmit to each other all legislation enacted after the entry into force of this Treaty.

2. The Ministries of Justice and the General Procurator's Offices of the Contracting Parties shall provide one another on request with information concerning laws in force or formerly in force in their respective States and concerning legal practice in civil, family and criminal matters.

*Article 5*

TRANSFER OF ARTICLES AND CURRENCY

Where, pursuant to this Treaty, articles or currency are transferred from the territory of one Contracting Party to the territory of the other Contracting Party or to a diplomatic or consular mission of the other Contracting Party, such transfer shall be effected in conformity with the relevant legislation of the Contracting Party to which the authority effecting the transfer belongs.

*Article 6*

REFUSAL TO PERFORM ACTS PURSUANT TO THIS TREATY

The performance of acts pursuant to this Treaty may be refused if such performance might be prejudicial to the sovereignty or security of the Contracting Party applied to.

## PART II

## CIVIL AND FAMILY MATTERS

## Chapter 1

*MATTERS RELATING TO PERSONAL STATUS**Article 7*

## LEGAL CAPACITY OF INDIVIDUALS AND BODIES CORPORATE

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 bodies corporate shall be determined according to the law of the Contracting Party under whose laws they were constituted.

## DECLARATION OF INCAPACITY

*Article 8*

The authorities competent to declare persons incapable shall, save as otherwise provided in this Treaty, be those of the Contracting Party of which the person to be declared incapable is a national. The said authorities shall apply the law of their own State.

*Article 9*

1. If an authority of one Contracting Party finds that grounds exist for declaring incapable a national of the other Contracting Party whose domicile is situated within the said authority's area of jurisdiction, it shall so notify the competent authority of the other Contracting Party.
2. In cases admitting of no delay, the authority referred to in paragraph 1 may make such temporary arrangements as are necessary to protect the person concerned or his property. A copy of the decision concerning such arrangements shall be transmitted to the competent authority of the Contracting Party of which the person concerned is a national.
3. If the authority of the other Contracting Party notified in accordance with paragraph 1 or 2 does not itself institute proceedings, or if it fails to reply within three months, the authority of the place of domicile of the person concerned may conduct the proceedings for a declaration of incapacity in accordance with the laws of its State, provided that it takes such action on grounds for which provision is also made by the law of the Contracting Party of which the said person is a national. The decision concerning the declaration of incapacity shall be communicated to the competent authority of the other Contracting Party.

*Article 10*

The provisions of articles 8 and 9 shall apply, *mutatis mutandis*, to the revocation of a declaration of incapacity.

*Article 11*

## DECLARATION OF PERSONS AS DEAD AND ESTABLISHMENT OF THE FACT OF DEATH

1. The authorities competent to declare a person dead and to establish the fact of death 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. An authority of one Contracting Party may, upon the application of a person domiciled in its territory, declare a national of the other Contracting Party dead or establish the fact of his death if the person making such application is entitled to do so under the law of the Contracting Party to which the said authority belongs.

3. Proceedings for declaring a person dead, or for the establishment of the fact of his death, shall be governed by the law of the Contracting Party of which the person was a national at the time when he was last known to be alive.

## Chapter 2

*FAMILY MATTERS**Article 12*

## MARRIAGE

1. 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.

2. The form of marriage shall be that prescribed by the law of the Contracting Party before an authority of which the marriage is solemnized.

*Article 13*

## PERSONAL AND PROPERTY RELATIONS OF SPOUSES

1. The rights and obligations and the property relations of spouses shall be those prescribed by the law of the Contracting Party of which they are both nationals. The courts having jurisdiction shall be those of the Contracting Party in whose territory the spouses have or last had their domicile.

2. Where one spouse is a national of one Contracting Party and the other a national of the other Contracting Party, the applicable law shall be that of the

Contracting Party in whose territory the spouses have or last had their domicile. The courts of that Contracting Party shall have jurisdiction.

#### Article 14

##### DIVORCE

1. If both spouses are nationals of one Contracting Party, the courts of that Contracting Party shall have jurisdiction in divorce proceedings. If they are domiciled in the territory of the other Contracting Party, the courts of that Contracting Party shall also have jurisdiction. The applicable law in divorce proceedings shall be that of the Contracting Party of which the spouses are nationals on the date of the petition for divorce.

2. If, on the date of the petition for divorce, one spouse is a national of one Contracting Party and the other a national of the other Contracting Party, the courts having jurisdiction shall be those of the Contracting Party in whose territory both spouses have or last had their domicile. The courts shall apply the law of their own State.

#### Article 15

##### ESTABLISHMENT OF THE EXISTENCE OR NON-EXISTENCE OF MARRIAGE; ANNULMENT OF MARRIAGE

1. Where proceedings to establish the existence or non-existence of a marriage or to annul a marriage are instituted on the ground of failure to satisfy the conditions determining capacity to marry, the law applicable under article 12, paragraph 1, shall apply.

2. Where proceedings to establish the existence or non-existence of a marriage or to annul a marriage are instituted on the ground of informality, the applicable law shall be that of the Contracting Party before an authority of which the marriage was solemnized.

