

No. 7314

**CZECHOSLOVAKIA
and
BULGARIA**

Treaty concerning legal assistance in civil and criminal cases. Signed at Prague, on 13 April 1954

Official texts: Czech and Bulgarian.

Registered by Czechoslovakia on 24 June 1964.

**TCHÉCOSLOVAQUIE
et
BULGARIE**

Traité relatif à l'entraide judiciaire en matière civile et pénale. Signé à Prague, le 13 avril 1954

Textes officiels tchèque et bulgare.

Enregistré par la Tchécoslovaquie le 24 juin 1964.

[TRANSLATION — TRADUCTION]

No. 7314. TREATY¹ BETWEEN THE CZECHOSLOVAK REPUBLIC AND THE PEOPLE'S REPUBLIC OF BULGARIA CONCERNING LEGAL ASSISTANCE IN CIVIL AND CRIMINAL CASES. SIGNED AT PRAGUE, ON 13 APRIL 1954

The President of the Czechoslovak Republic and the Council of Ministers of the People's Republic of Bulgaria,

Desiring that the close and lasting friendship and mutual confidence between the two countries should also find expression in the sphere of legal co-operation and in the intensification of their mutual legal relations, have decided to conclude a Treaty concerning legal assistance in civil and criminal cases.

For this purpose they have appointed as their plenipotentiaries :

The President of the Czechoslovak Republic :

Dr. Václav Škoda, Minister for Justice;

The Council of Ministers of the People's Republic of Bulgaria :

Mr. Milko Tarabanov, Ambassador Extraordinary and Plenipotentiary, who, having exchanged their full powers, found in good and due form, have agreed upon the following provisions :

T I T L E I

LEGAL ASSISTANCE IN CIVIL CASES

PART I

CIVIL CASES

Chapter I

LEGAL PROTECTION

Article 1

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

¹ Came into force on 16 December 1954, one month after the exchange of the instruments of ratification, which took place at Sofia on 16 November 1954, in accordance with article 89 (1).

(2) They shall have free and unimpeded access to the courts of the other Party and may appear, make motions (institute proceedings, lodge complaints, present petitions, etc.) before them under the same conditions as nationals of the other Party.

Chapter II

SERVICE OF DOCUMENTS AND PROVISION OF OTHER LEGAL ASSISTANCE

Article 2

The courts of the two Parties shall provide one another directly with assistance in serving court documents and with other legal assistance in civil cases.

Article 3

(1) An application for the service of documents or for the provision of other legal assistance may be addressed by any court of one Party to any court of the other Party. Competence to receive and comply with such applications shall vest, in the territory of both Parties, in the People's Courts. Competence to lend documents for temporary use and to issue copies of documents shall vest, in the territory of both Parties, in the courts which dealt with the case at first instance.

(2) If the court applied to for the service of documents or for the provision of other legal assistance is not competent, it shall of its own motion transmit the application to the competent court and shall notify the applicant court accordingly.

(3) The court applied to shall, after complying with the application, transmit the documents to the applicant court or shall inform it of the circumstances which prevented compliance.

Article 4

(1) An application must specify the applicant court and the court applied to, the case in which legal assistance is applied for, the names of the parties, their occupation and domicile, the names of their representatives and the type of legal assistance applied for.

(2) An application for the service of documents must also specify the exact address of the recipient and the nature of the document to be served.

COMPLIANCE WITH APPLICATIONS FOR THE SERVICE OF DOCUMENTS OR FOR
THE PROVISION OF OTHER LEGAL ASSISTANCE

Article 5

(1) In serving a document, the court applied to shall follow the procedure prescribed by its own law for the service of similar documents, provided that the document is drawn up in the language of the Party applied to or is accompanied by a certified translation into that language. Otherwise, the court applied to shall deliver the document to the addressee if he is willing to accept it.

(2) The translation of a document into the language of the Party applied to shall be certified by a court translator or a court of the applicant Party or by a diplomatic or consular representative of the applicant Party or of the Party applied to.

(3) If a document cannot be served on the addressee at the address specified in the application, the court applied to shall take the necessary steps to determine the address.

Article 6

(1) Service shall be proved by a receipt signed by the recipient and bearing the date and the signature of the authority effecting service or by a certificate issued by that authority indicating the manner, place and time of service. If the document to be served was transmitted in duplicate, its receipt and service may also be confirmed on the second copy.

(2) Confirmation of receipt of a document may also take the form of a court notice.

Article 7

(1) In complying with an application, the court applied to shall be bound to follow the laws of its own State and to apply the measures of constraint which are applied in complying with similar applications from the courts of its own State. At the request of the applicant court, the court applied to may depart from the procedure prescribed by its own legislation and follow the special procedure requested, provided that such procedure is not at variance with the mandatory provisions of the Party applied to.

(2) The court applied to shall, at the request of the applicant court, notify it of the place and time of action to comply with the application.

