

No. 7019

**POLAND
and
BULGARIA**

**Treaty concerning legal assistance and legal relations in
civil, family and criminal cases. Signed at Warsaw, on
4 December 1961**

Official texts: Polish and Bulgarian.

Registered by Poland on 23 December 1963.

**POLOGNE
et
BULGARIE**

**Traité relatif à l'entraide judiciaire et aux relations juri-
diques en matière civile, familiale et pénale. Signé à
Varsovie, le 4 décembre 1961**

Textes officiels polonais et bulgare.

Enregistré par la Pologne le 23 décembre 1963.

[TRANSLATION — TRADUCTION]

No. 7019. TREATY¹ BETWEEN THE POLISH PEOPLE'S REPUBLIC AND THE PEOPLE'S REPUBLIC OF BULGARIA CONCERNING LEGAL ASSISTANCE AND LEGAL RELATIONS IN CIVIL, FAMILY AND CRIMINAL CASES. SIGNED AT WARSAW, ON 4 DECEMBER 1961

The Council of State of the Polish People's Republic and the Presidium of the National Assembly of the People's Republic of Bulgaria, desiring to strengthen the friendship between the two States and their peoples and attaching great importance to co-operation in the sphere of law, 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 Polish People's Republic :

Kazimierz Zawadzki, Under-Secretary of State in the Ministry of Justice of the Polish People's Republic;

The Presidium of the National Assembly of the People's Republic of Bulgaria :

Atanas Voinov, Deputy Minister for Justice of the People's Republic of Bulgaria,

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

PART ONE

GENERAL PROVISIONS

Article 1

LEGAL PROTECTION

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

2. Nationals of either Contracting Party shall, in particular, have free and unimpeded access to the courts, procurators' offices and notarial authorities,

¹ Came into force on 19 April 1963, thirty days after the exchange of the instruments of ratification which took place at Sofia on 20 March 1963, in accordance with the provisions of article 91.

hereinafter called “judicial authorities”, and other authorities of the other Contracting Party having jurisdiction in the matters to which this Treaty relates and may appear before them, present petitions and institute proceedings under the same conditions as nationals of the latter Contracting Party.

3. The provisions of this Treaty shall apply, *mutatis mutandis*, to bodies corporate.

Article 2

METHOD OF COMMUNICATION

1. In the matters to which this Treaty relates, 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 shall also communicate with the judicial authorities of the other Contracting Party through the central organs referred to in paragraph 1.

Article 3

LANGUAGES

1. In their relations with one another, the authorities of the Contracting Parties shall use the Polish or the Bulgarian language.

2. Where, under the provisions of this Treaty, documents must be accompanied by certified translations into the language of the Contracting Party applied to, the said translations shall be made by an authorized translator, by the applicant authority or by the diplomatic or consular mission of one of the Contracting Parties.

Article 4

INFORMATION ON LEGISLATION

1. The Ministry of Justice and the General Procurator’s Office of the Polish People’s Republic and the Ministry of Justice and the Chief Procurator’s Office of the People’s Republic of Bulgaria shall, on request, provide each other with information on the legislation of their respective States.

2. The Ministries of Justice of the Contracting Parties shall transmit to each other the texts of such laws as may be promulgated after the entry into force of his Treaty.

Article 5

TRANSMITTAL OF ARTICLES AND CURRENCY

Where, pursuant to this Treaty, articles or currency are transmitted from the territory of one Contracting Party to the territory or to the diplomatic or consular

mission of the other Contracting Party, the pertinent laws of the Contracting Party whose authority is effecting the transmittal shall be observed.

Article 6

REFUSAL TO PERFORM ACTS

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

PART TWO

LEGAL ASSISTANCE IN CIVIL, FAMILY AND CRIMINAL CASES

Article 7

PROVISION AND SCOPE OF LEGAL ASSISTANCE

1. The judicial authorities of the Contracting Parties shall provide one another with legal assistance in civil, family and criminal cases.

2. Legal assistance shall include the performance of specific acts, such as the execution of searches, the seizure of articles, the transmittal and delivery of physical evidence, the conduct of expert examinations, the interrogation of accused persons, witnesses and experts, the interrogation of litigants and other persons, the conduct of judicial inspections *in situ*, and the preparation, transmittal and delivery of documents.

3. The judicial authorities shall also provide legal assistance to other authorities in the matters to which this Treaty relates.

