

No. 6313

CZECHOSLOVAKIA
and
HUNGARY

Treaty regulating legal relations in civil, family and criminal cases. Signed at Prague, on 2 November 1961

Official texts: Czech and Hungarian.

Registered by Czechoslovakia on 26 September 1962.

TCHÉCOSLOVAQUIE
et
HONGRIE

Traité régissant les relations juridiques en matière civile, familiale et pénale. Signé à Prague, le 2 novembre 1961

Textes officiels tchèque et hongrois.

Enregistré par la Tchécoslovaquie le 26 septembre 1962.

[TRANSLATION — TRADUCTION]

No. 6313. TREATY¹ BETWEEN THE CZECHOSLOVAK SOCIALIST REPUBLIC AND THE HUNGARIAN PEOPLE'S REPUBLIC REGULATING LEGAL RELATIONS IN CIVIL, FAMILY AND CRIMINAL CASES. SIGNED AT PRAGUE, ON 2 NOVEMBER 1961

The President of the Czechoslovak Socialist Republic and
The Presidential Council of the Hungarian People's Republic,

Desiring to strengthen and develop friendly relations between the two countries and their peoples as fully as possible in the sphere of legal co-operation as in others, have decided to conclude a Treaty regulating legal relations in civil, family and criminal cases and for that purpose have appointed as their Plenipotentiaries :

The President of the Czechoslovak Socialist Republic :

Dr. Alois Neuman, Minister for Justice;

The Presidential Council of the Hungarian People's Republic :

Dr. Ferenc Nezvál, Minister for Justice,

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 and bodies corporate (hereinafter called "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.

2. Nationals of either Contracting Party may appear, institute proceedings, present petitions and complaints, make motions and apply for the performance of other acts required in order to establish their rights, before the authorities

¹ Came into force on 8 July 1962, thirty days after the exchange of the instruments of ratification which took place at Budapest on 7 June 1962, in accordance with article 86.

of the other Contracting Party having jurisdiction in civil, family and criminal cases, under the same conditions as nationals of the latter Contracting Party.

Article 2

LEGAL ASSISTANCE

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

Article 3

METHOD OF COMMUNICATION

In providing legal assistance, the courts and the procurators' and State notaries' offices of the Contracting Parties shall communicate with one another directly; other authorities having jurisdiction in civil, family and criminal cases shall provide one another with legal assistance through the courts.

Article 4

SCOPE OF LEGAL ASSISTANCE

The two Contracting Parties shall provide each other with legal assistance by performing specific acts required in connexion with judicial proceedings, in particular, by transmitting or delivering material evidence, by furnishing and transmitting documents, by obtaining expert opinions, by interrogating accused persons, witnesses, experts, litigants and other persons, by carrying out judicial inspections *in situ*, by serving documents and by seizing articles.

Article 5

CONTENTS OF APPLICATIONS FOR LEGAL ASSISTANCE

1. Applications must contain the following particulars :

- (a) The title of the authority making the application;
- (b) The title of the authority to which the application is made;
- (c) The title of the case in respect of which legal assistance is applied for;
- (d) The given names and surnames (titles) of the parties or of the accused or convicted persons, their domicile or residence (head office), their nationality, their 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 the legal representatives;

- (f) The subject of the application and the information required for its execution;
- (g) In criminal cases, a description and definition of the offence.
2. In making application, the Contracting Parties shall use bilingual forms.
 3. Documents transmitted under this Treaty shall bear an official seal and a signature.

Article 6

PROCEDURE FOR EXECUTING APPLICATIONS FOR LEGAL ASSISTANCE

1. In executing an application, the authority applied to shall follow the laws of its own State. However, it may, if requested to do so, employ judicial procedures in effect in the State of the applicant authority.
2. If the authority applied to is not competent in the matter, it shall transmit the application to the competent authority and shall notify the applicant authority accordingly.
3. If the exact address of a person specified in the application is not known, the authority applied to shall take appropriate steps to determine such address; if it is unable to determine the address, it shall so inform the applicant authority and shall at the same time return the application.
4. The authority applied to shall, if the applicant authority so requests, notify the latter in due time of the date and place of execution of the application.
5. After executing an application, the authority applied to shall return the relevant documents to the applicant authority; if it has not been possible to execute the application, the authority applied to shall return the documents and shall at the same time indicate the circumstances which prevented such execution.