Article 8

(1) The Parties shall not require repayment of costs or charge any fees for compliance with an application for the service of documents or for the

provision of other legal assistance; the same shall apply to costs connected with the interrogation of witnesses or experts or with judicial inspection. Such costs shall be borne by the Party applied to.

(2) Postal charges shall be borne by the Party in whose territory such charges are incurred.

(3) The court applied to shall communicate to the applicant court the amount of the costs and fees referred to in paragraph (1) in order that the applicant court may recover them from the person liable therefor. The sums recovered shall accrue to the applicant Party.

Article 9

SERVICE OF DOCUMENTS ON OWN NATIONALS

Each Party reserves the right to serve documents on its own nationals, if they are in the territory of the other Party, through its diplomatic or consular representatives. No compulsion shall be used in such service.

Chapter III

EXEMPTION FROM DEPOSIT OF SECURITY FOR LEGAL COSTS

Article 10

A national of one Party who appears before a court of the other Party as a litigant (plaintiff, petitioner or third party) shall not be required, if he is living in the territory of either of the Parties, to deposit security for legal costs, however designated, on the ground that he is an alien or has no domicile or residence in the country in question.

Article 11

(1) If a litigant (plaintiff, petitioner or third party) exempt from the deposit of security for legal costs is ordered in the territory of one Party to pay such costs, the competent court in the territory of the other Party shall on application authorize free of charge the enforcement of the order for costs.

(2) Legal costs shall include the cost of the certificate, translation and authentication referred to in article 12.

Article 12

(1) In authorizing enforcement, the court shall confine itself to determining whether the judgement has become final and is enforceable.

(2) The petition for such authorization shall be accompanied by a transcript of that part of the judgement which contains the order for costs, authenticated by the court of first instance, and by a certificate issued by the same court to the effect that the judgement has become final and is enforceable.

(3) These documents shall be accompanied by a translation, made in accordance with article 5, paragraph (2), into the language of the Party in whose territory enforcement is sought.

Article 13

(1) A petition for authorization of enforcement in the territory of the other Party may be submitted :

- (a) To the court which made the order for costs or to the court which rendered judgement in the case at first instance, or
- (b) Direct to the court of the other Party which is competent to authorize enforcement.

(2) The court referred to in paragraph (1), sub-paragraph (a), shall transmit the petition to the competent court of the other Party in the manner specified in article 3.

Article 14

(1) The court shall deal with a petition for authorization of enforcement in respect of legal costs without hearing the parties even where the petitioner has not deposited security for the costs of enforcement. An order authorizing or denying enforcement may be contested in accordance with the laws of the Party in whose territory the order is made.

(2) The cost of the certificate, translation and authentication referred to in article 12 shall be fixed—depending upon the Party in whose territory it was incurred—by the court which dealt with the case at first instance or by the court which is competent to authorize enforcement; thereafter the latter court shall also fix the cost of a petition for enforcement.

Chapter IV

EXEMPTION FROM COURT FEES AND CHARGES

Article 15

Nationals of either Party shall enjoy in the territory of the other Party the privilege of exemption from court fees and charges under the same conditions and to the same extent as nationals of the other Party.

Article 16

(1) Certificates relating to personal and family status, earnings and property shall be issued by the competent court (State authority) of the Party in whose territory the petitioner has his domicile or residence.

(2) If the petitioner has no domicile or residence in the territory of either Party, a certificate issued or authenticated by the competent diplomatic or consular mission of his State shall be acceptable.

(3) The court ruling on exemption from court fees and charges may, if it deems necessary, request additional information from the court (State authority) which issued the certificate.

Article 17

If the competent court has granted exemption from court fees and charges to a national of the other Party, that exemption shall apply to all phases of the proceedings, including enforcement proceedings.

Article 18

(1) If a national of one Party, whose domicile or residence is in the territory of either of the Parties, applies for exemption from court fees and charges or for free legal representation before a court of the other Party, he may file his petition in the form of a statement before the competent People's Court of his place of domicile or residence. The court shall draw up a record of the statement and shall transmit such record, together with a certificate as specified in article 16, paragraph (1), and the other documents submitted by the litigant, to the competent court of the other Party in the manner specified in article 3. If the court receiving the record is not competent, it shall transmit the same to the competent court and shall at the same time notify the court of the other Party accordingly.

(2) The record shall be drawn up in the language of the court preparing it.

(3) A litigant applying for exemption from court fees and charges may at the same time file an application for the institution of proceedings (complaint), which shall also be entered in the record, and may produce evidence.

Chapter V

AUTHENTICATION OF DOCUMENTS

Article 19

Documents which have been drawn up or authenticated in due form in the territory of one Party by courts (State authorities) or public officials (official

translators, experts, etc.) acting within the limits of their official powers, and which bear an official seal, shall require no further authentication in the territory of the other Party.

