

No. 6770

**ROMANIA
and
POLAND**

**Treaty concerning legal assistance and legal relations in
civil, family and criminal cases. Signed at Bucharest,
on 25 January 1962**

Official texts: Romanian and Polish.

Registered by Romania on 7 June 1963.

**ROUMANIE
et
POLOGNE**

**Traité relatif à l'entraide judiciaire et aux relations juri-
diques en matière civile, familiale et pénale. Signé à
Bucarest, le 25 janvier 1962**

Textes officiels roumain et polonais.

Enregistré par la Roumanie le 7 juin 1963.

[TRANSLATION — TRADUCTION]

No. 6770. TREATY¹ BETWEEN THE ROMANIAN PEOPLE'S REPUBLIC AND THE POLISH PEOPLE'S REPUBLIC CONCERNING LEGAL ASSISTANCE AND LEGAL RELATIONS IN CIVIL, FAMILY AND CRIMINAL CASES. SIGNED AT BUCHAREST, ON 25 JANUARY 1962

The Council of State of the Romanian People's Republic and the Council of State of the Polish People's Republic, desiring to strengthen the fraternal bonds between the two States and to develop co-operation between them in the field of law as in others, have decided to conclude a Treaty concerning legal assistance and legal relations in civil, family and criminal cases, and for this purpose have appointed as their plenipotentiaries :

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

Aurel Mălnășan, Deputy Minister for Foreign Affairs,

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

Janusz Zambrowicz, Ambassador Extraordinary and Plenipotentiary of the Polish People's Republic to the Romanian People's Republic,

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

PART I

GENERAL PROVISIONS

Article 1

LEGAL PROTECTION

1. Nationals of either Contracting Party and bodies corporate constituted in accordance with its laws (hereinafter called "nationals") shall enjoy in the territory of the other Contracting Party, in respect of their personal and property rights, the same legal protection as nationals of the latter Contracting Party.

¹ Came into force on 6 December 1962, thirty days after the exchange of the instruments of ratification which took place at Warsaw on 6 November 1962, in accordance with article 82.

2. Nationals of either Contracting Party shall have free and unimpeded access to the authorities of the other Contracting Party having jurisdiction in civil, family and criminal cases and may protect their interests, present petitions and institute proceedings before such authorities under the same conditions as nationals of the latter Contracting Party.

Article 2

PROVISION OF LEGAL ASSISTANCE

1. The courts and the procurators' and State notaries' offices (hereinafter called "judicial authorities") of the Contracting Parties shall provide one another with legal assistance in civil, family and criminal cases.

2. The judicial authorities shall also provide legal assistance to other authorities having jurisdiction in the cases referred to in paragraph 1.

Article 3

SCOPE OF LEGAL ASSISTANCE

Legal assistance shall include the performance of specific acts required in connexion with judicial proceedings, in particular the preparation, transmittal and service of documents, the transmittal or delivery of material evidence, the conduct of expert examinations, the interrogation of litigants, accused persons, witnesses, experts and other persons, and the conduct of judicial inspections *in situ*, searches and seizures.

Article 4

METHOD OF COMMUNICATION

1. In the matters regulated by this Treaty, the judicial authorities of the Contracting Parties shall, save as otherwise provided in this Treaty, communicate with one another through their central organs.

2. Other authorities of the Contracting Parties having jurisdiction in civil or family cases shall, save as otherwise provided in this Treaty, communicate with one another or with the judicial authorities through the Ministries of Justice.

Article 5

LANGUAGES

1. In communicating with one another, the judicial and other authorities of the Contracting Parties shall use their own language or the Russian language.

2. Applications for legal assistance and accompanying documents shall be drawn up in the language of the applicant Contracting Party. In cases where

such applications and documents are not required under this Treaty to be accompanied by a certified translation into the language of the Contracting Party applied to, they shall be accompanied by such a translation wherever possible.

3. The language of execution of an application for legal assistance shall be that of the Contracting Party applied to.

Article 6

CONTENTS OF APPLICATIONS FOR LEGAL ASSISTANCE

An application for legal assistance must contain the following particulars :

- (a) The title of the applicant authority;
- (b) The title of the authority applied to;
- (c) The title of the case in which legal assistance is applied for;
- (d) The given names and surnames, domicile or residence, nationality and occupation of the parties or of the persons accused, on trial or convicted; and in criminal cases, where possible, the place and date of birth of the persons accused, on trial or convicted and the given names and surnames of their parents;
- (e) The given names, surnames and addresses of the legal representatives or counsel of the persons referred to;
- (f) The subject of the application and the information required for its execution, including, in criminal cases, a description of the offence.