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 one Contracting Party, appears as a witness or an expert before an applicant authority of the other Contracting Party may be prosecuted or punished for the offence which is the subject of the application or for any other offence which he committed before crossing the frontier of the applicant State.
2. The witness or expert shall, however, forfeit this protection if he fails to quit the territory of the applicant Contracting Party within one week from the date on which the interrogating authority informs him that his presence is no longer necessary. Such period of one week shall not be deemed to include any period of time during which the witness or expert is unable through no fault of his own to quit the territory of the applicant Contracting Party.

Article 8

SERVICE OF DOCUMENTS

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

2. If the applicant authority expressly so requests, the authority applied to shall deliver the document into the recipient's own hand, subject to the provisions in force in the territory of the Party applied to.

3. The application shall indicate the exact address to which the document is to be delivered and the nature of the said document.

4. If a document cannot be served at the address indicated in the application, the authority applied to shall of its own motion take the necessary steps to determine the exact address; if it is unable to determine such address, it shall so inform the applicant authority and shall at the same time return the document in question.

5. The translation of a document which is to be served shall be certified by an authorized interpreter or a diplomatic or consular mission of one of the Contracting Parties.

Article 9

CONFIRMATION OF SERVICE OF DOCUMENTS

Service of documents shall be confirmed in accordance with the appropriate regulations of the Contracting Party applied to. Such confirmation shall indicate the place and date of service and the person to whom the document was delivered.

Article 10

SERVICE OF DOCUMENTS ON OWN NATIONALS

1. Each Contracting Party shall have the right to serve documents on its own nationals through its diplomatic or consular missions.

2. No compulsion may be used or threatened in such service.

Article 11

COSTS OF LEGAL ASSISTANCE

1. The Contracting Party applied to shall make no claim for repayment of the costs of legal assistance. Each Contracting Party shall bear all costs incurred in providing legal assistance in its territory.

2. The authority applied to shall communicate to the applicant authority the amount of the costs incurred. If the applicant authority recovers these costs from the person liable therefor, the sums recovered shall be retained by the Contracting Party whose authority recovered them.

Article 12

PROVISION OF INFORMATION ON LEGAL QUESTIONS

The Ministries of Justice and General Procurators' Offices of the Contracting Parties shall exchange information on request concerning laws in force or formerly in force in the territory of their respective States and concerning the legal practice of the authorities having jurisdiction in civil, family and criminal cases.

Article 13

OBLIGATION TO ASCERTAIN PLACE OF RESIDENCE

At the request of a national of one Contracting Party desiring to assert a legal claim against a national of the other Contracting Party who resides in the latter's territory but whose exact address is not known, the Ministry of Justice of the latter Contracting Party shall take steps to ascertain such address.

Article 14

LANGUAGES

In communicating with one another concerning the provision of legal assistance, the authorities of the Contracting Parties shall use their own language or the Russian language.

Article 15

VALIDITY OF DOCUMENTS

1. Documents drawn up by a competent authority of one Contracting Party or attested in accordance with its laws and bearing an official seal shall be accepted as evidence in the territory of the other Contracting Party without further authentication. The same shall apply to signatures on documents if they have been attested in accordance with the laws of either Contracting Party.

2. Documents which are considered official documents in the territory of either Contracting Party shall have the evidential value of official documents in the territory of the other Contracting Party as well.

PART II

CIVIL AND FAMILY CASES

Chapter I

*CASES RELATING TO PERSONAL STATUS**Article 16*

LEGAL CAPACITY

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

2. The legal capacity of bodies corporate shall be determined by the law of the Contracting Party under whose laws they were constituted.

Article 17

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

1. The authorities competent to declare a person dead or missing or 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 declare a national of the other Contracting Party dead or establish the fact of his death :

- (a) Upon application by a person wishing to assert a claim, by right of inheritance or marriage, to immovable property of the missing person situated in the territory of the former Contracting Party;
- (b) Upon application by the spouse of the missing person, provided that the said spouse is domiciled in the territory of the former Contracting Party at the time of the application.