Chapter VI

TRANSMITTAL OF CIVIL REGISTRATION (CIVIL STATUS) CERTIFICATES

Article 20

(1) Each Party undertakes to transmit to the other extracts from the civil register (civil status records) relating to entries made concerning nationals of the other Party after the date of entry into force of this Treaty.

(2) Extracts from the civil register (civil status records) shall be prepared in the manner prescribed by the laws concerning civil registration (civil status records) and other legal provisions of the Party transmitting the extracts. Extracts shall be drawn up and transmitted, without translation and free of charge, every three months.

(3) The civil registration (civil status) authorities of each Party shall at the request of the courts and authorities of the other Party transmit extracts for official use without fee or charge.

(4) Such extracts shall be transmitted through the diplomatic channel.

Article 21

Where an authority of one Party makes a new entry or a correction in the civil register (civil status record) relating to a national of the other Party, a certified extract from the civil register (civil status record) containing such new entry or correction shall be transmitted to the other Party in the manner specified in article 20.

PART II

PERSONAL AND FAMILY LAW

Chapter VII

PERSONAL LAW

Article 22

LEGAL CAPACITY

The legal capacity of a person shall be determined according to the law of the Party of which he is a national.

*Article 23**DECLARATION OF PERSONS AS MISSING OR DEAD;
ESTABLISHMENT OF THE FACT OF DEATH*

(1) Proceedings to appoint a representative for a missing person, to declare a person missing or dead or to establish the fact of death shall be within the jurisdiction of the courts of the Party of which the person concerned was a national at the time of his disappearance.

(2) A court of one Party may declare a national of the other Party dead :

- (a) Upon application by a person wishing to exercise rights of succession, or rights deriving from property relations between spouses, in immovable property of the missing person which is situated in the territory of the first-mentioned Party; or
- (b) Upon application by the spouse, provided that at the time of submitting the application the said spouse is domiciled in the territory of the first-mentioned Party.

(3) The declaration of death shall be governed by the domestic law of the missing person even in the cases specified in paragraph (2).

*Chapter VIII**FAMILY LAW**Article 24**RECOGNITION OF JUDICIAL DECREES IN MATRIMONIAL CASES*

(1) The final decree of a court of one Party in a matrimonial action (for divorce, for the annulment of a marriage, or to establish whether or not a marriage exists) shall be recognized in the territory of the other Party without further proceedings provided that, at the time when the decree became final, at least one of the spouses was a national of the Party whose court made the decree and no final decree had been made previously in the same case by a competent court of the other Party.

(2) This provision shall also apply to decrees made before the entry into force of this Treaty.

*Article 25**ACTIONS TO ESTABLISH OR CONTEST PATERNITY*

The question whether a husband is the father of a child whose mother lives with him in wedlock shall be decided according to the law of the Party

of which the husband is a national at the time of the child's birth. If the husband died before the child's birth, the applicable law shall be that of the Party of which he was a national at the time of his death. If the nationality of the husband at the time of the child's birth or at the time of the husband's death cannot be determined, the applicable law shall be that of the Party of which the husband was a national at the time when his nationality was last known.

Article 26

LEGAL RELATIONS BETWEEN THE CHILD OF AN UNMARRIED WOMAN AND HIS PUTATIVE FATHER

The establishment of paternity and the legal relations between the child of an unmarried woman and his putative father shall be governed by the law of the Party of which the child was a national at birth.

Article 27

In actions to establish or contest paternity, jurisdiction shall vest in the courts of the Party whose law is applicable under the provisions of articles 25 and 26 or in the courts of the Party in whose territory the litigants are domiciled.

Article 28

ADOPTION

(1) Competence to make adoption orders shall vest in the courts of the Party of which the adopter is a national.

(2) Where the child being adopted is a national of the other Party and the law of that Party prescribes that his consent, the consent of his legal representative or that of a court or other authority shall be obtained, adoption shall be subject to such consent.

(3) The termination of adoption shall be governed by the law of the Party of which the adopted child is a national at the time of the termination of adoption.

GUARDIANSHIP AND CURATORSHIP

Article 29

Save as otherwise provided by this Treaty, jurisdiction in proceedings relating to guardianship or curatorship over nationals of the Parties shall vest in the courts (authorities) of the Party of which the ward is a national.

Article 30

(1) Where need arises for a guardianship court (authority) to take measures in the interest of a national of one Party whose domicile, residence or property

is in the territory of the other Party, the court of the other Party shall so notify, without undue delay, the court of the Party of which the ward is a national.

(2) In a case admitting of no delay the court of the other Party may itself adopt urgent measures, at the same time notifying the court of the Party of which the ward is a national; such measures shall have provisional effect until a decision is taken by the court of the Party of which the ward is a national. The latter court shall report its action to the court which adopted the provisional measures.

(3) Measures under paragraph (2) may also be adopted to protect the interests of a missing person.