Article 7

PROCEDURE FOR EXECUTING APPLICATIONS

1. In executing an application for legal assistance, the authority applied to shall follow the law of its own State. It may, if requested to do so, employ the judicial procedures of the applicant Contracting Party, provided that such procedures do not conflict with the law of its own State.

2. If the authority applied to is not competent to execute the application, it shall of its own motion transmit the application to the competent authority and shall at the same time notify the applicant authority accordingly.

3. The authority applied to shall, at the request of the applicant authority, notify the latter or the litigants in good time of the place and date of execution of an application for legal assistance. Such notice may be sent directly by registered letter.

4. If the exact address of the person to whom an application for legal assistance relates is unknown or if the address indicated proves to be incorrect, the authority applied to shall take appropriate steps to determine the address. If the address cannot be determined, the authority applied to shall so notify the applicant authority.

5. After executing an application, the authority applied to shall transmit the relevant documents to the applicant authority. If it has not been able to provide the legal assistance requested, the authority applied to shall return the documents to the applicant authority and shall at the same time advise it of the circumstances which prevented the execution of the application.

Article 8

FORM OF DOCUMENTS

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

Article 9

SERVICE OF DOCUMENTS

1. In serving documents, the authority applied to shall follow the law of its own State, provided that the documents in question are drawn up in the language of that State or are accompanied by a certified translation into that language. Otherwise, the authority applied to shall deliver the documents to the recipient only if he is willing to accept them.

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

Article 10

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 include in each case a receipt bearing the recipient's signature and the date, or a certificate issued by the authority applied to and attesting to the fact, manner and time of service.

Article 11

SUMMONING AND PROTECTION OF WITNESSES AND EXPERTS

1. If, in the course of an investigation or of judicial proceedings in the territory 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, an authority of the Contracting Party in whose territory the proceedings are conducted may apply to the competent authority of the other Contracting Party for service of a summons.

2. Such summons shall make no provision for penalties 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 which he was summoned, for any other offence committed before he crossed the frontier of the applicant Contracting Party, or because of 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 which summoned him 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, for reasons beyond his control, to quit the territory of the said Party.

Article 12

COSTS OF LEGAL ASSISTANCE

1. Each Contracting Party shall bear all costs incurred in providing legal assistance in its territory, including expenses incurred in taking evidence.

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

VALIDITY OF DOCUMENTS

Article 13

1. Documents drawn up or attested in the territory of either Contracting Party by State authorities or public officials within the limits of their official powers, in the form prescribed by the laws in force and bearing an official seal, shall be valid in the territory of the other Contracting Party without further authentication. The same shall apply to documents bearing signatures attested in accordance with the law 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.

Article 14

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

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

Article 15

TRANSMITTAL OF DOCUMENTS

1. The Contracting Parties shall, on request, transmit to each other, free of charge, through their diplomatic or consular missions, copies of birth, marriage and death records, school certificates, certificates concerning employment experience and other official documents relating to the rights and interests of their nationals.

2. The Contracting Parties shall, of their own motion, transmit to each other free of charge, through their diplomatic or consular missions, copies of court judgements relating to the civil status of their nationals.

Article 16

INFORMATION ON LEGAL QUESTIONS

1. The Ministries of Justice of the Contracting Parties shall transmit to each other the texts of legal provisions issued after the entry into force of this Treaty.

2. The Ministries of Justice and the General Procurators' Offices of the Contracting Parties shall, on request, provide one another with information concerning laws in force or formerly in force in their respective States and concerning the practice of their judicial authorities.

PART II

SPECIAL PROVISIONS

CHAPTER I

LEGAL ASSISTANCE AND LEGAL RELATIONS IN CIVIL AND FAMILY CASES

Section I

LEGAL COSTS

Article 17

EXEMPTION FROM DEPOSIT OF SECURITY FOR LEGAL COSTS

Nationals of one Contracting Party appearing before the courts of the other Contracting Party and domiciled in the territory of either Contracting Party

shall not be required to deposit security for legal costs on the ground that they are aliens or have no domicile, residence or office in the territory of the Contracting Party to which the court belongs.