3. In the cases described in paragraphs 1 and 2, the competent authorities shall apply the law of the Contracting Party of which the missing person was a national at the time when he was last known to be alive.

Chapter II

*FAMILY CASES**Article 18*

MARRIAGE

1. The basic 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 determined by the law of the Contracting Party in whose territory the marriage takes place.

Article 19

PERSONAL AND PROPERTY RELATIONS OF SPOUSES

1. Where the spouses are nationals of one Contracting Party and are domiciled in the territory of the other Contracting Party, their personal and property relations shall be governed by the law of the Contracting Party of which they are nationals; the courts of both Contracting Parties shall have jurisdiction.

2. Where one spouse is a national of one Contracting Party and the other a national of the other Contracting Party, the said relations shall be governed by the law of the Contracting Party in whose territory they have, or last had, their joint domicile; the courts of both Contracting Parties shall have jurisdiction.

Article 20

DIVORCE

1. If the spouses are nationals of one Contracting Party and, when the petition for divorce is filed, are domiciled in the territory of the other Contracting Party, the applicable law shall be that of the Contracting Party of which the spouses are nationals. The courts of both Contracting Parties shall have jurisdiction. If, when the petition for divorce is filed, one spouse is domiciled in the territory of one Contracting Party and the other in the territory of the other Contracting Party, the court of the Contracting Party of which the spouses are nationals shall have jurisdiction.

2. If, when the petition for divorce is filed, one spouse is a national of one Contracting Party and the other a national of the other Contracting Party, the courts of both Contracting Parties shall have jurisdiction. The courts shall apply the law of their own State.

Article 21

ANNULMENT AND INVALIDATION OF MARRIAGE

1. In proceedings to annul a marriage or to declare it invalid by reason of failure to satisfy the basic conditions determining capacity to marry, the applicable law shall be that applicable under article 18, paragraph 1.

2. In proceedings to annul a marriage or to declare it invalid by reason of informality, the applicable law shall be that of the place at which the marriage was solemnized.

3. The provisions of article 20 shall apply, *mutatis mutandis*, in determining which courts have jurisdiction.

Article 22

LEGAL RELATIONS BETWEEN PARENTS AND CHILDREN

1. In actions to acknowledge, establish or contest paternity and to establish maternity, the applicable law shall be that of the Contracting Party of which the child was a national at birth. The court having jurisdiction shall be that of the Contracting Party in whose territory the child is domiciled when the action is instituted.

2. The formal requirements for acknowledgement of paternity shall be deemed to have been satisfied if the proceedings are conducted in accordance with the law of the Contracting Party in whose territory the father declares his wishes.

3. Other legal relations between parents and children, especially as regards regulation of the child's upbringing, shall be governed by the law of the Contracting Party of which the child is a national. The authority having jurisdiction shall be that of the Contracting Party in whose territory the child is domiciled when the action is instituted.

Article 23

OBLIGATION TO PROVIDE MAINTENANCE

1. The obligation to provide maintenance under family law shall be determined in accordance with the law of the Contracting Party of which the person entitled to maintenance is a national.

2. In the cases provided for in paragraph 1, the court having jurisdiction shall be that of the Contracting Party in whose territory the person entitled to maintenance is domiciled.

Article 24

ADOPTION

1. 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 and 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 laid down by the law of both Contracting Parties must be satisfied.

4. In proceedings for adoption, the authority having jurisdiction shall be that of the Contracting Party of which the adopter is a national; in the case speci-

fied in paragraph 3, the authority having jurisdiction shall be that of the Contracting Party in whose territory the married couple have, or last had, their joint domicile.

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

GUARDIANSHIP AND CURATORSHIP

Article 25

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

2. The institution and termination of guardianship and curatorship shall be governed by the law of the Contracting Party of which the 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. The obligation to accept the office of guardian or curator shall be governed by the law 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 where he is to serve in that capacity and his appointment is in the best interests of his ward.

Article 26

1. Where need arises to provide for guardianship or curatorship in the interests of a national of one Contracting Party whose domicile, residence or property is in the territory of the other Contracting Party, the authority of such other Contracting Party shall at once notify the authority having jurisdiction under article 25, paragraph 1.

