

No. 7517

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**POLAND  
and  
YUGOSLAVIA**

**Treaty concerning legal relations in civil and criminal cases  
(with exchange of letters). Signed at Warsaw, on  
6 February 1960**

*Official texts: Polish and Serbo-Croat.*

*Registered by Poland on 14 December 1964.*

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**POLOGNE  
et  
YOUGOSLAVIE**

**Accord régissant les relations juridiques en matière civile  
et pénale (avec échange de lettres). Signé à Varsovie,  
le 6 février 1960**

*Textes officiels polonais et serbo-croate.*

*Enregistré par la Pologne le 14 décembre 1964.*

[TRANSLATION — TRADUCTION]

No. 7517. TREATY<sup>1</sup> BETWEEN THE POLISH PEOPLE'S REPUBLIC AND THE FEDERAL PEOPLE'S REPUBLIC OF YUGOSLAVIA CONCERNING LEGAL RELATIONS IN CIVIL AND CRIMINAL CASES. SIGNED AT WARSAW, ON 6 FEBRUARY 1960

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The Polish People's Republic and the Federal People's Republic of Yugoslavia, desiring to regulate legal relations between them in a spirit of friendship and co-operation, have decided to conclude a Treaty concerning legal relations in civil and criminal cases.

For this purpose, the Plenipotentiaries of the two Contracting Parties, namely :

For the Polish People's Republic :

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

For the Federal People's Republic of Yugoslavia :

Dr. France Hočevar, Ambassador Extraordinary and Plenipotentiary of the Federal People's Republic of Yugoslavia in the Polish People's Republic,

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

PART I

GENERAL PROVISIONS

*Article 1*

1. Nationals of either Contracting Party shall, in the territory of the other Contracting Party, have free access to the courts and may appear before them and avail themselves of legal protection, in respect of their persons and property, under the conditions applying to nationals of the other Contracting Party.

2. The provisions of paragraph 1 shall apply, *mutatis mutandis*, to bodies corporate.

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<sup>1</sup> Came into force on 5 June 1963, 30 days after the exchange of the instruments of ratification which took place at Belgrade on 6 May 1963, in accordance with article 94.

*Article 2*

Save as otherwise provided by this Treaty, the courts of the Contracting Parties shall communicate with one another through the Ministry of Justice of the Polish People's Republic, on the one hand, and the secretariats of State for Judicial Affairs of the People's Republics of Serbia, Croatia, Slovenia, Bosnia and Hercegovina, Macedonia and Montenegro, on the other hand.

*Article 3*

1. In communicating with one another under the terms of this Treaty, the courts of the Contracting Parties shall, save as otherwise provided by this Treaty, use the Polish language or the Serbo-Croat, Slovenian and Macedonian languages.

2. Documents issued by a court of one Contracting Party at the request of a court of the other Contracting Party shall be drawn up in the language of the Party applied to.

*Article 4*

The provisions of this Treaty relating to the courts shall also apply, *mutatis mutandis*, to other authorities which, under the law of their State, have jurisdiction in civil and criminal cases.

*Article 5*

The Ministry of Justice of the Polish People's Republic and the Secretariat for Legal Affairs of the Federal Executive Council of the Federal People's Republic of Yugoslavia shall provide each other on request with the texts of regulations in force or formerly in force in the territory of their respective States, and also, where necessary, with information concerning particular legal questions.

## PART II

## CIVIL CASES

## Chapter 1

## EXEMPTION FROM DEPOSIT OF SECURITY FOR LEGAL COSTS AND COURT CHARGES

*Article 6*

1. Nationals of one Contracting Party appearing as litigants before the courts of the other Contracting Party shall not be required to deposit security for legal costs or court charges on the ground that they are aliens or have no domicile or

residence in the territory of the latter Contracting Party, provided that they have their domicile or permanent residence in the territory of one of the Contracting Parties.

2. However, either Contracting Party may require nationals of the other Contracting Party to pay, under the same conditions and to the same extent as its own nationals, such deposit toward costs as may be required of litigants in the course of proceedings.

3. The provisions of paragraphs 1 and 2 shall apply, *mutatis mutandis*, to bodies corporate.

#### Article 7

1. If a person who is exempt from the deposit of security for legal costs or court charges under article 6 is required in pursuance of a final and enforceable judgement to pay such costs or charges, the said judgement shall, on application, be enforceable in the territory of the other Contracting Party in regard to the costs and charges, without regard to its enforcement in respect of the principal claim.

2. Application for the payment of legal costs shall be made by the party to whom they were awarded, whereas application for the payment of court costs and charges shall be made by the court to which they are due. Application shall be made in the manner specified in article 53, paragraphs 1 and 2.

3. The application shall be accompanied by :

- (a) A certified copy of that part of the judgement which relates to the legal costs or court charges, together with a certificate showing that the judgement is final and enforceable;
- (b) A translation of the document referred to in sub-paragraph (a) into the language of the Contracting Party in whose territory enforcement is sought. The translation must be certified in the manner specified in article 53, paragraph 3 (d).

4. The judgement referred to in paragraph 1 shall be enforced in the same manner as a judgement of a domestic court, without a prior hearing of the parties.

5. All court costs and charges recovered shall be transmitted to the diplomatic or consular mission of the Contracting Party whose court applied for enforcement.

### Chapter 2

#### EXEMPTION FROM COURT COSTS AND CHARGES

#### Article 8

Nationals of either Contracting Party shall be entitled in the territory of the other Contracting Party to exemption from court costs and charges and to free

legal counsel under the same conditions and to the same extent as nationals of the latter Contracting Party.

#### *Article 9*

1. Entitlement to the benefits specified in article 8 shall be conditional upon the submission of an appropriate certificate issued by the competent authority of the place where the applicant is permanently resident.

2. If the applicant is not permanently resident in the territory of either Contracting Party, a certificate issued by the diplomatic or consular mission of the Contracting Party of which he is a national shall suffice.

#### *Article 10*

1. The authority competent to issue the certificates specified in article 9, paragraph 1, may require the authorities of the other Contracting Party to furnish information concerning the applicant's income and his property status.