Article 8

APPLICATIONS FOR LEGAL ASSISTANCE

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

- (1) The title of the applicant authority;
- (2) The title of the authority applied to;
- (3) The title of the case in which legal assistance is applied for;
- (4) The given names and surnames, domicile or residence, nationality and occupation of the parties in the case, and in criminal cases, where possible, the place and date of birth of the accused persons as well;

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

2. An application for service of a document shall state, in addition to the titles of the applicant authority and the authority applied to, the address of the recipient and the title of the document to be served.

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

4. Applications transmitted pursuant to this Treaty shall bear a signature and an official seal.

Article 9

PROCEDURE FOR EXECUTION

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

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 notify the applicant authority accordingly.

3. The authority applied to shall, at the request of the applicant authority and through the latter's intermediary, notify the parties in the case of the time and place of execution of the application.

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.

5. After executing the application, the authority applied to shall return the documents to the applicant authority. If it has not been possible to execute the application, the documents shall also be returned, together with an appropriate explanation.

Article 10

SERVICE OF DOCUMENTS

In serving documents, the authority applied to shall follow the procedure prescribed in its own State for the service of documents, provided that the document to be served is drawn up in the language of that State or accompanied by a certified translation. Otherwise, the document shall be delivered to the recipient if he is willing to accept it.

Article 11

CONFIRMATION OF SERVICE OF DOCUMENTS

Service of documents shall be confirmed in accordance with the regulations governing such service in force in the territory of the Contracting Party applied to. Such confirmation shall in each case indicate the manner, date and place of service.

Article 12

SERVICE OF DOCUMENTS ON OWN NATIONALS

The Contracting Parties shall be entitled to serve documents on their own nationals through the intermediary of their diplomatic or consular missions.

Article 13

IMMUNITY OF WITNESSES AND EXPERTS SUMMONED TO THE TERRITORY OF THE OTHER PARTY

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

2. In the case referred to in paragraph 1, the summons shall contain no threat of a fine or other measure of constraint 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 or deprived of liberty in the territory of that Party for a punishable offence committed before he crossed the frontier of the applicant State, because of his testimony or for the offence which is the subject of the criminal proceedings.

4. A witness or expert shall forfeit the protection provided for in paragraph 3 if he fails to quit the territory of the applicant Party, although able to do so, within one week from the date on which the authority taking evidence from him informs him that his presence is no longer necessary.

Article 14

COSTS OF LEGAL ASSISTANCE

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

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 which recovered them.

Article 15

INTERROGATION OF OWN NATIONALS

Each Contracting Party may, if its law so provides, interrogate its own nationals as litigants, witnesses or experts, through the intermediary of its diplomatic or consular missions, in the territory of the other Contracting Party. No compulsion may be used in connexion with a summons for interrogation.

PART THREE

CIVIL AND FAMILY CASES

Chapter I

PERSONAL STATUS AND FAMILY LAW

Article 16

LEGAL CAPACITY AND CAPACITY FOR LEGAL ACTION

1. The legal capacity and capacity for legal action of individuals shall be determined according to the law of the Contracting Party of which they are nationals.

2. The legal capacity of bodies corporate shall be determined according to the law of the Contracting Party in whose territory they were constituted.

DECLARATION OF INCAPACITY

Article 17

Proceedings for declaring persons incapable shall be within the jurisdiction of the courts, and governed by the law, of the Contracting Party of which the person to be declared incapable is a national.

Article 18

1. If an authority of one Contracting Party finds that grounds exist for declaring incapable a national of the other Contracting Party whose place of domicile or residence is within the jurisdiction of the said authority, it shall so notify the competent authority of the other Contracting Party.

2. If the authority of the other Contracting Party notified in accordance with paragraph 1 indicates its willingness to leave further action in the matter to the authority at the place of domicile or residence of the person concerned, or if it fails to reply within three months, the latter authority may conduct the proceedings for a declaration of incapacity in accordance with the law of its State, provided that it takes such action on grounds for which provision is also made by the law of the Contracting Party of which the person concerned is a national. The decision concerning the declaration of incapacity shall be communicated to the competent authority of the other Contracting Party.

Article 19

In urgent cases, the authority at the place of domicile or residence of a person who is to be declared incapable and who is a national of the other Contracting Party may make such temporary arrangements as are necessary to protect the person concerned or his property. Copies of the relevant decisions shall be transmitted to the competent authority of the Contracting Party of which the said person is a national.

Article 20

The provisions of articles 17 and 18 shall apply, *mutatis mutandis*, to the revocation of a declaration of incapacity.

Article 21

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

1. Proceedings for declaring persons missing or dead or for the establishment of the fact of death shall be within the jurisdiction of the courts of the Contracting Party of which the person concerned was a national at the time when he was last known to be alive.