EXEMPTION FROM LEGAL STAMP TAX AND COSTS

Article 18

1. Nationals of either Contracting Party shall enjoy in the territory of the other Contracting Party exemption from legal stamp tax and costs, other tax privileges and free legal assistance to the same extent and under the same conditions as nationals of the latter Party. This shall apply to all judicial proceedings, including enforcement proceedings.

2. Any privilege granted under paragraph 1 in the territory of one Contracting Party shall also be accorded to the litigant in all proceedings instituted in the same case before a court of the other Contracting Party.

Article 19

1. A person petitioning for the grant of privileges under article 18 shall submit a certificate relating to personal and family status, income and property issued by the competent authority of the Contracting Party in whose territory he has his domicile or, if he has no domicile, his residence.

2. If the petitioner has neither domicile nor residence in the territory of either Contracting Party, a certificate issued or attested by the diplomatic or consular mission of his State shall suffice.

3. The authority issuing the certificate may apply to the authorities of the other Contracting Party for clarification of the information referred to in paragraph 1.

4. The authority ruling on a petition for the grant of privileges under article 18 may request additional information from the authority which issued the certificate.

Article 20

1. A national of one Contracting Party who wishes to petition the competent authority of the other Contracting Party for the grant of privileges under article 18 may make such petition in the form of an oral statement before the competent judicial authority of his place of domicile or residence. The said judicial authority shall draw up a record of his statement and transmit such record, together with the certificate referred to in article 19, paragraph 1, and any other documents submitted by the petitioner, to the judicial authority of the other Contracting Party. In such cases, the provisions of article 7, paragraph 2, shall apply as appropriate.

2. A complaint and accompanying documents submitted by the petitioner may be entered in the record separately at the same time as the petition referred to in paragraph 1.

3. A certified translation into the language of the Contracting Party applied to shall be annexed to the records and accompanying documents.

Section II

PERSONAL STATUS AND FAMILY LAW

Article 21

LEGAL CAPACITY

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

2. The legal capacity of a body corporate shall be determined according to the law of the Contracting Party under whose law it was constituted.

Article 22

MARRIAGE

1. The form of marriage shall be that prescribed by the law of the Contracting Party in whose territory the marriage takes place.

2. The form of a marriage solemnized before a diplomatic or consular mission shall be that prescribed by the law of the sending State.

3. The conditions determining capacity to marry shall be, for each prospective spouse, those prescribed by the law of the Contracting Party of which he is a national.

Article 23

PERSONAL AND PROPERTY RELATIONS OF SPOUSES

1. The personal and property relations of spouses shall be those prescribed by the law of the Contracting Party of which they are nationals and shall be within the jurisdiction of the judicial authorities of that Party.

2. Where one spouse is a national of one Contracting Party and the other a national of the other Contracting Party, their personal and property relations shall be those prescribed by the law of the Contracting Party in whose territory both spouses have or last had their domicile and shall be within the jurisdiction of the judicial authorities of that Party.

Article 24

DIVORCE

1. In an action for divorce, where both spouses are nationals of one Contracting Party and are resident, on the date of the petition for divorce, 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.

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, and both are resident in the territory of the same Contracting Party or one of them is resident in the territory of one Contracting Party and the other in the territory of the other Contracting Party, the courts of both Contracting Parties shall have jurisdiction. The courts shall apply the law of their own State.

Article 25

NULLITY, ANNULMENT AND ESTABLISHMENT OF THE NON-EXISTENCE OF MARRIAGE

1. The entry of a decree of nullity of a marriage by reason of informality shall be permissible only if grounds exist for such action in accordance with the law both of the place at which the marriage was solemnized and of the Contracting Party of which the spouses are nationals.

2. The entry of a decree of nullity or the annulment of a marriage by reason of incapacity shall be permissible if grounds exist for such action in accordance with the law applicable under article 22, paragraph 3. This provision shall also apply, *mutatis mutandis*, to the establishment of the existence or non-existence of a marriage.

3. The provisions of article 24 shall apply, *mutatis mutandis*, in determining which courts have jurisdiction.

LEGAL RELATIONS BETWEEN PARENTS AND CHILDREN

Article 26

1. In actions to establish or contest filiation, the applicable law shall be that of the Contracting Party of which the child is a national.