2. The court which rules on an application for the grant of the benefits specified in article 8 may, within the limits of its competence, verify the certificates and information received and require the provision of any additional data necessary.

#### *Article 11*

1. Where a national of either Contracting Party who is permanently resident in the territory of one Party wishes to apply to a court of the other Party for the benefits specified in article 8, he may make such application directly to the said court or to the competent district court of the place where he is permanently resident, which shall transmit the application to the competent court of the other Contracting Party.

2. The application and annexes must be drawn up in the language of the Contracting Party whose court is to rule on the application or be accompanied by a certified translation into that language.

### Chapter 3

#### PROVISION OF LEGAL ASSISTANCE AND SERVICE OF DOCUMENTS

#### *Article 12*

1. The courts of the Contracting Parties shall, upon application, provide one another with legal assistance and effect the service of documents in civil cases, both adversary and non-adversary.

2. Applications must indicate the matter to which they relate, the given names and surnames of the parties, their nationality, their occupation, their domicile or residence, and the given names and surnames of their representatives. Applications for the service of documents must indicate, in addition, the address of the recipient and the nature of the document to be served, and applications for legal assistance must indicate the circumstances in connexion with which evidence is sought and, where necessary, the questions to be put to the person who is to be interrogated.

#### *Article 13*

1. Applications and other documents originating from the courts of the Contracting Parties must be signed and bear the seal of the court which drew them up. They shall not require further authentication.

2. Applications shall be drawn up in the form prescribed by the law of the applicant Party. Where the law of the Party applied to lays down special conditions for execution of the application, the court applied to may require the provision of further particulars to supplement the application.

#### *Article 14*

1. Applications shall be executed in accordance with the law of the Party applied to. However, special procedures shall be employed if the applicant court so requests, provided that such procedures are not at variance with the basic legal principles of the Party applied to.

2. In executing an application for legal assistance, the court applied to shall apply, where necessary, the same measures of constraint as it applies in executing similar applications from the courts of its own State. Measures of constraint shall not be applied for the purpose of compelling the parties in adversary proceedings to appear in person.

#### *Article 15*

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

2. The court applied to shall, at the request of the applicant court, notify the latter in due time of the place and date of execution of the application; such notification shall be transmitted direct.

3. Where an application is not executed, the court applied to shall at once so notify the applicant court, at the same time indicating the reasons for non-execution.

*Article 16*

In executing an application for the service of legal documents, the court applied to shall apply the law of its own State. Where the documents to be served are not drawn up in the language of the Party applied to or accompanied by a translation into that language, the court applied to shall deliver the documents to the recipient if he is willing to accept them.

*Article 17*

Proof of service shall take the form either of a receipt containing the date of service, the signatures of the person by whom service was effected and of the recipient, and the seal of the court in question, or of a certificate of the court applied to attesting to the fact, manner and date of service. Service may also be confirmed on one copy of the document to be served, where it is transmitted in duplicate for that purpose.

*Article 18*

Save as otherwise provided by this Treaty, proceedings relating to the execution of an application for legal assistance or the service of documents shall be free of charge, and no charges or costs may be levied for the performance of acts connected with such execution.

*Article 19*

The Party applied to may refuse to execute an application if it considers that such execution might be prejudicial to its sovereignty or security.

## Chapter 4

## RULES OF CONFLICT

## LEGAL CAPACITY

*Article 20*

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

2. The legal capacity of bodies corporate shall be determined according to the law of the Contracting Party in whose territory their head offices are situated.

## DECLARATION OF INCAPACITY

*Article 21*

In proceedings for declaring persons incapable, the applicable law and the courts having jurisdiction shall be those of the Contracting Party of which the person to be declared incapable is a national.

## GUARDIANSHIP AND CURATORSHIP

*Article 22*

Save as otherwise provided by this Treaty, the applicable law and the authorities having jurisdiction in matters relating to guardianship and curatorship shall be those of the Contracting Party of which the legally incapable person is a national.

*Article 23*

1. Where in the territory of one Contracting Party the need arises for a guardianship authority to take measures in the interests of a national of the other Contracting Party whose domicile, residence or property is in the territory of the former Party, the competent authority of such Party shall at once so notify the diplomatic or consular mission of the Contracting Party of which the person concerned is a national.

2. In cases admitting of no delay, the guardianship authority may take such provisional measures as are required, at the same time so notifying the diplomatic or consular mission of the other Contracting Party. Such measures shall remain in effect until the competent authority of the Contracting Party of which the legally incapable person is a national takes the necessary decision and so notifies the authority which ordered the provisional measures.

3. The measures referred to in paragraph 2 may also be applied in the interests of a person whose place of residence is unknown and who does not have a legal representative.

*Article 24*

1. The guardianship authority of one Contracting Party may request the competent authority of the other Contracting Party to exercise guardianship or curatorship, or to take measures, in the interests of a person in need of guardianship or curatorship who is a national of the former Party but whose permanent residence or property is in the territory of the latter Party. The authority applied to shall notify the applicant authority direct of the measures taken.

2. The guardianship authority applied to shall apply the law of its own State; however, in matters relating to legal capacity it shall apply the law of the Contracting Party of which the ward is a national.



3. Where guardianship or curatorship is instituted in respect of a person who is a national of one Contracting Party and the said person subsequently transfers his permanent residence to the territory of the other Contracting Party, the authority which instituted the guardianship or curatorship may call upon an authority of the latter Party to assume its further exercise.

#### MATTERS RELATING TO MARRIAGE

##### *Article 25*

1. The form of marriage shall be that prescribed by the law of the Contracting Party before whose authority the marriage is solemnized.

2. 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. However, those legal provisions of the Contracting Party in whose territory a marriage is solemnized which relate to impediments arising from the existence of a previous marriage, consanguinity, mental illness or lack of responsibility for one's actions shall also apply to nationals of the other Contracting Party.

3. Where persons intending to contract a marriage before an authority of one Contracting Party are nationals of the other Contracting Party and are domiciled in its territory, the law of the latter Party shall also apply to the form of marriage.