2. A court of one Contracting Party may declare a national of the other Contracting Party missing or dead, or establish the fact of his death, upon the application of any person domiciled in its territory who is entitled, under its law, to submit such an application. The relevant decision shall have legal effects only in the territory of the Contracting Party by whose court the decision was rendered.

3. Upon the application of an interested party, the court which rendered the decision referred to in paragraph 2 shall revoke or modify it if the court competent under paragraph 1 decides otherwise in the matter.

4. In proceedings for declaring persons missing or dead or for the establishment of the fact of death, the courts of each Contracting Party shall apply the law of their own State.

Article 22

MARRIAGE

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

2. The form of marriage shall be that prescribed by the law of the Contracting Party before an authority of which the marriage is solemnized. For the purposes of recognition of a marriage contracted by nationals of one Contracting Party in the territory of the other Contracting Party, it shall be deemed sufficient if the form prescribed by the law of the prospective spouses' own State is observed.

Article 23

PERSONAL AND PROPERTY RELATIONS OF SPOUSES

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

2. Where one spouse is a national of one Contracting Party and the other a national of the other Contracting Party, the courts having jurisdiction and the applicable law shall be those of the Contracting Party in whose territory the spouses have or last had their domicile.

Article 24

DIVORCE

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

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

Article 25

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

1. Where proceedings to establish the existence or non-existence of a marriage or to annul a marriage are instituted on the ground of failure to satisfy the conditions determining capacity to marry, the law applicable under article 22, paragraph 1, shall apply.

2. Where proceedings to establish the existence or non-existence of a marriage or to annul a marriage are instituted on the ground of informality, the applicable law shall be that of the State whose prescribed form of marriage was followed in solemnizing the 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

The law applicable to legal relations between parents and children and to actions to establish or contest paternity or maternity shall be that of the Contracting Party of which the child is a national.

Article 27

1. The courts competent to rule on the legal relations specified in article 26 shall be those of the Contracting Party of which the child is a national.

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

Article 28

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 law of the Contracting Party of which the person adopted is a national requires his consent, the consent of his legal representatives or the authorization of the competent authority, such consent or authorization must be obtained.

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

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

Article 29

MAINTENANCE OBLIGATIONS

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

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

GUARDIANSHIP AND CURATORSHIP

Article 30

1. The authorities having jurisdiction and the applicable law in matters relating to guardianship over nationals of the Contracting Parties shall be those of the Party of which the prospective ward is a national.

2. The legal relations between a guardian and his ward shall be governed by the law of the Contracting Party an authority of which appointed the guardian.

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

4. A national of one Contracting Party may be appointed the guardian of a national of the other Contracting Party if he is domiciled in the territory of the Contracting Party in whose territory he is to exercise the guardianship and his appointment is in the best interests of the prospective ward.

Article 31

1. Where need arises to provide for guardianship in the interests of a national of one Contracting Party whose domicile or residence is in the territory of the other Contracting Party, the authority of the latter Party shall at once notify the guardianship authority of the Contracting Party of which the person concerned is a national.

2. In urgent cases, the guardianship authority of such other Contracting Party may take appropriate temporary measures under the law of its own State, provided that it at once notifies the guardianship authority of the Contracting Party of which the person in need of protection is a national. The temporary measures shall remain in effect until such time as the latter authority decides otherwise.

Article 32

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

2. Where a guardian has been appointed for a national of one Contracting Party and the ward's domicile is subsequently transferred to the territory of the other Contracting Party, the authority which has exercised guardianship until that time may request an authority of the other Contracting Party to assume the further exercise of such guardianship. The transfer of guardianship shall not take effect until the authority applied to has assumed such guardianship and has so notified the applicant authority.

3. The authority assuming guardianship shall apply the law of its own State; however, in determining legal capacity and capacity for legal action it shall apply the law of the Contracting Party of which the ward is a national. The said authority shall not be entitled to decide questions relating to the ward's personal status but may grant authorization to contract marriage if such authorization is required under the law of the Contracting Party of which the ward is a national.

Article 33

1. A guardian shall exercise guardianship both over the person and over all the property of his ward, irrespective of where the ward resides or where his property is situated.

2. Where a person for whom a guardian has been appointed by an authority of one Contracting Party owns property in the territory of the other Contracting Party, the authority exercising guardianship may request the competent authority of the other Contracting Party to appoint a person to administer such property.

Article 34

The provisions of articles 30 to 33 shall apply, *mutatis mutandis*, to curatorship.