2. In cases admitting of no delay, the authority of such other Contracting Party may itself take appropriate provisional measures under its own law, provided that it at once notifies the authority having jurisdiction under article 25, paragraph 1. Such measures shall remain in effect until such time as the latter authority decides otherwise.

Article 27

1. The authority having jurisdiction under article 25, paragraph 1, may transfer guardianship or curatorship to an authority of the other Contracting Party if the ward has his domicile or residence or owns property in the territory of the latter Contracting Party. Such transfer shall become effective when the authority applied to assumes guardianship or curatorship and notifies the applicant authority accordingly.

2. The authority assuming guardianship or curatorship under paragraph 1 shall exercise it in the manner prescribed by 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 personal status but may give its consent to marriage where such consent is required by the law of the State of which the ward is a national.

Chapter III

*MATTERS RELATING TO PROPERTY**Article 28*

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 29

IMMOVABLE PROPERTY

1. In matters relating to real and other rights to immovable property, the applicable law shall be that of the Contracting Party in whose territory the property is situated.

2. In matters relating to real and other rights to immovable property, the authority having jurisdiction shall be that of the Contracting Party in whose territory the property is situated.

3. The provisions of paragraph 1 shall not apply in marital matters or matters of succession relating to property, and the provisions of paragraph 2 shall not apply in marital matters relating to property.

Chapter IV

*MATTERS OF SUCCESSION**Article 30*

Nationals of either Contracting Party shall enjoy in the territory of the other Contracting Party the same rights as nationals of the latter Party as regards statutory or testamentary succession to property situated or rights to be exercised in the territory of that Party and as regards the making or revocation of wills.

Article 31

1. Legal relations in connexion with 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 either Contracting Party imposes restrictions on the right of nationals of that Party to succeed to property situated in its territory, such restrictions shall also apply to nationals of the other Contracting Party.

Article 32

RIGHT OF SUCCESSION OF THE STATE

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

Article 33

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 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 a testamentary disposition.

Article 34

JURISDICTION IN MATTERS OF SUCCESSION

1. In matters of succession to movable property, the authorities having jurisdiction shall, subject to the provisions of paragraph 3, be those of the Contracting Party of which the decedent was a national at the time of his death.

2. In matters of succession to immovable property, the authorities having jurisdiction shall be those of the Contracting Party in whose territory the property is situated.

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

4. The provisions of the preceding paragraphs shall also apply in determining jurisdiction in disputes concerning succession.

Article 35

NOTIFICATION OF DEATH

If a national of one Contracting Party dies in the territory of the other Contracting Party, the competent authority shall immediately notify such death directly to the diplomatic or consular mission of the former Contracting Party, communicating to it whatever information is available concerning the heirs and legatees, their domicile or residence, the size of the estate and the existence of a will. If the said authority learns that the deceased has left property in another State as well, it shall also communicate that fact.

Article 36

RIGHTS OF DIPLOMATIC AND CONSULAR MISSIONS IN SUCCESSION PROCEEDINGS

1. The diplomatic or consular missions of each Contracting Party shall have the right to represent their own nationals in succession proceedings before the authorities of the other Contracting Party if such nationals are absent and have not appointed their representatives; in such cases, no special power of attorney shall be necessary.

2. If a national of one Contracting Party dies while temporarily resident in the territory of the other Contracting Party, his personal effects shall be delivered without any formal proceedings to the diplomatic or consular mission of the former Contracting Party; the regulations governing the export of articles and the transfer of funds shall be complied with in such cases.

Article 37

PUBLICATION OF WILLS

The 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 its publication shall be transmitted to the authority competent to conduct the succession proceedings.

Article 38

MEASURES FOR THE PROTECTION OF THE ESTATE

1. The authority of a Contracting Party in whose territory an estate has been left by a national of the other Contracting Party shall take, in accordance with its law, such measures as are necessary to ensure the protection and administration thereof. The competent authorities of each Contracting Party shall be under the same obligation in respect of an estate with which a national of the other Contracting Party is concerned as an heir or legatee.

2. Measures taken under paragraph 1 shall be reported to the diplomatic or consular mission of the other Contracting Party, which may participate, either directly or through a representative, in carrying them out. At the request of the said mission, such measures may be modified or rescinded.