3. The provisions of article 14 shall apply, *mutatis mutandis*, in determining which courts have jurisdiction.

#### Article 16

##### PARENTS AND CHILDREN

1. Matters relating to the acknowledgement, establishment or denial of paternity or maternity, to parental authority and to the personal status of a child shall be governed by the law of the Contracting Party of which the child is a national.

2. In the matters specified in paragraph 1, the authorities having jurisdiction shall be those of the Contracting Party of which the child is a national.

Where, however, both parties in an action are domiciled in the territory of one Contracting Party, the authorities of that Contracting Party shall also have jurisdiction.

### Article 17

#### MAINTENANCE OBLIGATIONS

1. Maintenance obligations as between relatives, between persons whose marriage has been dissolved or annulled, or between an adopted person and his adopter shall be governed by the law of the Contracting Party of which the person entitled to maintenance is a national.

2. In the matters specified in paragraph 1, the courts having jurisdiction shall be those of the Contracting Party in whose territory the person entitled to maintenance is domiciled.

### Article 18

#### ADOPTION

1. Matters relating to adoption shall be governed by the law of the Contracting Party of which the adopter is a national.

2. Adoption shall be subject to the consent of the child to be adopted or of another person or an authority if the law of the Contracting Party of which the child is a national so prescribes.

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 conditions prescribed by the law of both Contracting Parties must be satisfied.

4. In matters relating to adoption, the authority having jurisdiction shall be that of the Contracting Party of which the adopter is a national; in the case specified in paragraph 3, the authority having jurisdiction shall be that of the Contracting Party in whose territory both spouses are domiciled.

5. The provisions of this article shall also apply, *mutatis mutandis*, to the annulment or termination of adoption.

#### GUARDIANSHIP AND CURATORSHIP

### Article 19

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

2. The institution and termination of guardianship or curatorship shall be governed by the law of the Contracting Party of which the ward or prospective ward is a national.

3. The legal relations between a guardian or curator and his ward shall be governed by the law of the Contracting Party whose authority instituted the guardianship or curatorship.

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

5. A national of one Contracting Party may be appointed the guardian or curator of a person domiciled in the territory of the other Contracting Party if he is domiciled in the territory of the Contracting Party in which the guardianship or curatorship is to be exercised and his appointment is in the best interests of his ward.

#### *Article 20*

1. Where need arises to provide for guardianship or curatorship in the interests of a national of one Contracting Party whose domicile or property is in the territory of the other Contracting Party, the authority of such other Contracting Party shall at once notify the authority having jurisdiction under article 19, paragraph 1.

2. In cases admitting of no delay, the authority of such other Contracting Party may take appropriate temporary measures under the law of its own State, provided that it at once notifies the authority having jurisdiction under article 19, paragraph 1. Such measures shall remain in effect until such time as the latter authority decides otherwise.

3. The measures referred to in paragraph 2 may also be taken in the interests of a person whose place of residence is unknown and who has no one to represent him.

#### *Article 21*

1. The authority having jurisdiction under article 19, paragraph 1, may transfer guardianship or curatorship to an authority of the other Contracting Party if the ward has his domicile or owns property in the territory of the latter Contracting Party. The transfer shall become effective when the authority receiving the request for transfer assumes the guardianship or curatorship and notifies the requesting authority accordingly.

2. The authority assuming guardianship or curatorship in accordance with paragraph 1 shall exercise it in the manner prescribed by the law of its own State. However, in the matter of 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 of personal status, but it may grant permission to contract marriage.



## Chapter 3

*SUCCESSION**Article 22*

## LAW OF SUCCESSION

1. Legal relations in matters of succession shall be governed by the law 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 capacity of nationals of that Party to succeed to such property, the said restrictions shall also apply to nationals of the other Contracting Party.

*Article 23*

## PRINCIPLE OF EQUALITY

Nationals of one Contracting Party shall, in the territory of the other Contracting Party, be placed on a footing of equality with nationals of the latter Party as regards the capacity to make or revoke wills and as regards the capacity to succeed to property or rights, irrespective of whether the property is situated or the rights originated in the territory of the one or the other Contracting Party.

*Article 24*

## WILLS

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

2. The form of 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 Contracting Party in whose territory the testamentary disposition was made is complied with. The same shall apply to the revocation of testamentary dispositions.

*Article 25*

## JURISDICTION IN MATTERS OF SUCCESSION

1. Proceedings in matters of succession to movable property shall, with the exception specified in paragraph 3 below, be conducted by the authorities of the Contracting Party of which the decedent was a national at the time of his death.

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

3. If the entire movable estate is situated in the territory of one Contracting Party, the proceedings shall, upon petition by an heir or legatee, and subject to the consent of all heirs and legatees, be conducted by the authorities of that Contracting Party.

4. The provisions of paragraphs 1-3 shall also apply in determining which authorities have jurisdiction in disputes concerning succession.