##### *Article 26*

1. The rights and obligations of spouses and their property relations shall be those prescribed by the law of the Contracting Party of which they are nationals.

2. Where one spouse is a national of one Contracting Party and the other a national of the other Party, the applicable law shall be that of the Contracting Party in whose territory they have or last had their joint domicile.

3. Matters pertaining to the rights and obligations of spouses and their property relations shall be within the jurisdiction of the courts of the Contracting Party whose law is applicable under the provisions of paragraphs 1 and 2.

##### *Article 27*

1. In actions to establish the existence or non-existence of a marriage and in actions for the dissolution or annulment of marriages, the applicable law and the courts having jurisdiction shall be those of the Contracting Party of which the spouses are nationals when the petition is filed. If both spouses are domiciled in the territory of the other Contracting Party, the courts of that Party shall also

have jurisdiction; in such cases, however, a divorce may be granted only on grounds provided for by the law of both Contracting Parties.

2. A marriage between nationals of one Contracting Party, solemnized before an authority of the other Contracting Party, may be annulled if grounds exists for such action under the law both of the Contracting Party before whose authority the marriage was solemnized and of the Contracting Party of which the spouses are nationals.

3. If, at the time when proceedings to establish the existence or non-existence of a marriage or proceedings for the dissolution or annulment of a marriage are instituted, one spouse is a national of one Contracting Party and the other a national of the other Contracting Party, the court competent to hear the petition shall be that of the Party in whose territory both spouses are domiciled. The said court shall apply the law of its own State.

#### LEGAL RELATIONS BETWEEN PARENTS AND CHILDREN

##### *Article 28*

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 29*

1. The court competent to rule on the legal relations referred to in article 28 shall be that of the Contracting Party of which the child is a national.

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

#### ADOPTION

##### *Article 30*

1. Where the adopter is a national of one Contracting Party and the child adopted is a national of the other Contracting Party, adoption or termination of adoption shall be subject to fulfilment of the material requirements laid down by the law of both Contracting Parties.

2. In proceedings for adoption or termination of adoption, the authority having jurisdiction shall be that of the Contracting Party of which the child adopted is a national. If both the child and the adopter are domiciled in the territory of the Contracting Party of which the adopter is a national, the authority of that Party shall also have jurisdiction.

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

*Article 31*

1. In proceedings for declaring missing persons dead or for establishing the fact of death, the applicable law and the court having jurisdiction shall be that of the Contracting Party of which the person concerned was a national at the time of his disappearance.

2. The courts of one Contracting Party may declare a national of the other Contracting Party dead or establish the fact of his death :

- (a) Upon the application of a person wishing to exercise rights of succession, or rights deriving from property relations between spouses, with respect to immovable property of the missing person which is situated in the territory of the former Contracting Party;
- (b) Upon the application of the spouse of the person concerned, submitted with reference to the existence of the marriage, provided that at the time of submitting the application the spouse is domiciled in the territory of the former Contracting Party and that the couple had their last joint domicile in the territory of that Party.

3. The declaration of missing persons as dead and the establishment of the fact of death under the provisions of paragraph 2 may take place under the conditions prescribed by the law of the Contracting Party of which the missing person was a national or by the law of the Party whose court makes the ruling.

4. Rulings under paragraph 2 shall have legal effects only in the territory of the Contracting Party whose court makes the ruling.

5. Upon the application of an interested person, the court which made a ruling under paragraph 2 shall, where necessary, reserve or modify it, provided that the court having jurisdiction under paragraph 1 makes a substantive ruling in the case.

FORM OF LEGAL TRANSACTIONS

*Article 32*

1. The form of legal transactions shall be that prescribed by the law of the State whose law is applicable to the transaction itself; it shall, however, be deemed sufficient if the form is that prescribed by the law of the place where the transaction is concluded.

2. The form of legal transactions relating to immovable property shall be that prescribed by the law of the Contracting Party in whose territory the property is situated.

## MATTERS RELATING TO PROPERTY

*Article 33*

In matters relating to immovable property, including leasehold, the applicable law and the courts having jurisdiction shall be those of the Contracting Party in whose territory the property is situated.

*Article 34*

1. The law applicable to liabilities arising out of contracts, with the exception of liabilities relating to immovable property, shall be that of the Contracting Party in whose territory the contract was concluded, save where the parties have agreed that some other law shall apply. In matters pertaining to contractual relationships, the court having jurisdiction shall, save as otherwise agreed, be that of the Contracting Party in whose territory the defendant is domiciled.

2. In the case of liabilities arising out of an unlawful act, the applicable law and the court having jurisdiction shall be that of the Contracting Party in whose territory such act occurs. The injured party may also institute proceedings in a court of the Contracting Party in whose territory the defendant is domiciled or has property.

## MATTERS OF SUCCESSION

*Article 35*

1. Nationals of either Contracting Party may make a testamentary disposition (hereinafter "will") in respect of property situated in the territory of the other Contracting Party.

2. Nationals of either Contracting Party may, in the territory of the other Contracting Party, acquire property rights by statutory or testamentary succession under the same conditions and to the same extent as nationals of the latter Party.

*Article 36*

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

*Article 37*

The capacity to make or revoke a will and the legal effects of defective wills shall be determined by the law of the Contracting Party of which the testator was a national at the time of making or revoking the will.

*Article 38*

The form in which a will is drawn up or revoked shall be determined by the law of the Contracting Party of which the testator was a national at the time of making or revoking the will. It shall, however, be deemed sufficient if the law of the Contracting Party in whose territory the will was made or revoked is complied with.

*Article 39*

1. Where the estate of a national of one Contracting Party is situated in the territory of the other Contracting Party, the competent court shall, upon request or of its own motion, take such measures as are necessary to ensure the protection and administration of the estate.

2. The court shall apply the measures provided for in paragraph 1 in accordance with the law of its own State. However, the said measures shall be applied in a special manner if a court of the other Contracting Party so requests, provided that the procedure in question is not at variance with the basic legal principles of the Party applied to.