Chapter II

*MATTERS OF SUCCESSION**Article 35*

PRINCIPLE OF EQUAL RIGHTS

1. Nationals of one Contracting Party may acquire property rights in the territory of the other Contracting Party through statutory or testamentary succession under the same conditions and to the same extent as nationals of the latter Party.

2. Nationals of one Contracting Party may make testamentary disposition of property situated in the territory of the other Contracting Party.

Article 36

WILLS

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

2. The form of a testamentary disposition shall be that prescribed by the law of the Contracting Party of which the testator was a national at the time of making the testamentary disposition. It shall, however, be deemed sufficient if the law of the place where the testamentary disposition was made has been complied with. This provision shall also apply to the revocation of a testamentary disposition.

Article 37

JURISDICTION

1. Proceedings in matters of succession to movable property shall be conducted by the judicial authorities of the Contracting Party of which the decedent was a national at the time of his death.

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

3. The provisions of paragraphs 1 and 2 shall also apply, *mutatis mutandis*, to disputes relating to matters of succession.

4. If the entire movable estate of a deceased national of one Contracting Party is situated in the territory of the other Contracting Party, proceedings in

matters of succession to such estate shall, upon petition by an heir or other person having a claim to the estate, and subject to the consent of all the heirs, be conducted by the judicial authorities of the latter Contracting Party.

Article 38

NOTIFICATION OF THE DEATH OF A PERSON LEAVING AN ESTATE

1. If a national of one Contracting Party dies in the territory of the other Contracting Party, the competent authority shall at once notify the diplomatic or consular mission of the former Contracting Party, communicating to it all available information concerning the heirs and legatees, their domicile or residence, the size and value of the estate, and the existence of a will. This provision shall also apply where the competent authority of one Contracting Party learns that property has been left in the territory of its State by a national of the other Contracting Party who has died outside the territory of both Contracting Parties.

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

3. If the diplomatic or consular mission is the first to learn of the death of a person who has left an estate, it shall so notify the authority competent to take measures for the protection of the estate.

Article 39

COMPETENCE OF DIPLOMATIC AND CONSULAR MISSIONS IN SUCCESSION PROCEEDINGS

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

Article 40

PROTECTION OF THE ESTATE

1. The competent authority of each Contracting Party shall, in accordance with the law of its State, take such measures as are necessary to ensure the protection or administration of an estate left in the territory of that Party by a national of the other Contracting Party or of an estate which is to descend to a national of the other Contracting Party.

2. Any measures taken under paragraph 1 shall be notified immediately to the diplomatic or consular mission of the other Contracting Party, which shall be entitled to participate in carrying out such measures. At the request of the diplomatic or consular mission, the said measures may be modified, rescinded or postponed.

ACTIONS RELATING TO WILLS

Article 41

The opening and publication of a will shall be within the jurisdiction of the authorities of the Contracting Party in whose territory the will is to be found. A certified copy of the will and of the minute concerning its opening and publication shall be transmitted to the diplomatic or consular mission of the Contracting Party of which the testator was a national. At the request of an authority of the Contracting Party of which the testator was a national, or of an authority of the other Contracting Party which is conducting succession proceedings, the original of the will shall also be transmitted, wherever possible.

Article 42

Where an authority of the Contracting Party of which the testator was a national has his will in its keeping, it shall, at the request of the authority of the other Contracting Party competent to take measures for the protection of the estate, transmit a certified copy of the will to the latter authority.

DELIVERY OF THE ESTATE

Article 43

1. If, after the completion of succession proceedings in the territory of one Contracting Party, the movable estate or the proceeds of sale of the movable or immovable estate are to pass to heirs or legatees who are nationals of the other Contracting Party, such estate or proceeds shall be delivered to the heirs or legatees; if they are not present and have not appointed a representative, the estate or proceeds shall be delivered to the diplomatic or consular mission of the latter Party.

2. The estate or proceeds may be delivered to the heirs or legatees if:
- (1) The competent authority has called upon the decedent's creditors to present their claims within the time-limit prescribed by the law of the Contracting Party in whose territory the estate is situated and the creditors have not presented their claims within such time-limit;
 - (2) The applicable taxes and charges and all claims presented have been paid or secured.

Article 44

1. If the movable estate left by a national of one Contracting Party who has died in the territory of the other Contracting Party, being domiciled there, is of small value and none of the persons entitled to the estate is domiciled or has appointed a representative in the said territory, such estate shall be delivered, without succession proceedings, to the diplomatic or consular mission of the Contracting Party of which the decedent was a national. Before the estate is delivered to the heirs, the diplomatic or consular mission shall settle or secure, to the extent of the value of the said estate, all claims presented by the decedent's creditors within one month from the date of receipt of the estate.