### *Article 26*

#### NOTIFICATION OF DEATH

1. If a national of one Contracting Party dies in the territory of the other Contracting Party, the competent authority of the latter Party shall immediately notify the diplomatic or consular mission of the former Contracting Party of such death, communicating at the same time 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. The same shall apply where the competent authority of one Contracting Party learns that property has been left in the territory of that Party by a national of the other Contracting Party who has died in the territory of a third State. If the authority of the Contracting Party in whose territory a person has died and left property has knowledge that he has left property in the territory of a third State as well, it shall also furnish particulars in that regard.

2. If the diplomatic or consular mission is the first to learn of the death of a national of its State and to receive particulars concerning the estate, it shall so inform the authority competent to take measures for the protection of the estate.

3. If in the course of succession proceedings in the territory of one Contracting Party it is found that an heir or legatee is a national of the other Contracting Party, the competent authority shall immediately so inform the diplomatic or consular mission of the latter Party.

### *Article 27*

#### COMPETENCE OF DIPLOMATIC AND CONSULAR MISSIONS

The diplomatic or consular mission of each Contracting Party shall be entitled, without any special power of attorney, to represent its nationals in succession proceedings before the authorities of the other Contracting Party if such nationals are not present and have not appointed a representative.

*Article 28*

## PROTECTION OF THE ESTATE

1. The authorities of each Contracting Party shall, in accordance with the law of their State, take such measures as are necessary to ensure the protection or administration of property situated in their territory which has been left by a deceased national of the other Contracting Party or is to descend to a national of that Party.

2. The competent authorities shall immediately inform the diplomatic or consular mission of the other Contracting Party concerning the measures taken under paragraph 1; the diplomatic or consular mission may participate, either directly or through its representative, in carrying out such measures.

3. At the request of the diplomatic or consular mission, the competent authorities may modify or rescind the measures that have been taken.

## OPENING OF WILLS

*Article 29*

The opening and publication of a will shall be within the jurisdiction of the authorities of the Contracting Party in whose territory the will is to be found. A certified copy of the will and of the minute concerning the opening and publication thereof shall be transmitted to the authority competent to conduct the succession proceedings.

*Article 30*

1. An authority of either Contracting Party which has in its keeping the will of a person who at the time of his death was a national of that Party shall deliver a certified copy of the will to the authority competent to take measures for the protection of the estate if the latter authority so requests.

2. An authority of either Contracting Party which has a will in its keeping shall, upon request, transmit such will to the authority of the other Contracting Party if the testator was a national of the latter Party or if the authority of that Party is competent to deal with a dispute concerning the validity of the will.

## DELIVERY OF THE ESTATE

*Article 31*

1. Movable property of an estate or proceeds from the sale of movable or immovable property of an estate situated in the territory of one Contracting Party shall, after the completion of succession proceedings, be delivered to those

heirs or legatees who are nationals of the other Contracting Party. If the said heirs or legatees are not present and have not appointed representatives, such property or proceeds shall be delivered to the diplomatic or consular mission of the Contracting Party of which the heirs or legatees are nationals.

2. Delivery in accordance with paragraph 1 shall take place if :

- (a) The claims of creditors of the deceased and other claims against the estate have been paid or secured after having been presented within the period prescribed by the law of the Contracting Party in whose territory the estate or the proceeds from the sale thereof are situated.
- (b) The estate duties and charges have been paid or secured.

#### *Article 32*

If the movable estate left by a national of one Contracting Party who dies in the territory of the other Contracting Party is insignificant in value and none of the persons having rights to the estate is domiciled in the territory of the latter Contracting Party or has appointed a representative in that territory, the said movable estate shall be delivered without the necessity of succession proceedings to the diplomatic or consular mission of the Contracting Party of which the deceased was a national. Before delivering the movable estate to the heirs, the diplomatic or consular mission shall pay or secure, up to the value of the said estate, such claims of creditors of the deceased as are presented within one month of the date on which it received the said estate.

#### *Article 33*

If a national of one Contracting Party not domiciled in the territory of the other Contracting Party dies while travelling in such territory, his personal effects shall be delivered without the necessity of succession proceedings to the diplomatic or consular mission of the Contracting Party of which he was a national.

### Chapter 4

#### *PROPERTY MATTERS*

#### *Article 34*

##### 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. Legal transactions relating to immovable property shall be governed by the law of the Contracting Party in whose territory such property is situated.

### *Article 35*

#### IMMOVABLE PROPERTY

1. In matters relating to real rights to immovable property or to other rights affecting immovable property, the courts having jurisdiction shall be those of the Contracting Party in whose territory such property is situated. The courts shall apply the law of their own State.

2. The provisions of paragraph 1 shall not apply to property relations between spouses or to matters of succession dealt with in articles 13 and 22.

### *Article 36*

Liabilities arising from an unlawful act or from any other event entailing an obligation to make compensation for damage shall be governed by the law of the Contracting Party in whose territory such act or event occurs. The courts of the said Contracting Party shall have jurisdiction. The injured party may also institute proceedings in a court of the Contracting Party in whose territory the defendant is domiciled or has property.