2. However, where the child is domiciled in the territory of the other Contracting Party, the law of that Party shall be applicable if it is more favourable to the child's interests.

Article 27

The legal relations between a child and his parents shall be those prescribed by the law of the Contracting Party of which the child is a national. The provisions of article 26, paragraph 2, shall apply in this case as well.

Article 28

1. Decisions on the legal relations referred to in articles 26 and 27 shall be within the jurisdiction of the courts of the Contracting Party of which the child is a national.

2. If both the applicant and the respondent are domiciled in the territory of one Contracting Party, the courts of that Contracting Party shall also have jurisdiction.

3. In matters relating to responsibility for maintenance, the courts of the Contracting Party in whose territory the person responsible is domiciled shall also have jurisdiction.

Article 29

ADOPTION

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

2. If the child is adopted by a married couple of whom one spouse is a national of one Contracting Party and the other a national of the other Contracting Party, the adoption shall be carried out in accordance with the law of both Contracting Parties.

3. If the adopter is a national of one Contracting Party and the child a national of the other Contracting Party, adoption shall, if the law of the latter Party so requires, be subject to the consent of a designated authority of the latter Party, of the child, and of his legal representative or the guardianship authorities.

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 2, the authority having jurisdiction shall be that of the Contracting Party in whose territory both spouses have or last had their domicile or residence.

DECLARATION OF INCAPACITY

Article 30

1. The cases and conditions in which a person not responsible for his actions by reason of mental illness or mental retardation is to be declared incapable or in which such a declaration is to be revoked shall be those prescribed by the law of the Contracting Party of which he is a national.

2. In proceedings for declaring persons incapable, the authority having jurisdiction shall, save as otherwise provided in this Treaty, be that of the Contracting Party of which the person to be declared incapable is a national.

Article 31

1. Where need arises to declare incapable a person who is a national of one Contracting Party and whose domicile, residence or property is in the territory of the other Contracting Party, the authority of the latter Contracting Party shall so notify forthwith the authority having jurisdiction under article 30, paragraph 2.

2. In cases admitting of no delay, the authority of the other Contracting Party may itself make provisional arrangements, in accordance with the law of its own State; it shall, however, so notify forthwith the authority having jurisdiction under article 30, paragraph 2, and shall at the same time transmit copies of the relevant decisions. The said arrangements shall remain in effect until such time as the competent authority decides otherwise.

Article 32

1. The authority referred to in article 30, paragraph 2, may transfer jurisdiction in respect of a declaration of incapacity to an authority of the other Contracting Party if the domicile, residence or property of the person to be declared incapable is in the territory of the latter Contracting Party. Jurisdiction in respect of a declaration of incapacity shall be regarded as having been transferred when the authority applied to accepts it and so notifies the applicant authority.

2. If the competent authority notified under article 31, paragraph 1, fails to reply within three months from the date of notification, the authority of the place of domicile or residence of the person to be declared incapable shall become competent to render a decision on the declaration of incapacity.

3. The authority which has become competent under paragraph 1 or paragraph 2 shall render a decision on the declaration of incapacity in accordance with the law of its own State, provided that grounds for a declaration of incapacity also exist under the law of the Contracting Party of which the person concerned is a national. In respect of capacity for legal action, however, the applicable law shall be that of the Contracting Party of which the person to be declared incapable is a national.

4. A copy of the decision on the declaration of incapacity rendered in accordance with paragraphs 1, 2 and 3 shall be transmitted to the authority referred to in article 30, paragraph 2.

GUARDIANSHIP AND CURATORSHIP

Article 33

1. The cases and conditions in which guardianship or curatorship shall be instituted or terminated shall be those prescribed by the law of the Contracting Party of which the prospective ward is a national.

2. 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.

3. The legal relations between a guardian or curator and his ward shall be those prescribed by the law of the Contracting Party whose authority appointed the guardian or curator.

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

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

Article 34

The provisions of article 31 and of article 32, paragraph 1, shall apply, *mutatis mutandis*, to guardianship and curatorship.

Article 35

The authority assuming jurisdiction in proceedings relating to guardianship or curatorship under article 32, paragraph 1 or paragraph 2, shall exercise it in accordance with the law of its own State. However, in respect of legal capacity or capacity for legal action, the applicable law shall be that of the Contracting Party of which the prospective ward is a national. The said authority shall not be entitled to decide questions relating to the prospective ward's personal status. It may, however, grant permission to contract marriage, in accordance with the law of the Contracting Party of which the prospective ward is a national, if it is authorized to do so under the law of its own State.