Article 31

(1) The court (authority) of one Party may transfer to a court (authority) of the other Party all or part of its jurisdiction in the matter of guardianship or curatorship over a ward whose domicile, residence or property is in the territory of the latter Party. Such transfer of jurisdiction shall take effect when the guardianship (curatorship) court (authority) applied to expressly assumes the jurisdiction transferred to it and notifies the applicant court (authority) accordingly.

(2) The guardianship (curatorship) court (authority) shall exercise the transferred jurisdiction in the manner prescribed by its own legal provisions; even in this case, however, matters relating to legal capacity and capacity for legal action shall be governed by the law of the Party of which the ward is a national. The court (authority) shall not be entitled, by virtue of the transferred jurisdiction, to decide questions of personal status. However, if the court (authority) decides to grant, as guardian, approval for or consent to the marriage of the ward, where such approval or consent is required by the law of the Party of which the ward is a national, it may take its decision by virtue of the transferred jurisdiction.

Article 32

(1) The obligation to accept the office of guardian or curator shall be governed by the law of the Party of which the guardian or curator is a national.

(2) The legal relations between a guardian or curator and his ward shall be governed by the law of the Party whose court (authority) appointed the guardian or curator.

PART III

SUCCESSION

Chapter IX

GENERAL PROVISIONS

Article 33

Nationals of either Party shall be placed on a footing of equality with nationals of the other Party resident in the territory of the latter as regards the capacity to make or revoke wills disposing of property which is in the territory of the Contracting Parties, or of rights which are to be exercised in such territory, and as regards the capacity to succeed to such property or rights. The property or rights shall pass to them under the same conditions as apply to nationals of the other Party resident in its territory.

Article 34

Nationals of either Party who claim rights of succession in the territory of the other Party must possess the capacity to inherit both under the law governing legal relations in matters of succession (articles 35 and 36) and under the law of the Party of which they are nationals.

Chapter X

LEGAL RELATIONS IN MATTERS OF SUCCESSION AND WILLS

Article 35

Legal relations in matters of succession shall be governed by the law of the Party of which the decedent was a national at the time of his death.

Article 36

Legal relations in the matter of succession to property of which, under the law in force at the place where such property is situated, even nationals of the country concerned cannot dispose freely by will shall be governed by the law of the Party in whose territory the property is situated.

Article 37

Escheated movable property shall revert to the Party of which the decedent was a national at the time of his death, and escheated immovable property shall revert to the Party in whose territory it is situated.

Article 38

The form of a will and of its revocation shall be determined by the law of the Party of which the testator was a national at the time of making or revoking the will. It shall, however, be deemed sufficient if the provisions of the law of the Party in whose territory the will was made or revoked are complied with.

Article 39

The capacity to make or revoke a will and the legal effects of informality in testamentary dispositions (fraud, error, etc.) shall be determined by the law of the Party of which the testator was a national at the time of making the testamentary disposition.

Chapter XI

JURISDICTION AND PROCEEDINGS

Article 40

(1) Proceedings in matters of succession to movable property shall be conducted by the courts of the Party of which the decedent was a national at the time of his death (domestic courts); proceedings in matters of succession to immovable property and in matters of succession covered by the special provision in article 36 shall be conducted by the courts of the Party in whose territory the estate is situated (local courts).

(2) The provisions of paragraph (1) shall also apply *mutatis mutandis* to disputes arising in connexion with rights of succession.

Article 41

(1) If a national of one Party dies in the territory of the other Party, the competent local court (authority) shall so notify the competent diplomatic or consular mission of the first-mentioned Party without undue delay, communicating to it all available information concerning the heirs, their domicile (residence) and address, the nature and value of the estate and the will, if any. The same shall apply where the local court (authority) learns that property has been left in its country by a national of the other Party who has died outside the territory of the Parties.

(2) If the diplomatic or consular mission of the Party of which the deceased was a national learns of the death first, it shall notify the local court (authority) accordingly.

Article 42

The diplomatic or consular representatives of either Party may represent their nationals through their authorities or agents, even without a power of attorney, in succession proceedings before the courts (authorities) of the other Party if such nationals are absent and have no representative of their own.

Article 43

A will shall be published by the competent court (authority) of the Party in whose territory the will is to be found. A certified copy of the will and of the minute concerning the condition and content of the will and, where appropriate, concerning the publication thereof and, on request, the original will shall be transmitted to the domestic court (authority) of the testator or to the court (authority) of the other Party which conducted the proceedings in the case.

Article 44

(1) The courts (authorities) of a Party in whose territory the estate of a national of the other Party is situated shall take, in accordance with their laws, such measures as are necessary for the protection and administration of the estate.

(2) The diplomatic or consular mission of the other Party shall be informed without undue delay of the measures referred to in paragraph (1). The said mission may participate, through its authority or agent, in carrying out such measures. At the request of the diplomatic or consular mission, such measures may be modified or rescinded.

(3) At the request of the domestic court or authority, measures taken under paragraph (1) must be rescinded.

