

No. 9646

**HUNGARY
and
MONGOLIA**

**Treaty concerning the provision of legal assistance in civil, family
and criminal cases. Signed at Budapest on 22 November 1968**

Authentic texts: Hungarian, Mongolian and Russian.

Registered by Hungary on 20 June 1969.

**HONGRIE
et
MONGOLIE**

**Traité relatif à l'entraide judiciaire en matière civile, familiale et
pénale. Signé à Budapest le 22 novembre 1968**

Textes authentiques: hongrois, mongol et russe.

Enregistré par la Hongrie le 20 juin 1969.

[TRANSLATION — TRADUCTION]

TREATY¹ BETWEEN THE HUNGARIAN PEOPLE'S REPUBLIC AND THE MONGOLIAN PEOPLE'S REPUBLIC CONCERNING THE PROVISION OF LEGAL ASSISTANCE IN CIVIL, FAMILY AND CRIMINAL CASES

The Presidential Council of the Hungarian People's Republic and
The Presidium of the Great People's Khural of the Mongolian People's Republic,

Being desirous of strengthening, in the sphere of legal relations as in others, the close and steadfast friendship which unites the two countries, have decided to conclude a Treaty concerning the provision of legal assistance in civil, family and criminal cases.

They have for that purpose appointed as their Plenipotentiaries:

The Presidential Council of the Hungarian People's Republic:

Dr. Mihály Korom, Minister of Justice of the Hungarian People's Republic;

The Presidium of the Great People's Khural of the Mongolian People's Republic:

Khorloogiin Damdin, President of the Supreme Court of the Mongolian People's Republic,

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

PART I

GENERAL PROVISIONS

Article 1

LEGAL PROTECTION

1. Nations (individuals and bodies corporate) of either Contracting Party shall enjoy in the territory of the other Contracting Party the same legal protection of their persons and property as nationals of the other Contracting Party.

¹ Came into force on 28 April 1969, i.e., the thirtieth day after the exchange of the instruments of ratification, which took place at Ulan Bator on 27 March 1969, in accordance with articles 75 and 76.

2. Nationals of either Contracting Party may appear before the authorities of the other Contracting Party having jurisdiction in civil, family and criminal cases, institute proceedings and submit petitions and complaints under the same conditions as nationals of the other Contracting Party.

Article 2

PROVISION OF LEGAL ASSISTANCE

1. The courts and the procurator's and State notarial offices of the Contracting Parties shall provide one another with legal assistance in civil, family and criminal cases.

2. The authorities referred to in paragraph 1 of this article shall also provide legal assistance to other authorities having jurisdiction in civil, family and criminal cases.

Article 3

METHOD OF COMMUNICATION

1. In providing legal assistance, the authorities referred to in article 2, paragraph 1, shall, save as otherwise provided by this Treaty, communicate with one another through their central organs.

2. Other authorities dealing with civil, family and criminal cases shall, save as otherwise provided by this Treaty in specific cases, address their applications for legal assistance to the authorities referred to in article 2, paragraph 1.

Article 4

SCOPE OF LEGAL ASSISTANCE

The Contracting Parties shall provide each other with legal assistance by performing specific acts required in connexion with judicial proceedings, for example, by carrying out searches, seizures and attachment of property, by transmitting or delivering physical evidence, by interrogating accused persons, witnesses and experts, by taking evidence from litigants and other persons, by carrying out judicial inspections *in situ*, by executing applications for the service of documents, by transmitting material bearing on the case, and by drawing up and transmitting documents.

Article 5

FORMS OF APPLICATIONS FOR LEGAL ASSISTANCE

1. Applications for legal assistance must contain the following particulars:

- (a) The title of the authority making the application;
- (b) The title of the authority to which the application is made;
- (c) The title of the case in respect of which legal assistance is applied for;
- (d) The names of the parties or of the accused, tried or convicted persons, their domicile or residence, nationality and occupation and, in criminal cases, where possible, the place and date of birth of the accused and the names of the latter's parents;
- (e) The names and addresses of the legal representatives of the persons in question;
- (f) The nature of the application and any necessary relevant information, including, in criminal cases, a description of the *corpus delicti*.

2. Documents transmitted under the terms of this Treaty shall bear a signature and an official seal.

Article 6

PROCEDURE FOR EXECUTING APPLICATIONS

1. In executing an application for legal assistance, the authority applied to shall follow the laws of its own State.

However, at the request of the applicant authority it may employ judicial procedures in effect in the territory of the applicant Contracting Party, provided that such procedures do not conflict with the laws of its own State.

2. If the authority applied to is not competent to execute the application, it shall transmit the application to the competent authority and shall notify the applicant authority accordingly.