3. Measures taken under paragraph 1 must be rescinded at the request of the authority competent to conduct the succession proceedings.

Article 39

DELIVERY OF THE ESTATE

1. If, after the completion of succession proceedings, the movable estate or the proceeds of sale of the movable or immovable estate are to be delivered to heirs or legatees domiciled or resident in the territory of the other Contracting Party, such estate or proceeds shall be delivered to the diplomatic or consular mission of the latter Contracting Party.

2. Delivery of an estate under paragraph 1 shall take place if :

- (a) All claims of the decedent's creditors presented within the period prescribed by the law of the Contracting Party in whose territory the estate is situated have been paid or secured;
- (b) All estate 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 from the sale thereof.

Chapter V

LEGAL COSTS

Article 40

EXEMPTION FROM SECURITY FOR LEGAL COSTS

1. Nationals of one Contracting Party appearing before the authorities of the other Contracting Party and having their domicile, residence or head office 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 do not have their domicile, residence or head office in the territory of the other Contracting Party.

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

EXEMPTION FROM CHARGES AND DEPOSITS

Article 41

1. Nationals of either Contracting Party shall, in the territory of the other Contracting Party, be entitled to exemption from judicial, notarial and administrative charges and deposits and from other legal costs, and to other privileges relating to such charges, deposits and other legal costs, under the same conditions as nationals of the latter Contracting Party. The same shall apply to the appointment of free legal counsel.

2. The aforementioned privileges shall apply to all judicial proceedings, including enforcement proceedings.

Article 42

1. A certificate relating to the petitioner's personal and family status, property and income shall be issued by the competent authority of the Contracting Party in whose territory the petitioner has his domicile or residence.

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

3. The authority ruling on a petition may request further information from the authority which issued the certificate.

Article 43

1. A national of one Contracting Party who wishes to petition the competent authority of the other Contracting Party for any of the privileges referred to in article 41 or for the appointment of free legal counsel may make such petition in the form of an oral statement before the competent authority of his place of domicile or residence. The latter authority shall draw up a record of his statement and shall transmit such record, together with the certificate referred to in article 42 and any other documents submitted by the petitioner, to the competent authority of the other Contracting Party.

2. The complaint or other application for the institution of proceedings may be made orally and entered in the record at the same time as the aforementioned petition.

3. The record shall be drawn up in the language of the authority preparing it.

Article 44

Any privilege granted under article 41 in the territory of one Contracting Party shall also be granted in all proceedings instituted in the same case before the authorities of the other Contracting Party.

Chapter VI

*RECOGNITION AND ENFORCEMENT OF JUDGEMENTS**Article 45*

1. Final judgements rendered in matters not relating to property by the authorities of either Contracting Party having jurisdiction in civil or family cases shall be effective in the territory of the other Contracting Party without further proceedings, provided that no authority of the latter Contracting Party has previously rendered a final judgement in the matter or has exclusive jurisdiction under this Treaty.

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

3. Final judgements rendered by an authority of one Contracting Party with regard to the placement of a child living in the territory of the other Contracting Party shall also be enforceable in the territory of the latter Contracting Party if the child is a national of the Contracting Party whose authority rendered the judgement.

Article 46

Each Contracting Party shall recognize and enforce final judgements rendered in the territory of the other Contracting Party with regard to :

- (a) Property claims in civil and family cases, and
- (b) Claims for damages in criminal cases.

Article 47

The Contracting Parties shall recognize and enforce final awards made by arbitral tribunals after the entry into force of this Treaty as well as settlements arrived at before such tribunals, provided that the terms of the arbitration agreement (clause) are in conformity with the law of both Contracting Parties.

Article 48

1. The court competent to authorize enforcement shall be that of the Contracting Party in whose territory enforcement is sought.

2. Application for authorization of enforcement shall be made either to the court which rendered judgement in the case at first instance or to the court of the other Contracting Party which is competent to authorize enforcement. An application made to the court of first instance shall be forwarded to the court of the other Contracting Party which is competent to authorize enforcement.