Article 45

Save as otherwise provided by this Treaty, a movable estate to which the provisions of article 44 apply shall be delivered to or placed at the disposal of the diplomatic or consular mission of the Party of which the decedent was a national, provided that the claims of the State have been paid or secured and that the competent authority has issued an export authorization in accordance with the regulations in force. Subsequent proceedings shall be governed by the law of the Party of which the decedent was a national.

Article 46

If nationals of the Party in whose territory an estate is situated take part in succession proceedings as heirs, legatees or creditors, or if there are participants

in such proceedings who, although not nationals of the said Party, are domiciled in its territory, the competent local court (authority) may retain the movable estate or a proportionate part thereof until such time as the competent court makes a final decision on the claims of such persons. The local court (authority) shall fix a time-limit of not less than three nor more than six months for the presentation of such claims. A notice to that effect shall be published in the territory of both Parties in the manner prescribed for the publication of official notices. If no claims are presented within the time-limit, the estate shall not be retained further on that ground. If the competent court has recognized the claims and its decision has become final, the local court (authority) may deliver movable property accruing to nationals of its State, or to persons domiciled in that State, directly to the entitled persons instead of to the diplomatic or consular mission.

Article 47

(1) If the movable estate left by a national of one Party is in the territory of the other Party, any heir or legatee may request that the succession proceedings should be conducted by a court of the latter Party.

(2) The court shall, on request, issue a notice calling upon the heirs, legatees and other interested persons, within a time-limit, fixed by the court, of not less than three nor more than six months, to present their claims and to lodge their objections to the conduct of the succession proceedings by the court specified in paragraph (1) and indicating that, otherwise, the court will conduct the succession proceedings without regard to their claims. The notice to that effect shall be published in the territory of both Parties in the manner prescribed for the publication of official notices. A copy of the notice shall be transmitted without undue delay to the competent domestic court, to the diplomatic or consular mission of the State of the decedent, to the known heirs and legatees and to other persons presenting claims to the estate. The cost of publication of the notice shall be borne by the petitioner.

(3) If, within the time-limit fixed by the notice, no claims have been presented and no objections lodged to the conduct of the succession proceedings by the court specified in paragraph (1), the movable estate shall not be delivered (article 45); the court shall then conduct the succession proceedings in accordance with the provisions of the code of civil procedure of its State.

(4) If any of the persons specified in paragraph (2) have lodged objections to the conduct of the succession proceedings by the court specified in paragraph (1), the proceedings shall be suspended without undue delay after the expiry of the time-limit stated in the notice. Subsequent proceedings shall be governed by the provisions of articles 45 and 46.

Article 48

If a national of one Party not domiciled or resident in the territory of the other Party dies while travelling in such territory, his personal effects shall be placed, without any formal proceedings, at the disposal of the diplomatic or consular mission.

PART IV

RECOGNITION AND ENFORCEMENT OF JUDGEMENTS IN CIVIL CASES

Chapter XII

Article 49

The Parties shall reciprocally recognize as enforceable :

- (a) Final judgements rendered by courts in civil cases;
- (b) Final and enforceable awards of criminal courts on the civil claims of an injured party; or
- (c) Final awards of courts of arbitration (conciliation) and settlements arrived at before them concerning property claims, where at least one of the parties to the proceedings is a body corporate (socialist organization) having the nationality of one of the Contracting Parties. Capacity to conclude arbitration agreements shall be determined according to domestic law.

Article 50

(1) An application for the recognition of a judgement or for authorization of enforcement shall be dealt with by the competent court of the Party in whose territory the judgement is to be recognized or enforced.

(2) An application for the recognition of a judgement or for authorization of enforcement shall be submitted to the court which rendered judgement in the case at first instance or to the court competent to rule on the application. An application submitted to the court of first instance shall be transmitted to the court which is competent to rule thereon.

(3) The formal requirements for application shall be governed by the law of the Party in whose territory the judgement is to be recognized or enforced.

(4) The application shall be accompanied by a translation, certified in accordance with article 5, paragraph (2), into the language of the Party applied to.

Article 51

An application for the recognition of a judgement or for authorization of enforcement must be accompanied by the following :

- (a) The complete text of the judgement; if the text does not show that the judgement has become final, this fact must be certified by an official document;
- (b) If a party did not participate in the proceedings, a certificate issued by a court showing that he was served at least once, in due time and proper form, with a summons or other advice of the institution of proceedings;
- (c) Certified (article 5, paragraph (2)) translations of the documents specified in sub-paragraphs (a) and (b) into the language of the Party in whose territory the judgement is to be recognized or enforced.

Article 52

If the court has any doubts regarding recognition of a judgement or authorization of enforcement, it may summon the applicant to present his case or, if necessary, to remedy any defects in the application. It may also interrogate the parties concerning the application. In addition it may request clarification from the court which rendered the judgement that is to be enforced.

Article 53

The law applicable to enforcement shall be that of the Party in whose territory enforcement is sought.