2. The provisions of paragraph 1 shall also apply to the personal effects of a national of one Contracting Party who dies while travelling in the territory of the other Contracting Party.

Chapter III

*CIVIL CASES INTER VIVOS RELATING TO PROPERTY**Article 45*

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 such property is situated.

JURISDICTION AND APPLICABLE LAW

Article 46

1. In matters relating to immovable property, the competent authorities and the applicable law shall be those of the Contracting Party in whose territory such property is situated. Similarly, in matters relating to restricted rights *in rem* in respect of immovable property, the competent authorities and the applicable law shall be those of the Contracting Party in whose territory such property is situated.

2. The provisions of paragraph 1 shall be without prejudice to the provisions of article 23.

Article 47

1. Contractual obligations between individuals or between an individual and a body corporate shall, with the exception of obligations relating to immovable property, be governed by the law of the Contracting Party in whose territory the obligation arose, save where the parties to the contract agree to the application of other law.

2. Liabilities arising from an unlawful act or from any other event entailing an obligation under law shall be governed by the law of the Contracting Party in whose territory the act or other event took place.

Article 48

1. In cases relating to claims arising from relations affected by the provisions of article 47, the courts having jurisdiction shall be those of the Contracting Party in whose territory the respondent is domiciled. The courts of the Contracting Party in whose territory the plaintiff is domiciled shall also have jurisdiction in such cases if the subject of the dispute or the respondent's property is situated in the said territory.

2. The jurisdiction of courts in the cases referred to in article 47, paragraph 1, may be changed by agreement between the parties to the contract.

Chapter IV

*PROVISIONS RELATING TO COSTS AND PRIVILEGES
IN CONNEXION WITH LEGAL PROCEEDINGS**Article 49*

EXEMPTION FROM DEPOSIT OF SECURITY FOR LEGAL COSTS

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

PRIVILEGES IN CONNEXION WITH LEGAL PROCEEDINGS

Article 50

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

2. The privileges referred to in paragraph 1 shall also apply to the provision of legal assistance in the case in question in the territory of the other Contracting Party.

Article 51

1. Entitlement to the privileges referred to in article 50 shall be conditional upon the submission of a certificate relating to personal and family status, income and property issued by the competent authority of the Contracting Party in whose territory the applicant is domiciled or resident.

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

3. The authority ruling on an application for the grant of privileges in connexion with legal proceedings may request additional information.

Article 52

1. A national of one Contracting Party desiring to secure privileges under article 50 in proceedings before a court of the other Contracting Party may present a petition in the matter to the court competent for his place of domicile or residence. The said court shall transmit the petition, together with the certificate referred to in article 51, paragraph 1, and any other documents submitted by the petitioner, to the court of the other Contracting Party. In such cases, the provisions of article 9, paragraph 2, shall also apply.

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

3. The petitions referred to in paragraphs 1 and 2 shall be drawn up in the form prescribed by the law of the Contracting Party in whose territory the petitioner is domiciled or resident. The petitions and the documents attached to them shall be accompanied by a certified translation into the language of the Contracting Party applied to.

Article 53

Where a court of one Contracting Party calls upon a party to proceedings who is domiciled or resident in the territory of the other Contracting Party to pay legal costs, it shall fix a time-limit of not less than one month for the purpose.

Chapter V

*RECOGNITION AND ENFORCEMENT OF JUDGEMENTS**Article 54*

RECOGNITION OF JUDGEMENTS

1. The Contracting Parties shall reciprocally recognize :

- (1) Final judgements of judicial authorities in civil and family cases and judgements of competent authorities in matters relating to guardianship or curatorship;
- (2) Final judgements of courts relating to damages in criminal cases;
- (3) Judicial settlements.

2. Final judgements in cases not relating to property which were rendered before the date of the entry into force of this Treaty may also be recognized.

Article 55

PREREQUISITES FOR RECOGNITION OF JUDGEMENTS

Judgements shall be recognized provided that :

- (1) Under the terms of this Treaty, the case is not within the exclusive jurisdiction of an authority of the Contracting Party in whose territory the judgement is to be recognized;
- (2) Neither party was denied the opportunity to defend himself or, in the case of persons whose right to participate in legal proceedings is restricted, denied proper representation;
- (3) The judgement does not conflict with a final judgement rendered previously by an authority of the Contracting Party in whose territory the judgement is to be recognized, in an action between the same parties, in the same matter and on the same grounds, and no action between the same parties, in the same matter and on the same grounds, is already in progress before the authorities of the Contracting Party in whose territory the judgement is to be recognized.