3. The authority applied to shall, if requested to do so, notify the applicant authority in good time of the time and place of execution of the application.

4. After executing an application, the authority applied to shall return the documents to the applicant authority; if it has not been able to execute the application, it shall advise the applicant authority of the circumstances which prevented such execution.

Article 7

IMMUNITY OF WITNESSES AND EXPERTS

1. No person who, in response to a summons served by an authority of the Contracting Party applied to, appears as a witness or an expert before an authority of the applicant Contracting Party may be prosecuted or detained for the offence which is the subject of the proceedings or for any other offence committed before he crossed the frontier of the applicant State, nor may he be punished for such offences in the territory of the applicant Contracting Party.

2. The witness or expert shall forfeit this privilege if he fails to quit the territory of the applicant Contracting Party within one month from the date on which the authority taking evidence from him informs him that his presence is no longer necessary. Such period of one month shall not be deemed to include any period of time during which the witness or expert is unable through no fault of his own to quit the territory of the applicant Contracting Party.

Article 8

APPLICATIONS FOR THE SERVICE OF DOCUMENTS

1. In effecting the service of a document, the authority applied to shall comply with the laws governing service of documents in effect in its own State, provided that the document to be served is drawn up in the language of the Contracting Party applied to or is accompanied by a certified translation. Otherwise, the authority applied to shall deliver the document to the addressee only if he is willing to accept it.

2. Applications for the service of documents must indicate the exact address of the intended recipient and the designation of the document to be served.

3. If a document cannot be served at the address indicated in the application, the authority applied to shall of its own motion take the necessary steps to determine the intended recipient's address. If the authority applied to is unable to determine such address, it shall so inform the applicant authority, returning to it the document in question.

Article 9

CONFIRMATION OF SERVICE OF DOCUMENTS

Service of documents shall be officially confirmed in accordance with the relevant regulations in effect in the State applied to. Such confirmation shall indicate the date and place of service.

Article 10

SERVICE OF DOCUMENTS ON OWN NATIONALS

1. Each Contracting Party shall have the right to serve documents on its own nationals through its diplomatic or consular missions.
2. No compulsion may be used in such service.

Article 11

COSTS OF LEGAL ASSISTANCE

1. The Contracting Party to which an application for legal assistance is addressed shall make no claim for repayment of the costs of such assistance. Each Contracting Party shall assume all costs incurred in providing legal assistance in its territory.
2. The authority applied to shall communicate to the applicant authority the amount of the costs incurred. If the applicant authority recovers these costs from the person liable therefor, the sums recovered shall accrue to the Contracting Party which recovered them.

Article 12

PROVISION OF INFORMATION

The Ministry of Justice of the Hungarian People's Republic and the Supreme Court of the Mongolian People's Republic shall exchange information on request concerning laws in force or formerly in force in their respective States and concerning interpretations of laws by the competent judicial authorities of the Contracting Parties.

Article 13

LANGUAGES

In communicating with one another concerning the provision of legal assistance, the authorities of the Contracting Parties shall use their own languages or the Russian language. The exchange of information concerning laws in force or formerly in force in the two States shall, where possible, be conducted in the Russian language.

Article 14

ATTESTATION AND RECOGNITION OF DOCUMENTS

1. Documents drawn up or attested in the territory of either Contracting Party by authorities or public officials within the limits of their official powers and bearing an official seal shall be accepted in the territory of the other Contracting Party without the necessity of legalization.

2. Official documents drawn up in the territory of either Contracting Party shall have the evidential value of official documents in the territory of the other Contracting Party as well.

PART II

SPECIAL PROVISIONS

Chapter I

*LEGAL ASSISTANCE IN CIVIL AND FAMILY CASES**EXEMPTION FROM SECURITY FOR LEGAL COSTS; RECOVERY OF COSTS**Article 15*

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

Article 16

1. If a person exempted under the preceding article from the deposit of security for legal costs is required to pay costs, the competent court of the other Contracting Party shall, upon a petition for recovery of such costs being made, authorize the compulsory recovery thereof free of charge.

2. Legal costs shall include the costs of translation and attestation of the documents specified in article 17 of this Treaty.

Article 17

1. A petition for authorization of the compulsory recovery of legal costs shall be accompanied by a certified copy of the order as to costs and by a certificate of the court which issued the order attesting that the latter has become final and is enforceable.

2. The documents indicated shall be accompanied by a translation in the language of the Contracting Party in whose territory recovery of the costs is to be effected.

3. In authorizing the enforcement of an order for the recovery of legal costs, the court shall confine itself to determining:

- (a) Whether the order has become final and is enforceable; and
- (b) Whether the documents referred to in paragraph 2 of this article are accompanied by a certified translation.