Article 54

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

- (a) If the court which rendered the judgement based its competence to deal with the case upon grounds unknown to the law of the Party in whose territory the judgement is to be recognized or enforced;
- (b) If the applicant or the respondent did not participate in the proceedings and if he or his representative was not served in due time and proper form with a summons or other advice of the institution of proceedings or service was effected only by public notice or in a manner not in accordance with the provisions of this Treaty;
- (c) If the judgement conflicts with an earlier judgement which has become final and which was rendered in an action between the same parties, relating to the same claim and based on the same grounds, by a court of the Party in whose territory the judgement is to be recognized or enforced; this pro-

vision shall not apply where there has been a material change in the circumstances which, in the earlier judgement, determined the nature of the enforcement provisions or the time of enforcement.

Article 55

With respect to fees and costs connected with the recognition of a judgement or with enforcement, the applicable provisions shall be those of the Party in whose territory the judgement is to be recognized or enforced.

Article 56

The provisions of this chapter relating to judgements shall also apply as appropriate to settlements arrived at in court.

TITLE II

LEGAL ASSISTANCE IN CRIMINAL CASES

Chapter XIII

THE EXTRADITION AND CONVEYANCE IN TRANSIT OF OFFENDERS

Article 57

EXTRADITABLE OFFENCES

(1) Each Party undertakes to extradite to the other on requisition, in accordance with this Treaty, offenders who are required to answer a criminal charge or to serve a sentence.

(2) Extradition shall be admissible for acts which, under the law of both Parties, constitute criminal offences and for which the legislation of both Parties prescribes a penalty of deprivation of liberty for a maximum term of at least one year or a heavier penalty.

(3) Extradition shall also be admissible for complicity in criminal offences and for an attempt to commit a criminal offence.

Article 58

EXCEPTIONS TO THE OBLIGATION TO EXTRADITE

Extradition shall not be admissible :

- (a) If the person claimed is a national of the Party applied to;
- (b) For an offence committed in the territory of the Party applied to;

- (c) If, under the law of the Party applied to, exemption from prosecution or punishment has been acquired through lapse of time or if the person claimed cannot be prosecuted or punished for other legal reasons;
- (d) If the person claimed has already been prosecuted for the same offence in the territory of the Party applied to and has been sentenced or discharged.

Article 59

OBLIGATION TO PROSECUTE

(1) Each Contracting Party undertakes to prosecute under its own law, on application by the other Party, one of its nationals who has committed in the territory of the other Party an offence extraditable under this Treaty.

(2) The application shall be accompanied by all the evidence relating to the offence.

(3) The Party applied to shall notify the other Party of the result of the prosecution and, if sentence has been passed, shall transmit a copy thereof.

Article 60

FORMAL REQUIREMENTS FOR A REQUISITION FOR EXTRADITION

(1) A requisition for extradition for the purpose of criminal prosecution shall be accompanied by the original warrant of arrest or a certified copy thereof; in the case of extradition to serve a sentence, the requisition shall also be accompanied by a copy of the sentence and a certificate to the effect that it is final and enforceable. These documents shall contain particulars of the offence, especially the time and the place of its commission and its legal definition, and the text of the applicable statutory provisions concerning the offence and the penalty. In the case of an offence against property, the extent of the damage which the offence caused or was intended to cause shall be stated.

(2) At the same time, where possible, detailed personal particulars of the person claimed, his domicile and his nationality shall be given and his photograph and finger-prints shall be transmitted.

Article 61

SUPPLEMENTARY INFORMATION

(1) If the requisition for extradition does not contain all necessary particulars, the Party applied to may request supplementary information, fixing a time-limit of not less than one month nor more than two months for that purpose. This time-limit may be extended for serious reasons.

(2) If the applicant Party fails to furnish the requested supplementary information within the specified time-limit, the Party applied to may release the person detained.

(3) The applicant Party shall not be bound to furnish evidence of the guilt of the person claimed.

Article 62

DETENTION PENDING EXTRADITION

Upon receipt of a requisition for extradition, the Party applied to shall issue a warrant for the arrest of the person claimed unless extradition is found to be inadmissible under this Treaty.

Article 63

PROVISIONAL DETENTION

(1) An arrest may be made pending receipt of a requisition for extradition if the applicant Party expressly applies therefor and states that a warrant has been issued for the arrest of the offender or a sentence passed on him on the basis of which it intends to apply for extradition. An application for provisional detention may be made by post, telegraph, telephone or wireless.

(2) Even in the absence of such application, the competent authority of either Party may detain a person who is in its territory and who, according to its information, has committed an extraditable offence in the territory of the other Party.

(3) The other Party shall be notified of the arrest immediately.

Article 64

RELEASE FROM PROVISIONAL DETENTION

(1) A person detained under article 63, paragraph (2), may be released if an application for his provisional detention under article 63, paragraph (1), is not received within a period of one month from the notification of his arrest.