Article 56

RECOGNITION OF JUDGEMENTS IN CASES NOT RELATING TO PROPERTY

On the application of any interested person, an order for the recognition of a judgement in a case not relating to property shall be issued by the court which would have been competent to hear the case under the law of the Contracting Party in whose territory the judgement is to have legal effects, provided that the judgement meets the prerequisites specified in article 55.

ENFORCEMENT OF JUDGEMENTS IN CASES RELATING TO PROPERTY

Article 57

1. Upon application by a creditor, a court of the Contracting Party in whose territory enforcement is to take place shall issue authorization for the enforcement of a judgement rendered by a court of the other Contracting Party, provided that the prerequisites for its recognition are met, and proceedings for the enforcement of the judgement shall be instituted.

2. The courts competent to rule on applications for authorization of enforcement shall be those of the Contracting Party in whose territory enforcement is to take place.

3. An application for authorization of enforcement shall be made to the court which rendered judgement at first instance. The said court shall transmit the application to the court competent to rule on it.

Article 58

An application for authorization of enforcement shall be accompanied by :

- (1) A copy of the judgement, certified by the court, together with a statement of the grounds on which it is based and a certificate to the effect that the judgement has become final;
- (2) A document showing that the respondent was served with a summons in the manner prescribed by law and that he was properly notified of the dates when the court was in session;
- (3) A certified translation of the application and the documents referred to in sub-paragraphs (1) and (2).

Article 59

An application for the institution of enforcement proceedings in the territory of the other Contracting Party, together with a certified translation into the language of that Party, may be submitted :

- (1) To the court which rendered judgement in the case at first instance; the said court shall transmit the application to the competent court of the other Contracting Party for transmittal to the competent enforcement authority;
- (2) Direct to the authority of the other Contracting Party which is competent to conduct enforcement proceedings.

Article 60

1. The law applicable to the issue of authorization of enforcement, further enforcement proceedings and legal remedies against enforcement shall be that of the Contracting Party in whose territory enforcement is to take place. Juris-

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

2. Where enforcement is suspended in the territory of the Contracting Party whose court rendered the judgement, owing to the institution of proceedings under the law of that Party for the revocation or modification of the said judgement, the issue of authorization of enforcement or, if such authorization has been issued, enforcement shall be suspended in the territory of the Contracting Party whose authority is to enforce the judgement.

3. Before ruling on an application for authorization of enforcement, the court may call upon the parties to submit written statements or to supply missing information and may interrogate them, if it deems such action necessary. It may also request the court which rendered the judgement to furnish clarification.

ENFORCEMENT OF AWARDS OF COSTS

Article 61

1. If a litigant exempt under article 49 from depositing security for legal costs is required, in pursuance of a final judgement of a court of one Contracting Party, to pay such costs, the competent court of the other Contracting Party, in whose territory the said judgement is to be enforced, shall on application issue without charge authorization for the enforcement of the award of costs.

2. Legal costs shall also include the costs of the certificate to the effect that the judgement has become final, of translation and of certification.

Article 62

The court authorizing enforcement of an award of legal costs shall determine whether :

- (1) The judgement which is to be enforced is accompanied by a certificate to the effect that it has become final;
- (2) The judgement is accompanied by a certified translation of that part of such judgement which contains the award of costs.

Article 63

1. With a view to recovering unpaid legal costs, the court of the Contracting Party in whose territory the claim for payment of costs is made which dealt with the matter at first instance shall request the competent court of the other

Contracting Party to recover the legal costs. The latter court shall initiate enforcement proceedings and shall transmit the sums recovered to the diplomatic or consular mission of the other Contracting Party.

2. The request shall be accompanied by the text of the award of costs, a certificate to the effect that it has become final, and a certified translation.

3. The provisions of article 61, paragraph 2, shall apply, *mutatis mutandis*, to the costs of translation of the documents referred to in paragraph 2 above.

Article 64

The calculation of the amount of legal costs arising in connexion with enforcement and the manner of their recovery shall be governed by the law of the Contracting Party in whose territory the judgement is enforced.

PART FOUR

CRIMINAL CASES

Chapter I

EXTRADITION AND CONVEYANCE IN TRANSIT

Article 65

OBLIGATION TO EXTRADITE

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

2. Extradition shall take place only in respect of acts which, under the law of both Contracting Parties, constitute criminal offences and are punishable with deprivation of liberty for a term of more than one year or with a heavier penalty (extraditable offences) or in respect of which a final and enforceable sentence involving deprivation of liberty for a term of more than one year has been pronounced.