## Chapter 5

### LEGAL COSTS

#### *Article 37*

##### EXEMPTION FROM DEPOSIT OF SECURITY FOR LEGAL COSTS

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

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

3. A court of one Contracting Party may require nationals of the other Contracting Party appearing before it to pay a deposit towards legal costs under

the same conditions and to the same extent that it requires its own nationals to do so.

4. The provisions of paragraphs 1-3 shall apply *mutatis mutandis*, to bodies corporate.

#### EXEMPTION FROM PAYMENT OF LEGAL COSTS

##### *Article 38*

Nationals of either Contracting Party shall be entitled in the territory of the other Contracting Party to exemption from charges, deposits and other legal costs and to free legal counsel under the same conditions and to the same extent as nationals of the latter Contracting Party.

##### *Article 39*

1. Entitlement to the benefits referred to in article 38 shall be conditional upon the submission of a certificate relating to personal and family status, property and income issued by the competent authority of the Contracting Party in whose territory the applicant is domiciled or resident.

2. If the applicant is not domiciled or resident in the territory of either Contracting Party, a certificate issued by the diplomatic or consular mission of his State shall suffice.

3. The authority competent to issue the certificate specified in paragraph 1 may request the authorities of the other Contracting Party to furnish any necessary additional information.

4. The authority ruling on an application for the grant of the benefits referred to in article 38 may request additional information from the authority which issued the certificate.

##### *Article 40*

1. Where nationals of the Contracting Parties who are domiciled or resident in the territory of one Contracting Party wish to apply to an authority of the other Contracting Party for the benefits referred to in article 38, they may make such application in the form of a statement before the competent authority of the place where they are domiciled or resident, which shall draw up a record of the statement. The said authority shall transmit such record to the competent authority of the other Contracting Party together with the certificate referred to in article 39, paragraph 1, and any other documents submitted by the applicant.

2. A complaint or other application for the institution of proceedings may be entered in the record at the same time as the application referred to in paragraph 1.

*Article 41*

The grant of exemption from charges, deposits and other legal costs and the provision of free legal counsel shall apply to all proceedings instituted in the same case up to its final determination, including enforcement proceedings. This provision shall also apply where further proceedings in the same case are conducted before another authority of the same or the other Contracting Party.

*Article 42*

Where an authority of one Contracting Party calls upon a party to proceedings who is domiciled or temporarily present in the territory of the other Contracting Party to pay legal costs or to remedy a defect in a complaint or application, it shall at the same time set a time-limit of not less than one month. The time-limit shall be reckoned from the date of the service of process.

## Chapter 6

*RECOGNITION AND ENFORCEMENT OF JUDGEMENTS**Article 43*

## RECOGNITION OF JUDGEMENTS IN MATTERS NOT RELATING TO PROPERTY

Final judgements rendered by the authorities of one Contracting Party in civil and family matters not relating to property shall be recognized in the territory of the other Contracting Party without the necessity of holding formal proceedings for recognition, except where an authority of the latter Party has previously rendered a final judgement in the matter or where the authority which rendered the judgement did not have jurisdiction under this Treaty.

## ENFORCEMENT OF JUDGEMENTS IN MATTERS RELATING TO PROPERTY

*Article 44*

Each Contracting Party shall authorize the enforcement in its territory of such final judgements rendered by authorities of the other Contracting Party as relate to :

- (a) Property claims in civil and family matters;
- (b) Civil claims in criminal proceedings.

*Article 45*

A judgement shall be enforced if :

- (a) It is final and enforceable;
- (b) The authority which rendered the judgement had jurisdiction under this Treaty;
- (c) The respondent was not denied the opportunity to take part in the proceedings or, in the case of persons not entitled to participate in legal proceedings, denied proper representation;
- (d) The judgement does not conflict with an earlier judgement which has become final, which was rendered in an action between the same parties relating to the same claim and on the same legal grounds by a court of the Contracting Party in whose territory enforcement is sought, and which does not relate to an action instituted previously which is the subject of proceedings before a court of that Contracting Party; this provision shall not apply if there has been a substantial change in the material circumstances which formed the basis for the earlier judgement and have led to the rendering of the new judgement;
- (e) The law applied in rendering the judgement was the law applicable under this Treaty, or, if the law applied was that of the Contracting Party whose authority rendered the judgement, such law was essentially the same as that of the other Contracting Party.

*Article 46*

## JURISDICTION OF COURTS

The courts competent to authorize enforcement shall be those of the Contracting Party in whose territory enforcement is sought.

*Article 47*

## APPLICATIONS FOR AUTHORIZATION OF ENFORCEMENT

1. An application for authorization of enforcement may be made direct to the competent court of the Contracting Party in whose territory enforcement is sought or to the court which heard the case at first instance. The latter court shall transmit the application to the court of the other Contracting Party having jurisdiction at the place where the respondent is domiciled.