(2) A person detained under article 63, paragraph (1), may be released if a requisition for his extradition is not received within a period of two months from the date of his arrest.

Article 65

POSTPONEMENT OF EXTRADITION

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

*Article 66**TEMPORARY EXTRADITION*

(1) In virtue of a requisition accompanied by a statement of grounds, temporary extradition may be carried out even in the cases specified in article 65, especially if the postponement of extradition would result in exemption from prosecution through lapse of time or would have other serious consequences prejudicial to the prosecution.

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

*Article 67**CONCURRENT REQUISITIONS FOR EXTRADITION*

If the extradition of an offender is requested by more than one State for the same offence or for different offences, the Party applied to shall decide which requisition shall be complied with.

*Article 68**LIMITS TO THE PROSECUTION OF EXTRADITED PERSONS*

(1) An extradited person shall not, without the consent of the 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. Such consent shall not be refused in the case of an offence which is extraditable under this Treaty.

(2) Such consent shall not be required if the extradited person fails to quit the territory of the Party to which he was extradited within one month after the conclusion of the criminal proceedings or, in the event of his conviction, within one month after the completion or remission of the sentence, or if he returns to the said territory. Such period of one month shall not be deemed to include any period during which the person concerned is unable through no fault of his own to quit the said territory.

(3) Consent need not be requested if the extradited person himself gives his consent before the court to prosecution for an offence as specified in paragraph (1). A certified copy of the record of such consent shall be transmitted to the Party which surrendered the said person.

*Article 69**DELAY IN EFFECTING EXTRADITION*

The Party applied to shall notify the applicant Party of the place and time of surrender. If the applicant Party fails to accept the extradited person within a period of fifteen days from the appointed date, the said person may be released.

*Article 70**RE-EXTRADITION*

If an extradited person evades prosecution and returns to the territory of the Party applied to, he shall be re-extradited upon receipt of a new requisition, without any formalities.

*Article 71**CONVEYANCE IN TRANSIT*

(1) Each Contracting Party shall, on application, authorize the conveyance through its territory of any person extradited by a third State to the other Contracting Party. A Party shall not be bound to authorize conveyance in transit if it would not be bound to authorize extradition under this Treaty.

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

(3) The Party applied to shall permit conveyance in transit to be effected in whatever manner it finds most convenient.

*Article 72**COMMUNICATION OF THE RESULTS OF PROSECUTION*

The applicant Party shall be bound to inform the Party applied to of the results of proceedings taken against an extradited person. If such person is sentenced, a copy of the sentence shall be transmitted after it has become final. This obligation shall apply even in the cases provided for in article 68 of this Treaty.

*Article 73**COSTS OF EXTRADITION*

Costs connected with extradition shall be borne by the Party in whose territory they were incurred. The cost of conveyance in transit (article 71) shall be repaid by the applicant Party.

*Article 74**INTER-MINISTERIAL COMMUNICATION*

In matters relating to extradition proceedings (articles 57 to 73), the Ministers for Justice of the two Parties shall communicate with each other directly.

Chapter XIV

OTHER LEGAL ASSISTANCE IN CRIMINAL CASES

Article 75

GENERAL PROVISIONS

(1) The courts and procurators' offices of the Parties shall provide one another with legal assistance direct.

(2) Legal assistance shall include the service of summonses, judgements and other documents in criminal cases, the performance of specific acts required in connexion with judicial proceedings, such as the interrogation of accused persons, witnesses and experts, inspection *in situ*, searches and the seizure of articles, and the transmittal of court documents and physical evidence.

(3) An application may be made by any judicial or procuratorial authority of either Contracting Party. Applications shall be dealt with by the People's Court or district procurator of the other Party. The transmittal of documents and the issue of copies of documents shall be effected by the court which rendered judgement in the case at first instance, or by the procurator who conducted the proceedings in the case, or by the court (procurator) in possession of the documents.

(4) If the authority applied to is not competent to provide the legal assistance applied for, it shall of its own motion transmit the application to the competent authority and shall notify the applicant authority accordingly.

(5) The authority applied to shall notify the applicant authority of compliance with the application for legal assistance or shall inform it of the circumstances which prevented compliance.

Article 76

COMPLIANCE WITH APPLICATIONS

(1) In complying with an application, the authority applied to shall follow the laws of its own State. At the request of the applicant authority, it may comply with an application according to a special procedure, provided that such procedure is not at variance with the legal provisions of the Party applied to.

(2) The authority applied to shall, at the request of the applicant authority, notify it of the place and time of action to comply with the application.

Article 77

REFUSAL OF LEGAL ASSISTANCE

(1) An application for legal assistance in criminal proceedings may be rejected :

- (a) In the case of prosecution for a non-extraditable offence;
- (b) If the performance of the act applied for in the territory of the Party applied to does not fall within the competence of the courts or the procurator's office.
- (2) The Party applied to shall carry out a search or a seizure of articles only where this does not affect the rights of third persons.