3. If, at the place where the estate is situated, there is a diplomatic or consular mission of the Contracting Party of which the deceased was a national, the said mission shall be notified of the measures referred to in paragraph 1 at the time when such measures are taken.

4. In other cases, the diplomatic or consular mission shall be notified without delay of all measures taken to ensure the protection and administration of the estate. At the request of the diplomatic or consular mission, the said measures may be modified or rescinded without prejudice to the rights of third parties.

*Article 40*

Wills shall be opened and published by a court of the Contracting Party in whose territory the will is to be found. If, under the provisions of this Treaty, no court of the Contracting Party in whose territory the will is published has jurisdiction, a certified copy of the will, of the minute concerning the condition and content thereof, and, according to circumstances, of the minute of publication of the will, shall be transmitted to the court, of the Contracting Party of which the testator was a national, competent to conduct proceedings relating to the estate; the original will may also be transmitted if the court of the latter Party so requests.

*Article 41*

A certified copy of a will held in safekeeping by a court of the Contracting Party of which the testator was a national shall be delivered upon request to the court competent to protect the estate.

*Article 42*

Competence to conduct proceedings relating to immovable property of an estate, and to rule on contested claims to such property relating to rights of succession, to the statutory portion or to the will, shall rest with the courts of the Contracting Party in whose territory the property is situated.

*Article 43*

1. Competence to conduct proceedings relating to movable property of an estate, and to rule on contested claims to such property relating to rights of succession, to the statutory portion or to the will, shall rest with the courts of the Contracting Party of which the testator was a national at the time of his death.

2. Where, however, a testator who was a national of one Contracting Party had his last domicile in the territory of the other Contracting Party, heirs, persons having rights to the statutory portion or legatees domiciled in the territory of the latter Contracting Party may request, within the time-limit specified in article 46, paragraph 1, that the competent court of that Party should open the proceedings relating to the movable property of the estate situated in the territory of the said Party. Such a request shall be granted unless an heir, a person having rights to the statutory portion or a legatee makes objection thereto within a period of three months after the expiry of the time-limit specified in article 46, paragraph 1. In the absence of any objection, the courts of the Contracting Party in question shall also be competent to rule on contested claims to the estate.

3. In cases where the enforcement of a judgement rendered by a court having jurisdiction under paragraph 1 is not possible, the court of the Contracting Party in whose territory the movable property of the estate is situated shall also have jurisdiction.

4. Where, under the provisions of paragraph 2, proceedings relating to movable property of an estate are to be conducted by the court of the Contracting Party in whose territory the property is situated, the substantive law of succession of the Contracting Party of which the testator was a national shall be applicable both as regards the conduct of proceedings in the matter of the movable estate and as regards rulings on contested claims to the said estate.

*Article 44*

Save as otherwise provided by this Treaty, the courts of the Contracting Parties shall, if the competent courts of the Contracting Party of which the

testator was a national so request, deliver the movable property of the estate to the said Party for purposes of the succession proceedings referred to in article 43, paragraph 1.

#### *Article 45*

1. At the request of heirs, persons having rights to the statutory portion or legatees who are nationals of the Contracting Party in whose territory the estate is situated or who are resident in its territory, the court may retain all or an appropriate part of the estate until such time as the competent court of the Contracting Party of which the testator was a national makes a final ruling on the claims of the heirs, persons having rights to the statutory portion or legatees.

2. The court may take the same action at the request of creditors of the testator who are nationals of the Contracting Party in whose territory the estate is situated or who are resident in its territory, provided that the said creditors present their claims and, where necessary, institute proceedings for the recognition of such claims.

#### *Article 46*

1. For purposes of presentation of the claims referred to in article 45, the court shall by public notice fix a time-limit of three to six months, within which period the claims of the aforementioned persons must be presented and, where necessary, proceedings instituted for the purpose of securing their recognition. Where within such time-limit the said claims are not presented or proceedings are not instituted for the purpose of securing their recognition, delivery of movable property belonging to the estate may not be refused by invoking the provisions of article 45.

2. A certified copy of the public notice shall be transmitted to the diplomatic or consular mission of the Contracting Party of which the testator was a national.

#### *Article 47*

Each Contracting Party reserves the right to collect, before delivering the movable property of an estate, all estate taxes and duties provided for under its law.

#### *Article 48*

The question of what property belonging to an estate is to be regarded as movable and what property as immovable shall be decided in accordance with the law of the Contracting Party in whose territory the property in question is situated.

## Chapter 5

RECOGNITION AND ENFORCEMENT OF JUDGEMENTS  
AND JUDICIAL SETTLEMENTS IN CIVIL CASES*Article 49*

1. Each Contracting Party shall recognize and enforce in its territory the following judgements rendered in the territory of the other Contracting Party :

- (a) Final and enforceable judgements of courts and judicial settlements in civil cases, with the exception of decrees of bankruptcy and compositions;
- (b) Final and enforceable judgements of courts in criminal cases in so far as they relate to property claims;
- (c) Final and enforceable awards of select courts (arbitral commissions and similar bodies) and settlements arrived at before them in matters relating to property, where at least one of the parties is an economic organization constituting a body corporate.

2. " Civil cases " shall be deemed to include commercial cases, and " courts " shall be deemed to include economic courts. Hereafter in this chapter, " judgements " shall be deemed to mean the judgements and awards referred to in paragraph 1 and the settlements referred to in paragraph 1 (a) and (c).

*Article 50*

1. The judgements referred to in article 49, paragraph 1 (a) and (b), shall be recognized and enforced on condition that :

- (a) Under the law of the Contracting Party in whose territory recognition and enforcement are sought—due regard being had to the provisions of this Treaty—exclusive competence in the matter does not rest with a court of the said Party;
- (b) The judgement in question is final and enforceable under the law of the Contracting Party in whose territory it was rendered;
- (c) Recognition or enforcement of the judgement would not be prejudicial to law and order in, or at variance with the basic legal principles of, the Contracting Party in whose territory recognition or enforcement is sought;
- (d) If the judgement was rendered by default, the party in default was served with a summons to take part in the proceedings, in proper form and due time, in accordance with the law of the Contracting Party in whose territory the judgement was rendered;



- (e) A final judgement has not been rendered previously by a regular or select court of the Contracting Party in whose territory recognition or enforcement is sought, in an action between the same parties relating to the same matter.