2. An application for authorization of enforcement shall be accompanied by :

- (a) A certified copy of the judgement, together with a statement of the grounds on which it is based and a certificate to the effect that it is final and enforceable;



- (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) A translation of the application and of the accompanying documents referred to in sub-paragraphs (a) and (b).

### *Article 48*

#### CONSIDERATION OF APPLICATIONS

1. The enforcement of judgements shall be governed by the law of the Contracting Party in whose territory enforcement is sought.

2. The court ruling on an application for authorization of enforcement shall confine itself to determining whether the conditions specified in article 45 and article 47, paragraph 2, have been satisfied.

3. Before ruling on the application, the court may call upon the parties to supplement the application or to provide information concerning the case. The court may also request additional information from the authority which rendered the judgement.

### *Article 49*

#### OBJECTIONS BY THE RESPONDENT

The court considering the application for authorization of enforcement shall permit the respondent to state his objections either to such authorization or to the claim upheld by the judgement, provided that such objections are admissible under the law of the Contracting Party in whose territory the judgement was rendered.

### *Article 50*

#### SUSPENSION OF ENFORCEMENT

Where, either because the case has been reopened or because a petition has been filed for review of the case on a question of law, enforcement is suspended in the territory of the Contracting Party whose authority rendered the judgement, consideration of the application for authorization of enforcement or, if such authorization has already been issued, enforcement shall also be suspended in the territory of the other Contracting Party.

### *Article 51*

#### COSTS OF TRANSLATION AND CERTIFICATION OF DOCUMENTS

The costs of translation and certification of documents accompanying applications for authorization of enforcement shall, upon their recovery from the

respondent, be refunded to the person who incurred them. The said costs shall be determined by the competent authority of the Contracting Party in whose territory they were incurred.

### *Article 52*

#### JUDICIAL SETTLEMENTS

The provisions of articles 44-51 of this Treaty shall apply, *mutatis mutandis*, to judicial settlements.

#### ENFORCEMENT OF AWARDS OF LEGAL COSTS

### *Article 53*

1. If a litigant exempt under article 37, paragraph 1 or 2, from depositing security for legal costs is required in pursuance of a final decision to pay such costs, the competent court of the other Contracting Party shall, on the application of the person entitled to repayment, issue without charge authorization for the enforcement of the award.

2. The application shall be submitted in the manner prescribed in article 47, paragraph 1.

### *Article 54*

1. The application for authorization of the enforcement of an award of costs shall be accompanied by a certified copy of the decision fixing the costs, a certificate to the effect that the decision is final and enforceable, and a translation of these documents into the language of the Contracting Party in whose territory enforcement is sought.

2. The court considering the application for authorization of the enforcement of the award shall confine itself to determining whether the requirements specified in paragraph 1 have been complied with.

3. The provisions of article 51 shall apply with respect to the costs of translation and certification of documents.

### *Article 55*

The court ruling on authorization of the enforcement of an award of costs shall render its decision without hearing the parties; the court shall also render a decision on recovery of the costs referred to in article 51.

### *Article 56*

1. The authority of the Contracting Party in whose territory legal costs were advanced by the State shall apply to the competent court of the other

Contracting Party for recovery of such costs. The said court shall conduct enforcement proceedings and transmit the sum recovered to the diplomatic or consular mission of the other Contracting Party.

2. The application shall be accompanied by a certified copy of the decision fixing the costs, a certificate to the effect that the decision is final and enforceable, and a translation of these documents into the language of the Contracting Party in whose territory enforcement is sought.

3. The provisions of article 51 shall apply with respect to the costs of translation and certification of documents.

#### *Article 57*

The calculation and recovery of costs arising in connexion with enforcement shall be governed by the law of the Contracting Party in whose territory enforcement is sought.

### PART III

## CRIMINAL CASES

### *EXTRADITION AND CONVEYANCE IN TRANSIT*

#### *Article 58*

#### OBLIGATION TO EXTRADITE

1. Each Contracting Party shall extradite to the other on application, under the conditions laid down in this Treaty, persons in its territory whose presence is required for the purpose of criminal prosecution or for the execution of a sentence.

2. Extradition shall be admissible only for offences which, under the law of both Contracting Parties, are punishable with deprivation of liberty for a term of not less than one year or with a heavier penalty, and for the execution of final sentences imposing such penalties.

#### REFUSAL OF EXTRADITION

#### *Article 59*

Neither Contracting Party shall extradite to the other its own nationals.

#### *Article 60*

Extradition shall, moreover, not take place if :

(a) The offence was committed in the territory of the Contracting Party applied to;

- (b) Under the law of the Contracting Party applied to, exemption from prosecution or punishment has been acquired by lapse of time or for other legal reasons;
- (c) The person claimed is already being prosecuted in the territory of the Contracting Party applied to for the same offence, or he has been sentenced or discharged in respect thereof and such sentence or discharge has become final;
- (d) Criminal proceedings may be initiated only by way of private complaint.