Article 78

SUMMONS OF WITNESSES AND EXPERTS

(1) A person who is summoned from the territory of one Party for interrogation as a witness or an expert in the territory of the other Party and who appears voluntarily shall not be prosecuted for any offence committed previously, or taken into custody to serve a sentence imposed for any such offence. Furthermore he shall not be liable to prosecution for complicity in the offence concerning which he is summoned for interrogation as a witness or an expert.

(2) The witness or expert shall forfeit this privilege if he fails to quit the territory of the applicant Party within one week from the date on which the competent court or procurator informs him that his presence is no longer necessary. Such period shall not be deemed to include any period during which the witness or expert is unable through no fault of his own to quit the said territory.

TEMPORARY DELIVERY OF PERSONS HELD IN CUSTODY

Article 79

If a person summoned as a witness or an expert is in custody in the territory of the Party applied to, he may be delivered to the applicant Party by order of the Minister for Justice of the first-mentioned Party. He shall be returned as soon as possible after interrogation.

Article 80

Subject to the conditions laid down in article 78, the Minister for Justice of either Contracting Party may authorize the conveyance in transit of a person held in custody in a third State who is to be delivered for interrogation in the territory of the other Party.

Article 81

DELIVERY OF PHYSICAL EVIDENCE

(1) Articles acquired by an offender through the commission of the offence for which his extradition is sought, or articles acquired by him in exchange

for such articles, and articles serving as evidence in criminal proceedings shall be delivered to the applicant Party even if, by reason of his death or escape or any other circumstances, the offender is not extradited.

(2) The Party applied to may retain such articles temporarily if this is necessary for other criminal proceedings.

(3) The rights of third persons to such articles shall not be affected. After the conclusion of the criminal proceedings, the articles shall be returned free of charge to the person entitled to them. If it cannot be determined with certainty who is entitled to them, the articles shall be returned free of charge to the Party applied to.

Article 82

PERIODIC EXCHANGE OF CRIMINAL RECORDS

(1) Each Party shall communicate to the other Party information concerning sentences passed by its courts, in criminal proceedings, on nationals of the other Party, with the exception of sentences passed by courts martial.

(2) Such information shall be exchanged by the Ministries of Justice of the Parties every three months. The Ministers for Justice shall also make arrangements to transmit the finger-prints of the convicted persons.

Article 83

EXTRACTS FROM THE REGISTER OF CONVICTIONS

The authorities of either Party which keep the records of convictions shall supply the judicial and procuratorial authorities of the other Party free of charge, on their direct request, with extracts from the register of convictions.

Article 84

COSTS OF LEGAL ASSISTANCE IN CRIMINAL CASES

Where legal assistance is provided in criminal cases, each Party shall bear all costs incurred in its territory, including the remuneration of witnesses and experts.

TITLE III

GENERAL PROVISIONS

Chapter XV

LEGAL INFORMATION

Article 85

The Ministries of Justice of the Parties shall provide each other directly, on request, with information concerning the law in force or formerly in force in their territory.

Chapter XVI

FINAL PROVISIONS

Article 86

LANGUAGE

In communications between the Parties, each of them shall use its own language or the Russian language.

Article 87

FORMAL REQUIREMENTS FOR APPLICATIONS

(1) Documents issued by courts and other authorities of the Parties shall bear the official seal of the issuing court or authority.

(2) In applying for legal assistance, the Parties shall use forms the text of which shall be determined by agreement.

Article 88

RATIFICATION

This Treaty shall be ratified. The instruments of ratification shall be exchanged at Sofia as soon as possible.

ENTRY INTO FORCE

Article 89

(1) This Treaty shall enter into force one month after the exchange of the instruments of ratification and shall remain in force for a term of ten years from the date of its entry into force.

(2) Unless one of the Parties gives notice, not later than one year before the expiry of the said term, of its intention to terminate the Treaty, it shall be extended for an indefinite period and shall remain in force for a further period of one year from the date on which it is denounced by either Party.

Article 90

On the date of entry into force of this Treaty, the following shall cease to have effect :

- (a) The Convention between the Czechoslovak Republic and Bulgaria concerning reciprocal Judicial Protection and Assistance in Matters of Civil and Commercial Law, signed at Sofia on 15 May 1926¹;
- (b) The Convention between the Czechoslovak Republic and Bulgaria relating to Extradition and Judicial Assistance in Criminal Matters, signed at Sofia on 15 May 1926².

Article 91

AUTHENTIC TEXTS

This Treaty has been drawn up in two original copies in the Czech and Bulgarian languages. Both texts are authentic.

DONE at Prague, on 13 April 1954.

For the Czechoslovak
Republic :

Dr. Václav ŠKODA

For the People's Republic
of Bulgaria :

Milko TARABANOV

¹ League of Nations, *Treaty Series*, Vol. LX, p. 203, and Vol. LXIX, p. 113.

² League of Nations, *Treaty Series*, Vol. LX, p. 169.