Article 36

DECLARATION OF PERSONS AS MISSING OR DEAD AND ESTABLISHMENT OF THE FACT AND DATE OF DEATH

1. The authority competent to declare a person missing or dead and to establish the fact and date of death shall be that of the Contracting Party in whose territory the missing person was last domiciled.

2. A judicial authority of either Contracting Party shall be competent to declare missing or dead, or to establish the fact and date of the death of, a national of its State who was last domiciled in the territory of the other Contracting Party, provided that :

- (a) Application is made by a person wishing to exercise the right of succession, or a right deriving from property relations between a husband and wife, to immovable property of a missing person which is situated in the territory of the Contracting Party of which the said person was a national;
- (b) Application is made by a spouse domiciled at the time in the territory of the Contracting Party of which the missing person was a national.

3. In proceedings for declaring a person missing or dead, or for the establishment of the fact and date of his death, the judicial authorities of each Contracting Party shall apply the law of their own State.

Section III

PROVISIONS RELATING TO SUCCESSION

Article 37

PRINCIPLE OF EQUAL RIGHTS

1. Nationals of either Contracting Party shall be placed on a footing of equality with nationals of the other Contracting Party as regards the right to succeed, by inheritance or will, to rights to be exercised or property situated in the territory of the latter Party and as regards the right to make or revoke wills disposing of such rights or property.

2. Special legal provisions of either Contracting Party concerning the conditions under which its nationals may succeed to rights to be exercised or property situated in its territory shall also apply to nationals of the other Contracting Party.

Article 38

WILLS

1. The form of a testamentary disposition and of its revocation shall be that prescribed, at the time when the testamentary disposition is made or revoked, by the law of the Contracting Party of which the testator is a national or by the law of the Contracting Party in whose territory the testamentary disposition is made or revoked.

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

Article 39

JURISDICTION

1. Proceedings in matters of succession and in disputes concerning succession to movable property shall be within the jurisdiction of 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 and in disputes concerning succession to immovable property shall be within the jurisdiction of the authorities of the Contracting Party in whose territory such property is situated.

3. If the entire movable estate of a deceased national of one Contracting Party is situated in the territory of the other Contracting Party, jurisdiction shall, upon petition by an heir or by any other person having a right or claim to the estate, and subject to the consent of all heirs, be assumed by the authorities of the latter Contracting Party.

Article 40

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 to it at the same time whatever information is available concerning the heirs, 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 a national of the other Contracting Party who has died in the territory of a third State has left property in the territory of the former Contracting Party.

2. If the diplomatic or consular mission learns that a death has occurred in the circumstances described in paragraph 1 and obtains information concerning the estate, it shall communicate such information to the authority competent to take the necessary measures for the protection of the estate.

3. If an estate is left in the territory of one Contracting Party and there is good reason to believe that a national of the other Contracting Party is an heir, the competent authority shall so notify the diplomatic or consular mission of the latter Party forthwith.

Article 41

RIGHTS OF DIPLOMATIC AND CONSULAR MISSIONS

In proceedings concerning estates left in the territory of one Contracting Party, the diplomatic or consular mission of the other Contracting Party shall be entitled to take all necessary action to represent nationals of its own State

before any authority if such nationals are absent and have appointed no representative; in such cases, no special power of attorney shall be necessary.

Article 42

PROTECTION OF THE ESTATE

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

2. They shall immediately report the measures taken under paragraph 1 to the diplomatic or consular mission of the other Contracting Party, which may participate, directly or through its representative, in carrying out such measures. At the request of the diplomatic or consular mission, the measures taken or to be taken under paragraph 1 may be modified, rescinded or postponed.

3. The authorities having jurisdiction under article 39, paragraph 1, may request the rescission of the measures taken under paragraph 1.

OPENING AND PUBLICATION OF WILLS

Article 43

The opening and publication of a will shall be within the jurisdiction of the competent authority 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, condition and content of the will and, on request, the original will shall be transmitted to the competent authority of the other Contracting Party if the testator was a national thereof or if an authority of that Contracting Party is competent to conduct the succession proceedings.