### *Article 61*

#### CONCURRENT REQUISITIONS FOR EXTRADITION

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

### *Article 62*

#### REQUISITION FOR EXTRADITION AND ACCOMPANYING DOCUMENTS

1. A requisition for extradition, where extradition is requested for purposes of execution of a sentence, shall be accompanied by a certified copy of the final sentence and the text of the legislative provisions relating to the offence committed by the convicted person. If the convicted person has already begun to serve the sentence, the part thereof already served shall be indicated.

2. A requisition for extradition, where extradition is requested for purposes of prosecution, shall be accompanied by a certified copy of the warrant of arrest, a description of the offence committed by the person claimed, and the text of the legislative provisions relating to the offence. In the case of an offence against property, the extent or possible extent of the damage caused by the offence shall also be specified.

3. The requisition for extradition shall also be accompanied, so far as possible, by a personal description of the person claimed; information concerning his nationality, identity and residence, where such information is not to be found in the sentence or the warrant of arrest; and his photograph and finger-prints.

### *Article 63*

#### INFORMATION TO SUPPLEMENT A REQUISITION FOR EXTRADITION

1. If the information received is insufficient to permit a decision on a requisition for extradition, the Contracting Party applied to may request sup-

plementary information, for the receipt of which it may fix a time-limit of up to two months. This time-limit may be extended for serious reasons.

2. If the person to whom the requisition relates has been taken into custody and the applicant Contracting Party fails to transmit the supplementary information within the specified time-limit, the said person may be released.

#### DETENTION PENDING EXTRADITION

##### *Article 64*

Upon receipt of a requisition for extradition, the Contracting Party applied to shall take immediate steps to detain the person claimed, save in cases where it is apparent that extradition may not take place under this Treaty.

##### *Article 65*

1. A person may also be detained pending receipt of a requisition for extradition if the applicant Contracting Party makes an application to that effect, specifying that there exists a warrant of arrest or a final sentence; an application for detention may be made by post, telegraph, telephone or wireless.

2. A person may also be detained in the absence of the application referred to in paragraph 1 if there is sufficient evidence that he has committed an extraditable offence in the territory of the other Contracting Party.

3. Where a person has been detained in accordance with paragraph 1 or 2, the other Contracting Party shall be notified immediately.

##### *Article 66*

A person detained in accordance with article 65, paragraph 1 or 2, may be released if a requisition for his extradition is not received within a period of two months from the date on which notification of his detention was sent.

##### *Article 67*

#### POSTPONEMENT OF EXTRADITION

If the person claimed is being prosecuted for or has been convicted of another offence in the territory of the Contracting Party applied to, his extradition may be postponed until the termination of the proceedings or the execution or remission of the sentence.

*Article 68*

## TEMPORARY EXTRADITION

1. If postponement of extradition under article 67 might result in exemption from prosecution being acquired by lapse of time or might seriously prejudice the prosecution of the person claimed, the said person may be extradited temporarily on receipt of an application for such extradition with statement of grounds.

2. A person who has been temporarily extradited shall be returned immediately after the completion of the proceedings for the purpose of which he was extradited.

*Article 69*

## SURRENDER

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

*Article 70*

## RE-EXTRADITION

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

*Article 71*

## LIMITS TO THE PROSECUTION OF EXTRADITED PERSONS

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

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 Contracting Party within one month after the conclusion of the criminal proceedings or the execution of the sentence; such period of one month shall not be deemed to include any period of time during which the extradited person is unable through no fault of his own to quit the territory of the applicant Contracting Party;

- (b) The extradited person quits the territory of the applicant Contracting Party but returns thereto.

### *Article 72*

#### CONVEYANCE IN TRANSIT

1. Each Contracting Party shall, on the application of the other Contracting Party, authorize the conveyance through its territory of any person extradited by a third State to the other Contracting Party.
2. Each Contracting Party shall, on the application of the other Contracting Party, authorize the conveyance through its territory in both directions, for purposes of interrogation by an authority of the applicant Contracting Party, of any person held in custody in the territory of a third State.
3. An application for authorization of conveyance in transit shall be made in the same manner as a requisition for extradition.

### *Article 73*

#### COSTS OF EXTRADITION AND CONVEYANCE IN TRANSIT

The costs of extradition and conveyance in transit shall be borne by the Contracting Party in whose territory they were incurred.

### *Article 74*

#### OBLIGATION TO PROSECUTE

1. Each Contracting Party shall, on the application of the other Contracting Party, prosecute under its own law any of its nationals who are believed on the basis of sufficient evidence to have committed an extraditable offence in the territory of the latter Contracting Party.
2. The application shall be accompanied by documents containing particulars concerning the offence and the identity of the offender and by whatever material evidence is available.

### *Article 75*

#### NOTIFICATION OF RESULTS OF PROSECUTION

Each Contracting Party shall inform the other of the results of proceedings taken against persons extradited to it and of proceedings taken against its own nationals in respect of extraditable offences committed in the territory of the other Contracting Party. If such persons are sentenced, a copy of the sentence shall be transmitted after it has become final.