2. Where, in rendering a judgement, the court fails to apply the applicable law of one of the Contracting Parties, the said judgement shall be recognized and enforced only if the law applied does not differ materially from the law of the Contracting Party whose court is to recognize or enforce the judgement.

#### *Article 51*

Recognition and enforcement of the judgements (arbitral awards) referred to in article 49, paragraph 1 (c), shall be subject to the following conditions as well as to those specified in article 50 :

- (a) The award must be based on a written agreement providing for the submission of a specified dispute or future disputes to a select court;
- (b) The award must have been made by the court specified in the said agreement providing for submission to a select court;
- (c) The agreement providing for the submission of a specified dispute or future disputes to a select court must be valid under the law of the Contracting Party in whose territory enforcement is sought. The term " law " shall also be deemed to refer to the provisions of private international law.

#### *Article 52*

The awards of select courts shall not be enforced, even if the conditions specified in articles 50 and 51 are present, in cases where :

- (a) The party against whom the award is to be enforced was unable to take part in the proceedings as a result of irregularities therein;
- (b) The court exceeded its competence as defined in the agreement providing for submission to a select court.

#### *Article 53*

1. The parties concerned may submit applications for enforcement of a judgement either direct to the competent court or through the diplomatic or consular channel.

2. Application may also be made to the court which heard the case at first instance. The said court shall transmit the application to the court of the other Contracting Party competent to enforce the judgement.

3. An application for enforcement shall be accompanied by the following, as appropriate :

- (a) A certified copy of the judgement, together with a certificate showing that it has become final and enforceable;
- (b) If the judgement was rendered by default, proof that the party in default was served with a summons to take part in the proceedings, in proper form and due time, in accordance with the law of the Contracting Party in whose territory the judgement was rendered;
- (c) Where enforcement of an award of a select court is sought, proof that the case is within the jurisdiction of the said court;
- (d) A translation, into the language of the Contracting Party in whose territory enforcement is sought, of the judgement and the other documents required in accordance with the provisions of this paragraph. The translation must be certified by a sworn (court) translator or other competent authority.

#### *Article 54*

1. Save as otherwise provided by this Treaty, the law applicable to authorization of enforcement and to enforcement proceedings shall be that of the Contracting Party in whose territory enforcement is sought.

2. The court which rules on authorization of enforcement shall confine itself to establishing whether the relevant conditions specified in articles 50 to 52 are present. This shall not affect the court's right to require the parties to furnish further particulars and information.

3. However, the respondent may, for the purpose of demonstrating that the obligation arising out of the judgement has already been performed, enter not only the objections to authorization of enforcement provided for by the law of the Contracting Party in whose territory enforcement takes place but also such objections as are admissible under the law of the Party whose court rendered the judgement.

#### *Article 55*

1. Each Contracting Party shall recognize, in its territory, judgements relating to the personal status of its nationals rendered in the territory of the other Contracting Party, provided that the conditions specified in article 50, paragraph 1 (a), (b), (d) and (e) and paragraph 2, are present and that the said judgements are not at variance with the provisions governing decisions on legal relations of that nature in the territory of the former Contracting Party.

2. Judgements rendered in the territory of either Contracting Party which relate to the personal status of nationals of a third State shall be recognized in the territory of the other Contracting Party only if the said judgements are also recognized in the State of which the persons concerned are nationals.

*Article 56*

1. Application for the recognition of judgements relating to personal status may be made by any person whose legal interests are affected.

2. The recognition of judgements relating to personal status shall be governed, as appropriate, by the provisions of article 53 and article 54, paragraph 1.

3. Final judgements rendered in the territory of either Contracting Party which relate to the personal status of its nationals shall be recognized in the territory of the other Contracting Party without prior investigation.

*Article 57*

1. Judgements recognized in accordance with article 55 shall have the same legal effects as the judgements of domestic courts.

2. On the basis of the judgements referred to in article 55, paragraph 1, entries shall be made in the civil register upon application by an interested person or by a competent authority of the Contracting Party in whose territory the judgement was rendered.

*Article 58*

The provisions of articles 55 to 57 shall also apply to judgements which become final before the entry into force of this Treaty.

## PART III

## DOCUMENTS

## EXCHANGE AND TRANSMITTAL OF CIVIL REGISTRATION CERTIFICATES

*Article 59*

1. Each Contracting Party shall transmit to the other Contracting Party, free of charge, full copies of civil registration certificates relating to nationals of the latter Party. Such documents shall be transmitted to the diplomatic or consular mission.

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

*Article 60*

1. Each Contracting Party shall transmit full copies of civil registration certificates to the other Contracting Party, free of charge, if requested to do so in the public interest.

2. Such requests shall be transmitted to the competent State authorities through the diplomatic or consular channel.

#### ATTESTATION AND VALIDITY OF DOCUMENTS

##### *Article 61*

1. Official documents drawn up or issued in the territory of either Contracting Party by a court or other State authority acting within the limits of its powers, in due form and bearing a signature and official seal, shall not require attestation for use before courts and other authorities of the other Contracting Party.

2. The provisions of paragraph 1 shall also apply to copies of official documents attested by a court or other competent State authority.

3. Documents issued or attested by an authority of either Contracting Party which under the law of that Party are regarded in its territory as official documents shall be regarded as official documents in the territory of the other Contracting Party as well.

##### *Article 62*

Private documents attested by a court or other competent State authority of one Contracting Party shall not require further attestation for use before courts and other State authorities of the other Contracting Party.

#### PART IV

#### CRIMINAL CASES

##### Chapter 1

#### LEGAL ASSISTANCE AND SERVICE OF DOCUMENTS

##### *Article 63*

1. The courts of the Contracting Parties shall, upon application, provide one another with legal assistance and effect the service of documents in criminal cases.