Article 66

NON-EXTRADITION OF OWN NATIONALS

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

Article 67

REFUSAL OF EXTRADITION

Extradition shall also be precluded if :

- (1) The offence was committed in the territory of the Contracting Party applied to;
- (2) Under the law of the Contracting Party applied to, exemption from prosecution or punishment has been acquired by lapse of time or for other reasons;
- (3) The person claimed is already being prosecuted in the territory of the Contracting Party applied to for the same offence, or he has been sentenced or discharged in respect thereof and such sentence or discharge has become final;
- (4) Prosecution for the offence must be instituted by private complaint, unless the procurator has assumed responsibility for lodging the complaint.

Article 68

REQUISITION FOR EXTRADITION

1. A requisition for extradition shall contain the titles of the applicant authority and the authority applied to, the given name, surname and nationality of the person claimed, information concerning such person's domicile or residence, his biographical particulars, a description of the offence, the legal definition of the offence, and the subject of the requisition; if the offence resulted in material damage, the extent of such damage shall be stated.

2. The requisition shall be accompanied by :

- (1) A certified copy of the order for prosecution and arrest and, if extradition is requested for purposes of execution of a sentence, a certified copy of the final sentence; such documents shall contain particulars as to the circumstances of the offence and the place and time of its commission;
- (2) The text of the criminal statutes of the applicant Contracting Party defining the offence;
- (3) If final sentence has been passed on the person claimed and he has already served a part of the sentence, particulars as to the part thereof remaining to be served;
- (4) Where possible, a description of the person claimed, together with his photograph and finger-prints.

Article 69

INFORMATION TO SUPPLEMENT A REQUISITION FOR EXTRADITION

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

plementary information. It may set the applicant Contracting Party a time-limit of one to two months for the transmittal of such information. The time-limit may be extended at the request of the latter Party.

2. If the person to whom the requisition relates has been taken into custody and the applicant Contracting Party fails to transmit within the specified time-limit the information necessary for a decision on the requisition for extradition, the Contracting Party applied to shall release the said person.

DETENTION PENDING EXTRADITION

Article 70

If, pursuant to this Treaty, sufficient grounds exist for the requisition for extradition, the Contracting Party applied to shall take immediate steps under its own law to detain the person claimed.

Article 71

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

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

3. Where a person has been temporarily detained, the other Contracting Party shall be notified immediately.

Article 72

1. A person detained under article 71, paragraph 1, shall be released if a requisition for his extradition is not received within two months from the dispatch of notification of his detention.

2. A person detained under article 71, paragraph 2, shall be released if a requisition for his extradition is not received within one month from the dispatch of notification of his detention.

Article 73

POSTPONEMENT OF EXTRADITION

If the person claimed is being prosecuted or is serving a sentence for another offence committed in the territory of the Contracting Party applied to, his extradition may be postponed until the termination of the criminal proceedings or the completion or remission of the sentence.

Article 74

TEMPORARY EXTRADITION

1. If postponement of extradition under article 73 might result in exemption from prosecution being acquired by lapse of time or might otherwise prejudice the prosecution, the person claimed may be extradited temporarily on receipt of a requisition with statement of grounds.

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

Article 75

SURRENDER

The Contracting Party applied to shall notify the applicant Contracting Party of the place and time of surrender. If the applicant Contracting Party fails to accept the person claimed within one month from the date fixed for his surrender, the said person shall be released.

Article 76

RE-EXTRADITION

If an extradited person evades prosecution and returns to the territory of the Contracting Party applied to, it shall not be necessary to submit a new requisition in order to secure his re-extradition. The Contracting Party applied to shall base its decision regarding re-extradition on the documents annexed to the requisition already submitted. Before taking a decision, it may ask the applicant Contracting Party to state whether charges in respect of the offence committed by the accused have been dropped.

Article 77

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 78

LIMITS TO THE PROSECUTION OF EXTRADITED PERSONS

1. An extradited person may not, without the consent of the Contracting Party applied to, be prosecuted or punished for an offence which was committed

before his extradition and is not the offence for which he was extradited. The said person likewise may not be surrendered to a third State without the consent of the Contracting Party applied to.

2. Consent shall not be required if :

- (1) The extradited person fails to quit the territory of the applicant Contracting Party within one month from the termination of the criminal proceedings or the completion or remission of a sentence; such period of one month shall not be deemed to include any period during which the extradited person is unable through no fault of his own to quit the territory of the applicant Contracting Party;
- (2) The extradited person quits the territory of the applicant Contracting Party but returns thereto.