Article 49

An application for authorization of enforcement shall be accompanied by the following :

- (a) The complete text of the judgement and, if such text does not show that the judgement has become final, a certificate to that effect;
- (b) If the respondent did not participate in the proceedings, a document showing that he or his representative was served with a summons at least once, in due time and statutory form;
- (c) A certified translation of the documents referred to in sub-paragraphs (a) and (b) into the language of the Contracting Party in whose territory authorization of enforcement is sought.

Article 50

Before initiating enforcement proceedings, the court may, if necessary, require the applicant to furnish clarification or, if his application is defective, to correct it; the court may also interrogate the respondent or request the court which rendered the judgement to furnish clarification.

Article 51

1. The procedure for enforcement shall be that prescribed by the law of the Contracting Party in whose territory enforcement is sought.

2. The respondent may also submit to the court considering an application for authorization of enforcement such objections to enforcement as are admissible under the law of the Contracting Party in whose territory the judgement was rendered.

3. The court which authorized enforcement shall rule on any objections to such authorization.

Article 52

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

- (a) If the judgement has not become final;
- (b) If the respondent or the person against whom the judgement was rendered did not participate in the proceedings because neither he nor his representative was served with a summons at least once, in due time and statutory form;
- (c) If the judgement conflicts with an earlier judgement which has become final and which was rendered in an action between the same parties relating to the same claim, on the same grounds, by a court of the Contracting Party in whose territory recognition or authorization of enforcement is sought. This provision shall not apply where there has been a material change in the circumstances on which the court based the amount or duration of payments and a new judgement has therefore been rendered;
- (d) If the claim to which the judgement relates is not admissible under the law of the Contracting Party of which the respondent is a national.

Article 53

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

Article 54

JUDICIAL SETTLEMENTS

The provisions of articles 45 to 53 of this Treaty shall also apply to judicial settlements.

ENFORCEMENT OF AWARDS OF LEGAL COSTS

Article 55

1. If a litigant exempt under article 40 of this Treaty from depositing security is required in pursuance of a final judgement rendered in the territory of one Contracting Party to pay legal costs to the other party, the competent court of the other Contracting Party shall on application, and without charge, authorize enforcement as regards the recovery of such costs.

2. Legal costs shall include the cost of translating and certifying the documents referred to in article 56.

Article 56

1. An application for initiation of enforcement proceedings shall be accompanied by a certified copy of the award of legal costs and a certificate to the effect that the award has become final and is enforceable.

2. The said documents shall be accompanied by translations into the language of the Contracting Party in whose territory the enforcement proceedings are to take place.

3. In initiating enforcement proceedings, the court shall confine itself to determining whether :

- (a) It has been shown that the award has become final and is enforceable;
- (b) Certified translations of the documents referred to in paragraph 1 of this article are attached.

Article 57

Application for enforcement of an award of legal costs which is enforceable 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 rendered judgement in the case at first instance; such court shall then forward the application to the competent court of the other Contracting Party;
- (b) Directly to the court of the other Contracting Party which is competent to initiate enforcement proceedings.

Article 58

1. The court considering an application for initiation of enforcement proceedings shall do so without interrogating the parties.

2. The court competent to initiate the aforementioned proceedings shall also conduct the proceedings in respect of the costs referred to in article 55,

paragraph 2. The said costs shall be determined by the competent court of the Contracting Party in whose territory they were incurred.

3. Initiation of enforcement proceedings shall not be refused on the ground that the applicant did not deposit security for the costs of enforcement.

Article 59

1. The competent court of either Contracting Party shall, on application by the court of the other Contracting Party which dealt with the matter at first instance, recover any unpaid charges incurred in the territory of the other Contracting Party and any costs advanced by the State; it shall remit 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 amount of the legal costs, a certificate to the effect that the decision has become final, and certified translations of those documents.

Article 60

DELIVERY OF ARTICLES

The delivery of articles or transfer of funds to a creditor domiciled in the territory of the other Contracting Party shall be effected in accordance with the legal provisions governing the export of articles or the transfer of funds. The Contracting Parties shall arrange for priority to be given to transfers of funds for the benefit of minors.