2. Legal assistance shall, in particular, include the performance of acts required in connexion with investigations and inquiries, such as the interrogation of accused persons, witnesses and experts, inspections *in situ*, searches, seizures of objects, and the transmittal of documents and objects relating to the criminal proceedings in question. However, such documents and objects shall be transmitted only if they are in the custody of the authorities of the Party applied to and if no special reasons for non-transmittal exist; they shall be returned as soon as possible.

*Article 64*

Legal assistance shall not be provided and service of documents shall not be effected if the act which is the subject of criminal proceedings is not punishable under the law of the Party applied to. Similarly, legal assistance shall not be provided and service of documents shall not be effected if the offence in question is non-extraditable. Such offences shall not be deemed to include acts which, under the provisions of article 74, paragraph 1, may not serve as grounds for extradition.

*Article 65*

Legal assistance or the service of documents may be refused if :

- (a) The Party applied to considers that it would be prejudicial to its sovereignty or security;
- (b) The suspect or accused person is a national of the Party applied to and is not present in the territory of the applicant Party.

*Article 66*

1. No person of whatsoever nationality who, in response to a summons received in the territory of one Contracting Party in connexion with a criminal or civil case, voluntarily appears as a witness or expert before a court of the other Contracting Party may be prosecuted or deprived of his liberty in the territory of the latter Party in respect of an offence previously committed, in execution of a sentence previously passed, or as a co-defendant in respect of the offence which is the subject of the proceedings in which he appears as a witness or expert. Punishable acts which are the subject of proceedings conducted by administrative authorities shall be deemed equivalent to offences, and decisions rendered in such proceedings shall be deemed equivalent to sentences.

2. However, a person falling under the provisions of paragraph 1 shall forfeit this protection if, being in actual fact at liberty to do so, he fails to quit the territory of the Contracting Party before whose court he appeared within a period of five days after the court has informed him that his presence is no longer necessary.

3. An application for service of a summons shall indicate the amount to be paid for travelling expenses and subsistence allowances. The applicant court shall pay an advance against such amount to the person summoned, if he so requests.

4. Witnesses shall be entitled to reimbursement for loss of earnings, and experts shall, in addition, be entitled to remuneration for their testimony.

*Article 67*

1. Where need arises for a court of one Contracting Party to interrogate directly, as an expert or witness, a person held in custody in the territory of the other Contracting Party, application may be made for his temporary delivery.

2. The application shall be granted if such delivery is not at variance with the provisions of article 65 (*a*) and if the person concerned gives his consent. A person who is temporarily delivered shall be returned immediately upon the completion of the proceedings in connexion with which he was delivered. Such person shall be accorded the protection provided for in article 66, paragraph 1.

3. Subject to the conditions specified in this article, authorization may also be granted for the conveyance through the territory of one Contracting Party, for the purpose of interrogation in the territory of the other Contracting Party, of a person held in custody in a third State.

*Article 68*

1. Each Contracting Party shall return to the other Contracting Party on application, even in cases where extradition is not permitted, articles which, during the commission of an offence, were taken by the author of the said offence from the territory of the applicant Party to the territory of the Party applied to, or articles acquired by him in exchange for the articles referred to. This shall not affect the rights of third parties to the articles in question, which shall be determined in accordance with the law of the Contracting Party in whose territory the said articles are situated.

2. The Party applied to may temporarily retain possession of the articles referred to in paragraph 1 if they are needed in connexion with criminal proceedings which are being conducted in its territory.

*Article 69*

For purposes of the provision of legal assistance and the service of documents in criminal cases, the provisions of article 12, paragraph 2, and articles 13 to 18 shall, as appropriate, apply.

## Chapter 2

## NOTIFICATION OF OFFENCES AND SENTENCES

*Article 70*

1. Each Contracting Party shall inform the other Contracting Party of offences committed in its territory by nationals of the other Party, if, after the

commission of the offence, the persons in question are present in the territory of their own State.

2. All available evidence relating to the offence shall be transmitted together with the information referred to in paragraph 1.

3. The Contracting Party whose national has committed an offence shall inform the other Contracting Party whether criminal proceedings have been instituted against the offender and, if so, what the result of the proceedings was.

#### *Article 71*

The competent central authorities of the Contracting Parties shall :

- (a) Transmit to one another, at quarterly intervals, copies of entries in the register of convictions concerning final sentences relating to nationals of the other Contracting Party;
- (b) Inform one another of subsequent decisions which relate to such sentences and are entered in the register of convictions.
- (c) Transmit to one another in particular cases, on request, extracts from the sentences referred to in sub-paragraphs (a) and (b).

#### *Article 72*

Each Contracting Party shall inform the other Contracting Party on request, in the manner prescribed in article 71, of entries made in the register of convictions :

- (a) Which relate to nationals of the applicant Party;
- (b) Which relate to other persons against whom criminal proceedings are under way in the territory of the applicant Party. The Party applied to may refuse to provide the information requested if the person in question is its national.

### Chapter 3

#### EXTRADITION AND CONVEYANCE IN TRANSIT OF ACCUSED OR CONVICTED PERSONS CONDITIONS FOR EXTRADITION

#### *Article 73*

Each Contracting Party shall extradite to the other Contracting Party, under the conditions specified in this Treaty, persons against whom criminal proceedings have been initiated or against whom final sentence has been pronounced in such proceedings in the territory of the applicant Party.

*Article 74*

1. Extradition shall be admissible for offences which, under the law of both Contracting Parties, are punishable with deprivation of liberty for a term of two years or with a heavier penalty.

2. As proof of the validity of the requisition for extradition in such cases it shall be sufficient to produce the document, issued by the competent court, ordering the arrest or remand in custody of the person concerned, initiating an investigation or handing down an indictment, or any other document having the same effect as a warrant of arrest. The said document shall indicate the nature of the offence in respect of which extradition is sought, the circumstances, time and place of its commission, and its legal definition.