Article 79

NOTIFICATION OF RESULTS OF PROSECUTION

The Contracting Party to which a person has been extradited shall notify the Contracting Party which extradited him of the results of the criminal proceedings and, if a judgement has been rendered and has become final, shall transmit a copy thereof.

Article 80

CONVEYANCE IN TRANSIT

1. Either Contracting Party shall, on application by the other Contracting Party, authorize the conveyance in transit through its territory of persons extradited by a third State. This provision shall not apply where there would be no obligation under this Treaty to grant extradition.

2. If need arises for an authority of the applicant Contracting Party to interrogate as a witness a person held in custody in the territory of a third State, the competent authority of the Contracting Party applied to shall authorize the conveyance of such person through its territory.

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 81

COSTS

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

Article 82

OBLIGATION TO PROSECUTE

1. Each Contracting Party undertakes to prosecute under its own law any of its nationals who are accused of committing an extraditable offence in the territory of the other Contracting Party. For this purpose the Contracting Parties shall provide each other with particulars concerning the identity of the offender and the offence committed and with whatever evidence is available.

2. The Contracting Party of which the person prosecuted is a national shall notify the other Contracting Party of the results of the criminal proceedings instituted under paragraph 1 and, if a judgement has been rendered and has become final, shall transmit a copy thereof.

Article 83

METHOD OF COMMUNICATION

In matters relating to extradition, conveyance in transit and prosecution, the Ministry of Justice and the General Procurator's Office of the Polish People's Republic shall communicate directly with the Ministry of Justice and the Chief Procurator's Office of the People's Republic of Bulgaria.

Chapter II

*SPECIAL PROVISIONS RELATING TO LEGAL ASSISTANCE
IN CRIMINAL CASES**Article 84*

TEMPORARY DELIVERY OF PERSONS HELD IN CUSTODY

1. If need arises in the territory of one Contracting Party for the interrogation as a witness of a person held in custody in the territory of the other Contracting Party, application may be made for the delivery of such person for the time required for his interrogation, subject to his being kept in custody and returned immediately after interrogation. The authorities competent to make such application and to take a decision regarding such delivery shall be those referred to in article 83.

2. The provisions of article 13, paragraph 3, shall apply, *mutatis mutandis*, to the persons referred to in the preceding paragraph.

Article 85

DELIVERY OF ARTICLES

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

- (1) Articles acquired by an offender through the commission of an extraditable offence;
- (2) Articles acquired through the commission of an offence by a national of the Contracting Party applied to in the territory of the applicant Contracting Party;
- (3) Articles which may serve as physical evidence in proceedings conducted in the territory of the applicant Party, even where they are liable to confiscation or forfeiture.

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

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

4. These provisions shall not affect the rights of third parties to the articles referred to in paragraph 1, and such articles shall, after the termination of the criminal proceedings, be returned free of charge to the persons entitled to them.

5. Regulations restricting the importation and exportation of articles and currency shall not apply to the delivery of articles under the preceding paragraphs.

Article 86

NOTIFICATION OF SENTENCES

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

Article 87

INFORMATION FROM THE REGISTER OF CONVICTIONS

The courts and procurators' offices of each Contracting Party may receive free of charge information from the registers of conviction maintained in the territory of the other Contracting Party.

PART FIVE

DOCUMENTS

VALIDITY OF DOCUMENTS

Article 88

1. Documents drawn up or attested in the territory of one Contracting Party by a court or other authority acting within the limits of its jurisdiction, in due form and bearing a seal, shall not require legalization for use in the territory of the other Contracting Party.

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

Article 89

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, by a notarial authority, or by the authority which has the document in its custody.

Article 90

TRANSMITTAL OF CIVIL REGISTRATION CERTIFICATES AND OTHER DOCUMENTS

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

2. The provisions of paragraph 1 shall also apply to notations made on civil registration certificates. In such cases, a complete copy of the certificate shall be transmitted.

3. Each Contracting Party shall transmit free of charge, at the request of the courts or the notarial or other authorities of the other Contracting Party, copies of civil registration certificates and other documents relating to the personal rights and interests of nationals of the latter Party.

PART SIX

FINAL PROVISIONS

Article 91

This Treaty shall be subject to ratification and shall enter into force upon the expiry of thirty days from the date of the exchange of the instruments of ratification, which shall take place at Sofia.

Article 92

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

This Treaty has been drawn up at Warsaw on 4 December 1961, in duplicate in the Polish and Bulgarian languages, both texts being equally authentic.

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

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

K. ZAWADZKI
Under-Secretary of State

For the Presidium
of the National Assembly
of the People's Republic
of Bulgaria :

A. VOINOV
Deputy Minister for Justice