Article 61

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

Chapter VII

TRANSMITTAL OF EXTRACTS FROM THE CIVIL REGISTER AND OTHER DOCUMENTS

Article 62

1. Each Contracting Party shall transmit to the other Contracting Party extracts from its civil register containing entries made concerning nationals of

the latter Contracting Party. Such extracts shall be transmitted free of charge through the diplomatic channel.

2. The Contracting Parties shall transmit to each other for official use, at the request of the competent authorities, extracts from the civil register and other documents relating to the personal rights and interests of nationals of the Contracting Parties. Such documents shall be transmitted free of charge through the diplomatic channel.

3. Nationals of each Contracting Party may apply directly to the competent civil registry office or other authority of the other Contracting Party for the preparation of extracts from the civil register or of other documents relating to their rights and interests. The documents requested shall be transmitted to the applicant through the diplomatic or consular mission of the State whose authority prepared them. The diplomatic or consular mission shall at the same time collect from the applicant the fee due for the preparation of the document.

Article 63

1. Where the civil registry office of one Contracting Party makes a new entry or a correction relating to the personal status of a national of the other Contracting Party, an extract from the civil register containing such entry or correction shall also be transmitted to the other Contracting Party.

2. Each Contracting Party shall transmit to the other Contracting Party copies of final decisions relating to the personal status of nationals of the latter Contracting Party. Such decisions shall indicate the nationality of the persons to whom they relate.

3. The documents referred to in paragraphs 1 and 2 shall be transmitted free of charge through the diplomatic channel.

PART III

CRIMINAL CASES

Article 64

OBLIGATION TO EXTRADITE

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

2. Extradition shall take place in respect of offences which, under the law of both Contracting Parties, are punishable by deprivation of liberty for a period of not less than one year (hereinafter called "extraditable offences").

Article 65

REFUSAL OF EXTRADITION

Extradition shall not take place if :

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

Article 66

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 applicant Contracting Party.

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

3. 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 Contracting Party ; if charges have been filed, it shall be addressed by the Minister for Justice of the one Contracting Party to the Minister for Justice of the other Contracting Party.

4. The Contracting Party applied to shall notify the applicant Contracting Party of the result of the prosecution and, if sentence has been passed and has become final, shall also transmit a certified copy of the sentence.

Article 67

METHOD OF COMMUNICATION IN MATTERS OF EXTRADITION

In matters of extradition the Ministries of Justice of the Contracting Parties shall communicate with each other directly.

Article 68

REQUISITION FOR EXTRADITION

1. A requisition for extradition for purposes of execution of a sentence shall be accompanied by a certified copy of the final sentence and by the text

of the legislative provisions relating to the offence committed by the convicted person. If the convicted person has already served a part of his sentence, the particulars in that regard shall also be transmitted.

2. A requisition for extradition for purposes of criminal prosecution shall be accompanied by a certified copy of the warrant of arrest, a description of the offence and the text of the legislative provisions relating to the offence committed by the person claimed; if the offence resulted in material damage, the extent of such damage shall also be specified.

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

4. The applicant Contracting Party shall not be bound to enclose with the requisition proof of the guilt of the person claimed.

Article 69

INFORMATION TO SUPPLEMENT A REQUISITION FOR EXTRADITION

If the requisition for extradition does not contain all the necessary particulars, the Contracting Party applied to may request supplementary information and for that purpose may set a time-limit not exceeding two months. Such time-limit may be extended for valid reasons.

Article 70

DETENTION PENDING EXTRADITION

Upon receipt of a requisition for extradition, the Contracting Party applied to shall take immediate steps to detain the person claimed. Such detention shall not be necessary if it is apparent that extradition is precluded under the terms of this Treaty.

Article 71

TEMPORARY DETENTION

1. A person liable to extradition under this Treaty may be temporarily detained pending receipt of the requisition for his extradition if the applicant Contracting Party applies for such detention, citing a warrant of arrest or a final sentence; such application may be made by post, telegraph, telephone or wireless.

2. The authorities of either Contracting Party may temporarily detain a person resident in its territory in the absence of the aforementioned application if he is known to have committed an extraditable offence in the territory of the other Contracting Party.

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

Article 72

1. The Contracting Party applied to may release the person detained if supplementary information is not transmitted to the authority applied to within the time-limit specified in article 69.