*Article 75*

The Contracting Party applied to shall also authorize, subject to the conditions specified in article 74, paragraph 1, the extradition of persons against whom a court of the applicant Party has pronounced a final sentence involving deprivation of liberty for a term of not less than six months. A copy of the final sentence shall constitute proof of the validity of the requisition for extradition, irrespective of whether sentence was pronounced in the presence or in the absence of the person concerned.

*Article 76*

The Contracting Party applied to may refuse to grant extradition if :

- (a) The offence in respect of which extradition is sought was committed in its territory;
- (b) Extradition is sought in respect of an offence committed in the territory of a third State and a final judgement has already been rendered, in respect of such offence, in the said State.

*Article 77*

A requisition for extradition shall be refused if :

- (a) The person claimed is a national of the Contracting Party applied to;
- (b) The person claimed has already been sentenced for the offence in question by a court of the Contracting Party applied to and such sentence has become final. However, extradition shall be authorized if, under the law of the Party applied to, the necessary conditions are present for the initiation of new proceedings in respect of the said offence;
- (c) Under the law of either Contracting Party, exemption from prosecution or punishment has been acquired by lapse of time;



- (d) No proposal has been submitted or complaint lodged with a view to initiating criminal proceedings in cases where, under the law of either Contracting Party, the submission of such a proposal or complaint is required for the purpose of initiating such proceedings.

#### *Article 78*

The Contracting Party applied to shall not grant citizenship to persons whose extradition is sought by the other Contracting Party or shall defer a decision on the application for citizenship until a decision has been taken on the requisition for extradition, particularly if the applicant Party indicates that citizenship is being sought for the purpose of avoiding extradition.

#### *Article 79*

If a person's extradition is requested by more than one State, in respect of the same or different offences, the Contracting Party applied to shall decide which of the requisitions shall be complied with.

#### *Article 80*

In the event of total or partial rejection of a requisition for extradition, or of postponement of its execution, the reasons therefor shall be stated.

### EXTRADITION PROCEEDINGS

#### *Article 81*

1. The requisition for extradition shall be made through the diplomatic channel. The Contracting Parties shall communicate with each other in the same manner on all other matters relating to extradition.

2. In addition to the proofs specified in article 74, paragraph 2, and article 75, the requisition for extradition shall be accompanied by :

- (a) Proof of the nationality of the person claimed, or information relating thereto;
- (b) Where the person claimed has not yet been identified in the territory of the Contracting Party applied to, any particulars which may serve to establish his identity and, as far as possible, such other information as will be of assistance in rapidly ascertaining his whereabouts;
- (c) The text of the penal statute, both of the applicant Contracting Party and of the State in which the offence was committed, relating to the offence in respect of which extradition is sought.

3. Where extradition is sought under the provisions of article 75, the requisition shall also be accompanied by a copy of the final sentence.

4. The requisition and all accompanying documents shall be translated into the language of the Contracting Party applied to, and the translations shall be certified in the manner prescribed in article 53, paragraph 3 (*d*). The accompanying documents shall be submitted in the original or in certified copy.

5. In determining whether accompanying documents have been submitted in proper form, the law of the applicant Contracting Party shall apply.

#### *Article 82*

1. Where the conditions for extradition specified by this Treaty are present, the Contracting Party applied to shall, immediately upon receipt of the requisition for extradition, take all necessary steps to execute the requisition and, in particular, to ascertain the whereabouts of the person claimed, and where necessary, it shall order the said person's immediate arrest.

2. Where, however, it cannot be established, from the documents accompanying the requisition for extradition, that all the conditions necessary for authorization of extradition are present, the Contracting Party applied to may request the applicant Party to furnish further particulars and information within a specified time-limit. Such time-limit may be extended at the request of the applicant Party.

3. If no action is taken on the request of the Contracting Party applied to within the specified time-limit, the extradition proceedings shall be halted and the person claimed shall be released. The proceedings shall, however, be resumed in the event that the request of the Party applied to is subsequently complied with.

#### *Article 83*

1. On direct application being made, in writing or by telegraph, by the competent court of one Contracting Party, the other Party shall, in accordance with its law, take temporary security measures, including detention, against the person claimed, provided that the application specifies the existence of one of the documents referred to in article 74, paragraph 2, and article 75 and indicates the authority by which such document was issued and the number and date of the document.

2. The application referred to in paragraph 1 shall be subject to confirmation through the diplomatic channel.

3. The applicant Contracting Party shall be informed forthwith of the temporary detention of the person claimed or the other temporary security measures carried out, or of the circumstances which prevented the execution of its application.

4. The competent courts of either Contracting Party may detain persons present in the territory of that Party in the absence of the application referred to

in paragraph 1, if they learn that the person in question has committed, in the territory of the other Contracting Party, an offence which is extraditable under the provisions of this Treaty. The other Contracting Party shall be notified of such detention forthwith.

5. The extradition proceedings shall be halted if a requisition for extradition is not made within the time-limit specified by the competent court of the Contracting Party applied to. If the applicant Party so requests, at the same time stating the reasons for such request, the said time-limit may be extended.

#### *Article 84*

1. The Contracting Party applied to shall rule on the requisition for extradition even if the person claimed is under trial in the territory of the said Party or has been convicted of another offence. If the requisition is approved, extradition shall be postponed until the person in question has completed his sentence or the proceedings are otherwise terminated.

2. Even in the case specified in paragraph 1, the person claimed may be temporarily extradited to the applicant Contracting Party in connexion with the conduct of proceedings, but the latter Party shall return the extradited person to the Party applied to as soon as a decision has been rendered in the proceedings for the purpose of which he was temporarily extradited, and, in any case, not later than three months after the date of his surrender.

#### *Article 85*

1. When notifying the applicant Contracting Party that extradition has been authorized, the Party applied to shall at the same time indicate the time and place of surrender.

2. The applicant Contracting Party shall, save where it is prevented from doing so by circumstances beyond its control, accept the extradited person at the appointed place within a period of not more than three days after the date fixed for his surrender. Otherwise, the said person shall be released.