Article 18

A petition for recovery of legal costs in the territory of the other Contracting Party may be submitted:

- (a) To the court which made the order as to costs, or to the court which heard the action at first instance, which shall then transmit the petition to the competent court of the other Contracting Party in the manner specified in article 3, paragraph 1, of this Treaty; or
- (b) Direct to the court of the other Contracting Party which is competent to make an order for the recovery of legal costs, provided that the person concerned is present in the territory of the said Contracting Party.

Article 19

1. The court shall consider the petition for recovery of legal costs without interrogating the parties.

2. The court competent to make an order for the recovery of costs shall also rule on recovery of the costs specified in article 16, paragraph 2, of this Treaty. The amount of such costs shall be fixed by the competent court of the Contracting Party in whose territory they are incurred.

3. A petition for recovery of costs may not be rejected because of the petitioner's failure to advance the costs connected with such recovery.

EXEMPTION FROM LEGAL COSTS

Article 20

1. Nationals of either Contracting Party present in the territory of the other Contracting Party shall be exempted from the payment of legal costs and stamp tax, shall be entitled to defer payment of stamp tax and shall benefit from free legal assistance under the same conditions and to the same extent as nationals of the other Contracting Party.

2. Exemption from legal costs and stamp tax, and the right to defer payment of stamp tax, shall apply to all judicial proceedings, including enforcement proceedings.

3. Nationals of either Contracting Party who, under the law of one Contracting Party, are exempted from the payment of legal costs and stamp tax or entitled to defer payment of stamp tax in connexion with any court action shall enjoy such exemption or entitlement in judicial proceedings conducted in connexion with the same action in the territory of the other Contracting Party.

Article 21

1. Documents relating to personal or family status, earnings and property shall be issued by the competent authorities of the Contracting 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 Contracting Party, a document shall be issued by a diplomatic or consular mission of his State.

3. If necessary, the court which rules on exemption from costs may, in accordance with the procedure prescribed by article 3 of this Treaty, require additional information to be furnished by the authority which issued the document.

Article 22

1. A national of one of the Contracting Parties who wishes to petition a court of the other Contracting Party for exemption from costs and stamp tax (or to avail himself of the right to defer payment of stamp tax or of free legal assistance) may make such petition in the form of an oral statement before the competent court of the place in which he had his domicile or residence, and the said court shall draw up a record of his statement. It shall transmit such record in the manner prescribed in article 3, paragraph 1, of this Treaty, together with the document specified in article 21 and the other documents submitted by the petitioner, to the competent court of the other Contracting Party.

2. The record shall be drawn up in the language of the court which prepares it.

Article 23

TRANSMITTAL OF CIVIL REGISTRATION AND OTHER DOCUMENTS

1. Each of the Contracting Parties shall, if requested to do so through the diplomatic channel, transmit to the other Contracting Party civil registration

certificates, documents concerning educational qualifications and employment experience and other documents relating to the personal rights and interests of nationals of the other Contracting Party.

2. The documents referred to in paragraph 1 of this article shall be sent to the other Contracting Party, untranslated and free of charge, through the diplomatic channel.

PERSONAL STATUS

Article 24

LEGAL CAPACITY

Legal capacity shall be determined according to the law of the Contracting Party of which the person concerned is a national.

Article 25

DECLARATION OF PERSONS AS DEAD

1. In proceedings for declaring persons dead or for the establishment of the fact of death, the applicable law and the authority having jurisdiction shall be that of the Contracting Party of which the person concerned was a national at the time when he was last known to be alive.

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

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

FAMILY LAW

Article 26

DISSOLUTION OR ANNULMENT OF MARRIAGE

1. Final decrees of courts of one of the Contracting Parties concerning the dissolution, annulment or establishment of the existence or non-existence of marriages shall be recognized in the territory of the other Contracting Party without further proceedings, provided that, at the time the decree takes effect,

at least one of the spouses is a national of the Contracting Party whose court pronounced it and that a final decree has not previously been pronounced in the same matter by a court of the other Contracting Party.

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

LEGAL RELATIONS BETWEEN PARENTS AND CHILDREN

Article 27

1. Actions to establish or contest the parentage of a child shall be decided in accordance with the law of the Contracting Party of which the child is a national.

2. If the child is resident in the territory of the other Contracting Party, the law of that Party shall be applicable if it is more favourable to his interests.

Article 28

Legal relations between a child and his parents shall be determined by the law of the Contracting Party of which the child is a national. The provisions of article 27, paragraph 2, of this Treaty shall also apply in such cases.