Article 44

A competent 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 transmit 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.

Article 45

DELIVERY OF THE ESTATE

1. If the movable estate or the proceeds of sale of the movable or immovable estate situated in the territory of one Contracting Party are to descend to heirs

who are nationals of the other Contracting Party domiciled or resident in the territory of the latter Party or in that of a third State, the said estate or proceeds shall be delivered to such persons after the completion of succession proceedings. If the said heirs are absent and have appointed no representative, the said estate or proceeds shall be delivered to the diplomatic or consular mission of the Contracting Party of which they are nationals.

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

- (a) The estate duties and charges have been paid or secured;
- (b) 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 proceeds are situated;
- (c) The competent authorities have approved, where such approval is required, the export of the movable estate or proceeds; moneys shall be transferred in accordance with the currency laws in force.

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

Section IV

RECOGNITION AND ENFORCEMENT OF JUDGEMENTS

Article 46

RECOGNITION OF JUDGEMENTS IN MATTERS NOT RELATING TO PROPERTY

1. Final judgements of the courts and of the guardianship and curatorship authorities of either Contracting Party in matters not relating to property shall be recognized in the territory of the other Contracting Party without further proceedings, save where a court or a guardianship or curatorship authority of the latter 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 judgements rendered before the entry into force of this Treaty.

RECOGNITION AND ENFORCEMENT OF COURT JUDGEMENTS IN MATTERS RELATING
TO PROPERTY*Article 47*

Each Contracting Party shall, in its territory, recognize and authorize the enforcement of :

- (a) Final judgements in civil and family cases relating to property, rendered by courts in the territory of the other Contracting Party after the entry into force of this Treaty;
- (b) Final awards of damages in criminal cases, rendered by courts in the territory of the other Contracting Party after the entry into force of this Treaty.

Article 48

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

2. An application for authorization of enforcement shall be made to the court which rendered judgement in the case at first instance. Such application shall be transmitted to the court competent to authorize enforcement. Application may also be made direct to the latter court.

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 and enforceable, a certificate to that effect;
- (b) If the losing party did not participate in the proceedings, the originals or certified copies of documents showing that he was served with a summons at least once, in due time and proper form;
- (c) Certified translations of the application and of the documents referred to in sub-paragraphs (a) and (b).

Article 50

An application for authorization of enforcement may be accompanied by an application for enforcement.

Article 51

1. The procedure for authorization of enforcement and for enforcement shall be that prescribed by the law of the Contracting Party in whose territory enforcement takes place.

2. The court which authorized enforcement shall rule on any objections thereto.

3. The respondent may submit to the court which is to effect enforcement only such objections as are admissible under the law of the Contracting Party in whose territory the judgement in question was rendered.

4. Before ruling on an application for authorization of enforcement, the court may, if it deems such action necessary, call upon the parties to provide information in writing or to supplement an application for enforcement. The court may also request additional information from the court which rendered the judgement.

Article 52

REFUSAL OF RECOGNITION AND OF ENFORCEMENT

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

- (a) If the losing party did not participate in the proceedings because neither he nor his representative was served with a summons in due time and statutory form or because the summons was made only by public notice;
- (b) If under the provisions of this Treaty the matter was within the exclusive jurisdiction of an authority of the Contracting Party in whose territory recognition or enforcement is sought;
- (c) If the judgement conflicts with an earlier judgement which has become final and which was rendered in an action between the same parties, on the same matter and on the same grounds, by a court of the Contracting Party in whose territory recognition or enforcement is sought. This provision shall not apply where, under the law of the court deciding on the application, the earlier judgement may be modified or superseded by a new judgement in virtue of a change in the circumstances on which it was based;
- (d) If from a judgement rendered in a matter in which application of the law of the other Contracting Party was required it is evident that the said law was not applied, save where the law of the Contracting Party whose court rendered the judgement does not differ materially from the law of the other Contracting Party.

Article 53

JUDICIAL SETTLEMENTS

The provisions of articles 47 to 52 shall also apply to settlements arrived at in court.

ENFORCEMENT OF AWARDS OF LEGAL COSTS

Article 54

If a litigant exempt under article 17 from depositing security is required in pursuance of a final judgement to pay legal costs to the other party, the competent court of the other Contracting Party shall on application issue, free of charge, authorization for the enforcement of the award of costs.