*Article 76*

## METHOD OF COMMUNICATION

In matters relating to extradition, conveyance in transit and prosecution, the Ministries of Justice and the General Procurator's Offices of the Contracting Parties shall communicate with each other directly. The same shall apply to notification under article 75.

*Article 77*

## DELIVERY OF ARTICLES

1. Each Contracting Party shall deliver to the other, on application, any articles taken from an offender which were acquired by him through the commission of the offence, or the value of such articles, and also articles which may serve as material evidence, even where they are liable to confiscation or forfeiture.

2. Where the articles referred to in paragraph 1 are needed in another criminal proceeding, the Contracting Party applied to may temporarily retain them.

3. Where the articles referred to in paragraph 1 are in the possession of the offender at the time of his extradition, they shall, so far as possible, be delivered simultaneously with such extradition. Such articles shall be delivered even in cases where the offender is not extradited by reason of his death or other circumstances. Articles concealed or deposited by the offender in the territory of the Contracting Party applied to shall also be delivered, even if they are discovered at a later time.

4. These provisions shall not affect the rights of third parties to the articles referred to in paragraph 1, and the said articles shall be returned free of charge as soon as the criminal proceedings have been completed.

5. The provisions of article 5 shall not apply to the delivery of articles in accordance with the preceding paragraphs.

*Article 78*

## NOTIFICATION OF DETENTION

Where a national of one Contracting Party is placed in custody in the territory of the other Contracting Party, the competent diplomatic or consular mission shall be notified immediately.

*Article 79*

## NOTIFICATION OF SENTENCES

1. Each Contracting Party shall directly communicate to the other Contracting Party each year particulars of final sentences pronounced in criminal



proceedings by its courts with respect to nationals of the other Contracting Party and information concerning subsequent decisions relating to such sentences.

2. Each Contracting Party shall transmit to the other Contracting Party, on application, copies of records of previous convictions or extracts from final sentences relating to nationals of the other Contracting Party, as well as information concerning subsequent decisions relating to such sentences, if the relevant convictions are subject to registration in the register of convictions under the law of the Contracting Party whose authority handed down the decision. Where valid reason exists for doing so, such information may also be provided even if the person to whom the decision relates is not a national of the applicant Contracting Party.

3. In the cases referred to in paragraphs 1 and 2, the finger-prints of the convicted persons shall, where possible, be transmitted.

#### PART IV

### LEGAL ASSISTANCE IN CIVIL, FAMILY AND CRIMINAL MATTERS

#### *Article 80*

##### PROVISION OF LEGAL ASSISTANCE

The courts, procurator's offices, notarial offices and other authorities of the Contracting Parties having jurisdiction in civil, family and criminal matters shall provide one another with legal assistance in such matters.

#### *Article 81*

##### CONTENTS OF APPLICATIONS FOR LEGAL ASSISTANCE

1. Applications 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 designation of the matter in respect of which legal assistance is applied for;
  - (d) The given names and surnames of the parties or of the persons accused, on trial or convicted, such persons' domicile or residence, nationality and occupation, and in criminal cases, where possible, the place and date of birth of the accused persons and the names of their parents;
  - (e) The given names, surnames and addresses of such persons' legal representatives;
  - (f) The subject of the application, any information required for its execution, and, in criminal cases, a description and the designation of the offence.

2. Papers and documents transmitted in pursuance of this Treaty shall be signed and bear an official seal.

### *Article 82*

#### PROCEDURE FOR EXECUTING APPLICATIONS

1. In executing an application for legal assistance, the authority of the Contracting Party applied to shall follow the laws of its own State. It may, however, if requested to do so, employ such procedures as the applicant authority may indicate.

2. If the authority applied to does not have jurisdiction, it shall transmit the application to the competent authority and shall notify the applicant authority accordingly.

3. If the exact address of the person named in an application is not known, the authority applied to shall take the necessary steps to determine such address.

4. The authority applied to shall, at the request of the applicant authority, notify the latter in due time of the place and date of execution of the application.

5. After executing an application for legal assistance, the authority applied to shall return the documents to the applicant authority; if it has not been able to execute the application, it shall return the documents and shall at the same time indicate the circumstances which prevented such execution.

#### PROTECTION OF WITNESSES AND EXPERTS

### *Article 83*

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

2. Such summons shall contain no threat of compulsion in the event of failure to appear.

3. No person of whatsoever nationality who, in response to a summons, appears as a witness or an expert before an authority of the other Contracting Party, may be prosecuted, detained or punished in the territory of that Party for the offence which is the subject of the proceedings in connexion with which he was summoned, for any other offence committed before he crossed the frontier of the applicant Contracting Party, or for any offence resulting from his testimony.

4. The witness or expert shall forfeit the protection provided for in paragraph 3 if he fails to quit the territory of the applicant Contracting Party within one week from the date on which the authority by which he was summoned informs him that his presence is no longer necessary. Such period of one week

shall not be deemed to include any period of time during the witness or expert is unable, for reasons beyond his control, to quit the territory of the said Contracting Party.

5. The applicant authority shall reimburse witnesses and experts for their travel and subsistence costs and for loss of earnings and shall, in addition, remunerate experts for their testimony.