#### *Article 86*

1. An extradited person may not be prosecuted or made to serve a sentence for an offence, committed before his extradition, which is not the offence for which he was extradited, nor may he be surrendered to a third State in respect of such an offence for the purpose of trial or execution of a sentence, save with the further consent of the Contracting Party which authorized his extradition. Such consent may not be refused if the offence in question is extraditable under the provisions of this Treaty.

2. Such consent shall not be required if the extradited person fails to quit the territory of the Contracting 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 voluntarily returns to the territory of the said Party. Such period of one month shall not be deemed to include any period of time during which the person in question is unable, through no fault of his own, to quit the territory of the said Party.

#### *Article 87*

The applicant Contracting Party shall inform the Party applied to of the result of the proceedings taken against the extradited person. If the said person is convicted and sentenced, a copy of the sentence shall be transmitted to the Party applied to after it has become final.

#### *Article 88*

1. Each Contracting Party shall deliver to the other Contracting Party in extradition proceedings, without the necessity of special application being made :

- (a) Articles which may serve as evidence against the person claimed. The Party applied to may temporarily retain possession of the articles in question if such action is essential to the conduct of other criminal proceedings;
- (b) All articles found in the possession of the person claimed, or of third persons, which he or his accomplice acquired through the commission of the offence in respect of which extradition is sought, or which represent value received in exchange for articles acquired through the commission of the said offence or recompense received for the commission of the offence.

2. The articles in question shall be delivered to the applicant Contracting Party at the time when the extradited person is surrendered or, if that is not possible, at a later date. The same procedure shall be followed in cases where extradition did not take place by reason of the death or escape of the person claimed.

3. These provisions shall not affect the rights of third parties to the articles in question, which shall be determined in accordance with the law of the Contracting Party in whose territory the articles are situated. After the conclusion of the criminal proceedings, the said articles shall be returned free of charge, through the competent authorities, to the person to whom they belong. If it is not possible to determine their ownership, the articles shall be returned free of charge to the Party applied to.

4. The provisions of article 92 shall not apply to the return of the articles referred to above.

*Article 89*

If an extradited person evades prosecution and returns to the territory of the Contracting Party applied to, he shall be re-extradited upon receipt of a new requisition, without the necessity of further extradition proceedings.

## CONVEYANCE IN TRANSIT

*Article 90*

1. Each Contracting Party shall, on application being made, authorize the conveyance through its territory of any person extradited by a third State to the other Contracting Party. The Party applied to may refuse to authorize the conveyance in transit of a person who is not extraditable under the provisions of this Treaty.

2. An application for authorization of such conveyance shall be made in the manner specified in article 81, paragraph 1.

3. The Contracting Party applied to shall arrange for such conveyance to be effected in whatever manner it finds most convenient.

*Article 91*

Costs arising in connexion with extradition shall be borne by the Contracting Party in whose territory such costs are incurred. The costs of conveyance in transit shall be borne by the Party applying for such conveyance.

## PART V

## FINAL PROVISIONS

*Article 92*

The provisions of this Treaty shall be without prejudice to the regulations of the Contracting Parties governing the transfer of funds and the import and export of articles.

*Article 93*

All disputes relating to the application of this Treaty shall be settled by the Contracting Parties through the diplomatic channel.

*Article 94*

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

*Article 95*

On the date of the entry into force of this Treaty, the Convention between the Contracting Parties regarding legal relations between their nationals, signed at Belgrade on 4 May 1923,<sup>1</sup> shall cease to have effect.

*Article 96*

This Treaty is concluded for an indefinite period of time and shall remain in force until the expiry of one year from the date on which notice of its termination is given by one of the Contracting Parties.

DONE at Warsaw on 6 February 1960, in duplicate in the Polish and Serbo-Croat languages, both texts being equally authentic.

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

For the Polish People's  
Republic :  
K. ZAWADZKI

For the Federal People's Republic  
of Yugoslavia :  
Dr. F. HOČEVAR

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<sup>1</sup> League of Nations, *Treaty Series*, Vol. LXXXV, p. 455.

## EXCHANGE OF LETTERS

## I

CHAIRMAN OF THE DELEGATION  
OF THE FEDERAL PEOPLE'S REPUBLIC OF YUGOSLAVIA

Warsaw, 6 February 1960

Sir,

In connexion with the negotiations regarding the conclusion of the Treaty between the Federal People's Republic of Yugoslavia and the Polish People's Republic concerning legal relations in civil and criminal cases,<sup>1</sup> I have the honour to confirm that on that occasion it was agreed that, over and above the cases specified in the Treaty, accused or convicted persons shall not be extradited where the law of one of the Contracting Parties forbids extradition for the act in respect of which extradition is claimed.

The authorities of the Contracting Parties competent to provide information in accordance with article 5 of the Treaty shall inform each other which acts are not extraditable under their law.

I should be grateful if you would acknowledge receipt of this letter and notify me of your Government's agreement to its contents.

Accept, Sir, the assurances of my highest consideration.

Dr. France HOČEVAR  
Ambassador of the Federal People's  
Republic of Yugoslavia  
and Chairman of the Delegation  
of the Federal People's Republic of Yugoslavia

Mr. Kazimierz Zawadzki  
Chairman of the Delegation  
of the Polish People's Republic  
Warsaw

<sup>1</sup> See p. 94 of this volume.

## II

CHAIRMAN OF THE DELEGATION  
OF THE POLISH PEOPLE'S REPUBLIC

Warsaw, 6 February 1960

Sir,

I have the honour to acknowledge receipt of your letter of today's date, which reads as follows :

[See letter I]

Taking note of the above statement, I have the honour to inform you that my Government has signified agreement to its contents.

Accept, Sir, the assurances of my highest consideration.

K. ZAWADZKI  
Under-Secretary of State

Dr. France Hočevar  
Ambassador Extraordinary and Plenipotentiary  
of the Federal People's Republic of Yugoslavia  
in the Polish People's Republic  
Chairman of the Delegation  
of the Federal People's Republic of Yugoslavia

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