Article 55

1. An application for authorization of enforcement shall be accompanied by a certified copy of the award of costs, a certificate to the effect that the award has become final and enforceable, and certified translations of these documents.

2. Legal costs shall include the cost of issuing the certificates, and of translating or certifying the documents, provided for in paragraph 1.

3. The court authorizing enforcement of the award shall do so without summoning the parties and shall confine itself to determining whether the award has become final and enforceable. The court shall at the same time authorize the compulsory recovery of the costs specified in paragraph 2, as determined by the competent court of the Contracting Party in whose territory they were incurred.

Article 56

1. Where legal costs advanced by the State are to be recovered, the court of the Contracting Party in whose territory the costs were incurred shall apply to the competent court of the other Contracting Party for recovery of the said costs. The latter court shall enforce the award of costs and remit the sum recovered to the diplomatic or consular mission of the former Contracting Party.

2. The application shall be accompanied by a copy of the decision fixing the amount of the legal costs, a certificate to the effect that the decision has become final and enforceable, and certified translations of these documents.

3. The provisions of article 55, paragraph 2, shall apply, *mutatis mutandis*, to the cost of translating the documents referred to in paragraph 2.

Article 57

DELIVERY OF ARTICLES AND TRANSFER OF FUNDS

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 concerning the export of articles or the transfer of funds which are in force in the territory of the Contracting Party in whose territory the articles or funds are situated.

Article 58

COSTS OF ENFORCEMENT

The calculation and recovery of costs incurred in connexion with enforcement shall be subject to the rules governing the enforcement of court judgments in the territory of the Contracting Party in whose territory the judgment is enforced.

CHAPTER II

LEGAL ASSISTANCE AND LEGAL RELATIONS IN CRIMINAL CASES

Article 59

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 be admissible only for offences which, under the law of both Contracting Parties, are punishable with deprivation of liberty for a term exceeding one year or with a heavier penalty (hereinafter called "extraditable offences") and for the execution of final sentences imposing such penalties.

REFUSAL OF EXTRADITION

Article 60

A Contracting Party shall not extradite its own nationals to the other Contracting Party.

Article 61

Extradition shall also be precluded 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 by a court or other authority;
- (d) Under the law of both Contracting Parties, proceedings in respect of the offence can be instituted only by way of private complaint.

Article 62

DOCUMENTS TO ACCOMPANY REQUISITIONS FOR EXTRADITION

The requisition for extradition shall be accompanied by :

- (a) A certified copy of the warrant of arrest or order for provisional detention, or, if extradition is requested for purposes of execution of a sentence, a certified copy of the final sentence; these documents shall contain particulars as to the offence committed, the place and time of its commission, its legal definition, any part of a sentence which has already been served, and, if the offence resulted in material damage, the actually determined or probable extent of such damage;
- (b) The text of the statute of the applicant Contracting Party defining the offence and of that prescribing the penalty therefor;
- (c) So far as possible, biographical particulars of the person claimed, information regarding his nationality and domicile or residence, a personal description, photographs and finger-prints.

Article 63

SUPPLEMENTARY INFORMATION

1. If the information received is not sufficient to justify compliance with the requisition for extradition, the Contracting Party applied to may request supplementary information. It may fix a time-limit of one to two months for the transmittal of such information. This time-limit may be extended at the request of the applicant Contracting Party.

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

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 in which extradition is precluded under the terms of this Treaty.

Article 65

1. A person may also be detained pending receipt of the requisition for his extradition if the applicant Contracting Party makes an application to that effect, citing the warrant of arrest or order for temporary detention issued, or the final sentence delivered, in respect of the person claimed and stating that the requisition for extradition will be transmitted later. Such application for detention may be made by post, telegraph, telephone or wireless.

2. A person may likewise 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 an arrest has been made under paragraph 1 or paragraph 2, the other Contracting Party shall be notified immediately.

Article 66

1. A person detained in accordance with article 65, paragraph 1, may be released if the requisition for his extradition is not received within two months from the date on which notification was sent under article 65, paragraph 3.

2. A person detained in accordance with article 65, paragraph 2, may be released if notification that a requisition for his extradition will be transmitted is not received within one month from the date on which notification was sent under article 65, paragraph 3.

Article 67

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 or unconditional 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 investigation of an offence, the person claimed may be extradited temporarily on receipt of a requisition with statement of grounds.