#### *Article 84*

1. Where need arises for the interrogation by a court of one Contracting Party of a person held in custody in the territory of the other Contracting Party, application may be made for his temporary delivery.

2. A person so delivered shall be kept in custody and shall be returned immediately upon the completion of the proceedings in connexion with which he was delivered. Such person shall be accorded the protection provided for in article 83, paragraph 3.

3. The application shall be transmitted through the authorities referred to in article 76.

#### *Article 85*

##### SERVICE OF DOCUMENTS

1. In serving documents, the authority applied to shall comply with the regulations in force in its own State, provided that the document to be served is drawn up in the language of the Contracting Party applied to or is accompanied by a translation into that language. Otherwise, the authority applied to shall deliver the document to the recipient if he is willing to accept it.

2. Where the applicant authority expressly so requests, the authority applied to shall ensure, in accordance with the regulations in force in the territory of the Contracting Party applied to, that the document in question is delivered into the recipient's own hands.

#### *Article 86*

##### CONFIRMATION OF SERVICE

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

#### *Article 87*

##### COMPLIANCE WITH TIME-LIMITS

1. Where an authority of one Contracting Party imposes on a litigant domiciled in the territory of the other Contracting Party a time-limit for the perform-

ance of an act connected with the proceedings, the question whether such time-limit has been complied with shall be decided by reference to the date of the postmark of the Party from whose territory the instrument embodying the said act is dispatched.

2. Where charges or deposits whose payment is required by the authority dealing with a matter are to be transferred to the territory of the other Contracting Party within a specified time-limit, the question whether such time-limit has been complied with shall be decided by reference to the date on which payment is made to a bank of the Contracting Party in whose territory the litigant is domiciled.

3. The consequences of failure to comply with a time-limit shall be those prescribed by the law of the Contracting Party whose authority is dealing with the matter.

#### *Article 88*

##### DETERMINATION OF ADDRESSES

Where necessary for the purposes of proceedings under this Treaty, the Ministries of Justice of the Contracting Parties shall, at the request of persons present in the territory of one Contracting Party, assist each other in determining the addresses of persons present in the territory of the other Contracting Party.

#### *Article 89*

##### TRANSLATIONS

Where, under the provisions of this Treaty, papers or documents transmitted by one Contracting Party must be accompanied by a translation into the language of the other Contracting Party, such translation shall be made by an official translator, by the applicant authority or by the diplomatic or consular mission of one of the Contracting Parties.

#### *Article 90*

##### COSTS OF LEGAL ASSISTANCE

1. Costs incurred in executing applications for legal assistance shall be borne by the Contracting Party applied to.

2. The authority applied to shall inform the applicant authority of the amount of the costs incurred.

PART V  
DOCUMENTS

*Article 91*

ATTESTATION AND RECOGNITION OF DOCUMENTS

Documents drawn up by a competent authority of one Contracting Party or attested in accordance with its regulations, and bearing an official seal, shall have evidential value in the territory of the other Contracting Party without further authentication. The same shall apply to documents bearing a signature attested in accordance with the regulations of either Contracting Party.

TRANSMITTAL OF CIVIL REGISTRATION CERTIFICATES AND OTHER DOCUMENTS

*Article 92*

1. Each Contracting Party shall transmit to the other Contracting Party copies of marriage and death certificates relating to nationals of the latter Party and copies of judicial and administrative decisions relating to the civil status of the said nationals. Such copies shall be transmitted free of charge through the diplomatic or consular mission.

2. The provisions of paragraph 1 shall also apply where an additional entry is made in a civil registration certificate; in such cases, a complete copy of the certificate shall be transmitted.

3. Copies of death certificates shall be transmitted forthwith, and copies of other documents shall be transmitted together at the end of each quarter.

4. The Contracting Parties shall on request transmit to each other free of charge, for official use, extracts from civil registration certificates and other documents relating to the personal rights and interests of nationals of the Contracting Parties.

*Article 93*

Applications by nationals of one 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 transmitted directly to the competent authority of the latter Party. The desired documents shall be transmitted to the applicant, subject to payment of the prescribed fees, through the diplomatic or consular mission of the Contracting Party whose authority released the said documents.

## PART VI

## FINAL PROVISIONS

*Article 94*

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

*Article 95*

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

*Article 96*

On the date of entry into force of this Treaty, the Agreement between the Republic of Poland and the Czechoslovak Republic concerning mutual legal relations in civil and criminal cases, signed at Warsaw on 21 January 1949,<sup>1</sup> and the Additional Protocol to that Agreement, signed at Warsaw on 21 January 1949,<sup>1</sup> shall cease to have effect.

This Treaty was drawn up at Warsaw on 4 July 1961, in duplicate in the Polish and Czech languages, both texts being equally authentic.

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

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

M. RYBICKI

For the President  
of the Czechoslovak Socialist  
Republic :

A. NEUMAN

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<sup>1</sup> United Nations, *Treaty Series*, Vol. 31, p. 205.