2. A person detained under the provisions of article 71 may be released if the requisition for his extradition is not received within two months from the date on which notification of his temporary detention was sent to the Contracting Party entitled to submit such requisition.

Article 73

POSTPONEMENT OF EXTRADITION

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

Article 74

TEMPORARY EXTRADITION

1. If the postponement of extradition would result in exemption from prosecution being acquired by lapse of time or would seriously prejudice the investigation of the offence committed by the person claimed, such person may be extradited temporarily, so as to permit specified investigative measures to be taken, upon submission by the applicant Contracting Party of an application for such extradition with statement of grounds.

2. A temporarily extradited person shall be returned as soon as the proceedings for the purpose of which he was extradited are concluded.

Article 75

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 requisition shall be complied with.

Article 76

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 an offence which was committed before his extradition and which is not 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, not being a national of the applicant Contracting Party, fails to quit the territory of the said Contracting Party within one month after the conclusion of the criminal proceedings or the completion 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 subsequently returns thereto.

Article 77

SURRENDER

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

Article 78

RE-EXTRADITION

If an extradited person in some manner evades prosecution or the execution of a sentence and appears in the territory of the Contracting Party applied to, he shall be re-extradited upon receipt of a new requisition without production of the documents referred to in article 68.

Article 79

CONVEYANCE IN TRANSIT

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

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

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

Article 80

NOTIFICATION OF RESULTS OF PROSECUTION

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

Article 81

COSTS OF EXTRADITION

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

Article 82

CONVEYANCE OF PERSONS HELD IN CUSTODY

If a person summoned as a witness is being held in custody in the territory of the Contracting Party applied to, the said Contracting Party shall arrange for such person to be conveyed to the territory of the applicant Contracting Party; the person thus conveyed shall be kept in custody and returned immediately after interrogation.

Article 83

DELIVERY OF ARTICLES

1. Articles acquired by the offender through the commission of an extraditable offence, or articles acquired by him in exchange for such articles, and all other articles which may be used as evidence in proceedings shall be delivered to the applicant Contracting Party; such articles shall be delivered even if, by reason of his death or any other circumstances, the offender is not extradited.

2. If the Contracting Party applied to has need of the claimed articles in connexion with another criminal proceeding, it may postpone their delivery.

3. These provisions shall not affect the rights of third parties to the articles in question. After the conclusion of the criminal proceedings, the applicant Contracting Party shall return such articles to the persons entitled to them. It shall, however, return them to the Contracting Party applied to if application is made for that purpose with statement of grounds.

Article 84

NOTIFICATION OF SENTENCES

1. The central authority of each Contracting Party responsible for maintaining the register of convictions shall each year directly notify the correspond-

ing authority of the other Contracting Party of final sentences passed by the courts of the former Contracting Party on nationals of the latter Contracting Party.

2. On application by the authorities of either Contracting Party, the central authority of the other Contracting Party responsible for maintaining the register of convictions shall furnish information free of charge concerning final sentences passed by the courts of the latter Contracting Party on nationals of the applicant Contracting Party. On application being made with statement of grounds, such information may be furnished even if the convicted person is not a national of the applicant Contracting Party.

3. In the cases specified in paragraphs 1 and 2, fingerprints shall, where possible, be attached upon request.

PART IV

FINAL PROVISIONS

Article 85

RATIFICATION

This Treaty shall be ratified. The instruments of ratification shall be exchanged at Budapest.

Article 86

ENTRY INTO FORCE

1. This Treaty shall enter into force thirty days after the exchange of the instruments of ratification. It shall remain in force for a term of five years from the date of entry into force.

2. Unless one of the Contracting Parties gives written notice of termination of the Treaty six months before the expiry of the current five-year term, it shall be extended for successive terms of five years.

3. Upon the entry into force of this Treaty, the Treaty between the Czechoslovak Republic and the Hungarian People's Republic concerning legal assistance in civil and criminal cases, concluded at Budapest on 6 March 1951, shall cease to have effect.

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

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

DONE at Prague, on 2 November 1961.

For the President
of the Czechoslovak Socialist
Republic :

Dr. Alois NEUMAN

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

Dr. NEZVÁL Ferenc