2. A temporarily extradited person shall be returned immediately after the conclusion 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 from the date fixed for his surrender, such person may be released from custody.

Article 70

DELIVERY OF ARTICLES

1. Each Contracting Party undertakes to deliver to the other on application :

- (a) Articles and valuables acquired by the offender through the commission of an extraditable offence;
- (b) Articles which may be important as evidence in the matter in which extradition is sought.

2. The articles and valuables referred to in paragraph 1 shall be delivered even if the offender cannot be extradited by reason of his death or evasion of prosecution or any other circumstances.

3. If the Contracting Party applied to needs the claimed articles as evidence in other criminal proceedings, their delivery may be postponed until such proceedings are concluded.

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

Article 71

RE-EXTRADITION

If an extradited person evades prosecution or the execution of sentence and returns to the territory of the Contracting Party applied to, he shall be re-extradited upon receipt of a requisition, without production of the documents specified in articles 62 and 63.

Article 72

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 73

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. Such consent shall not be required if the extradited person fails to quit the territory of the applicant Contracting Party within one month after the conclusion of the criminal proceedings or, in the event of his conviction, within one month after the execution of the sentence, or if he returns thereto. Such period of one month shall not be deemed to include any period of time during which the extradited person is unable, for reasons beyond his control, to quit the territory of the applicant Contracting Party.

Article 74

NOTIFICATION OF RESULTS OF PROSECUTION

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

Article 75

TEMPORARY DELIVERY OF PERSONS HELD IN CUSTODY

If need arises for the interrogation as a witness of a person held in custody in the territory of the other Contracting Party, the authorities of that Party which are specified in article 78 may arrange for the conveyance of such person to the territory of the applicant Contracting Party, subject to his being kept in custody and returned immediately after interrogation.

Article 76

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 latter Contracting Party. This provision shall not apply where there would be no obligation under this Treaty to grant extradition.

2. If need arises for the interrogation as a witness or expert of a person held in custody in a third State, the authorities of the Contracting Party applied to which are specified in article 78 shall authorize the conveyance of such person through the territory of their State, in both directions, without prejudice to the provisions of article 11, paragraph 3.

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

Article 77

COSTS OF EXTRADITION AND OF CONVEYANCE IN TRANSIT

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

Article 78

METHOD OF COMMUNICATION

In matters of extradition and conveyance in transit, the Ministries of Justice and the General Procurators' Offices of the Contracting Parties shall communicate with each other directly.

Article 79

OBLIGATION TO PROSECUTE

1. Each Contracting Party shall prosecute under its own law, on the application of the other Contracting Party, 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 a document containing the particulars of the offence, its definition, all available evidence relating to its commission and, so far as possible, the particulars specified in article 62, subparagraph (c).

3. The Contracting Party of which the person prosecuted is a national shall notify the other Contracting Party of the result of the prosecution and shall, if sentence has been passed, transmit a copy of the sentence after it has become final.

Article 80

NOTIFICATION OF SENTENCES

Each Contracting Party shall communicate to the other Contracting Party, at quarterly intervals, information concerning final sentences passed by its courts on nationals of the other Contracting Party, at the same time transmitting, wherever possible, the finger-prints of such persons. This provision shall also apply to any subsequent changes relating to such sentences.

Article 81

INFORMATION ON PREVIOUS CONVICTIONS

The Contracting Parties shall, on application by the courts or procurators' offices, transmit to each other free of charge information regarding the previous convictions of persons appearing in their registers of convictions.

PART III

FINAL PROVISIONS

Article 82

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 Warsaw.

Article 83

This Treaty is concluded for a term of five years from the date of its entry into force. It 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 84

On the date of the entry into force of this Treaty, the Convention between Romania and Poland regarding mutual assistance and legal protection in civil matters, signed at Bucharest on 19 December 1929,¹ and the Convention between Romania and Poland regarding extradition of offenders and reciprocal judicial assistance in criminal matters, signed at Bucharest on 26 March 1930,² shall cease to have effect.

This Treaty has been drawn up at Bucharest on 25 January 1962, in duplicate in the Romanian and Polish 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.

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

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

A. MĂLNĂȘAN

J. ZAMBROWICZ

¹ League of Nations, *Treaty Series*, Vol. CXXX, p. 205.

² League of Nations, *Treaty Series*, Vol. CLIII, p. 87.