Article 29

1. Decisions on the legal relations referred to in articles 27 and 28 of this Treaty shall be within the jurisdiction of the courts of the Contracting Party of which the child is a national.

2. If the plaintiff and defendant are resident in the territory of the same Contracting Party, the courts of that Contracting Party shall also have jurisdiction; this shall be without prejudice to the provisions of articles 27 and 28.

ADOPTION

Article 30

1. Matters of adoption shall be dealt with in accordance with the law of the Contracting Party of which the adopter is a national.

2. If the child is adopted by a husband and wife, one being a national of one of the Contracting Parties and the other a national of the other Contracting Party, the adoption shall be carried out in accordance with the law in force in the territory of both Contracting Parties.

3. If the child is a national of one of the Contracting Parties and the adopter a national of the other Contracting Party, adoption shall be subject to the consent of the child, if this is prescribed by the law of the Contracting Party of which he is a national, and to the consent of his legal representative or of the competent public authority of that Contracting Party.

Article 31

In matters of adoption, the authorities having jurisdiction shall be those of the Contracting Party of which the adopter is a national. In the case specified in article 30, paragraph 2, of this Treaty, the authority having jurisdiction shall be an authority of the Contracting Party in whose territory the spouses have, or last had, a common domicile or residence.

Article 32

The provisions of articles 30 and 31 shall apply, *mutatis mutandis*, to the termination of adoption.

GUARDIANSHIP AND CURATORSHIP

Article 33

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

2. The conditions governing the appointment of a guardian or curator and the termination of guardianship or curatorship shall be determined by the law of the Contracting Party of which the ward is a national.

3. The legal relations between guardians or curators and their wards shall be determined by the law of the Contracting Party whose authority appointed the guardian or curator.

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

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

Article 34

1. Where need arises to provide for guardianship or curatorship in the interests of a national of one of the Contracting Parties whose domicile, residence or property is in the territory of the other Contracting Party, the interested authority of the other Contracting Party shall at once notify a diplomatic or consular mission of the State of which the person concerned is a national.

2. In urgent cases, the authority of the other Contracting Party may itself take temporary measures in accordance with the existing circumstances (i.e. may provide lodging, maintenance or care), provided that it at once notifies a diplomatic or consular mission of the State of which the person concerned is a national. Such measures shall remain in effect pending other measures by the diplomatic or consular mission or by the authorities specified in article 33, paragraph 1.

Article 35

1. An authority of one Contracting Party may request the competent authority of the other Contracting Party to assume guardianship or curatorship over a national of the first-mentioned Contracting Party who has his domicile or residence or owns property in the territory of the other Contracting Party. Such transfer shall become effective when the authority applied to assumes the guardianship or curatorship and notifies the applicant authority accordingly.

2. The authority assuming guardianship or curatorship in accordance with paragraph 1 of this article shall exercise it in the manner prescribed by the law of its own State. However, it shall apply the law of the Contracting Party of which the ward is a national in any matters relating to the juridical personality or legal capacity of the ward. It shall have no authority to decide questions relating to the ward's personal status but may give its consent to marriage where such consent is required by the law of the Contracting Party of which the ward is a national.

*SUCCESSION**Article 36*

PRINCIPLE OF EQUALITY

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

Article 37

APPLICABLE LAW

Succession shall be determined by the law of the Contracting Party of which the decedent was a national at the time of his death.

Article 38

ESCHEAT

Where no heirs exist or where all the heirs waive their rights to the estate or forfeit their capacity to succeed thereto, immovables shall revert to the Contracting Party in whose territory the estate is situated and movables shall revert to the Contracting Party of which the decedent was a national at the time of his death.

Article 39

WILLS

1. The form of the testamentary disposition shall be determined by the law of the Contracting Party of which the testator was a national at the time of making the testamentary disposition. It shall, however, be deemed sufficient if the law of the Contracting Party in whose territory the testamentary disposition was made is complied with. The same shall apply to the revocation of testamentary dispositions.

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

Article 40

JURISDICTION IN MATTERS OF SUCCESSION

1. In matters of succession to movables the authorities having jurisdiction shall, with the exception specified in paragraph 4 of this article, be those of the Contracting Party of which the decedent was a national at the time of his death.

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

3. The provisions of paragraphs 1 and 2 of this article shall apply, *mutatis mutandis*, to disputes arising out of claims to succession.

4. If the entire movable estate of a deceased national of one of the Contracting Parties is situated in the territory of the other Contracting Party, proceedings in matters of succession to such estate shall, upon petition by an heir or legatee, and subject to the consent of all heirs whose place of domicile or residence is known, be conducted by the authorities of the other Contracting Party.

Article 41

NOTIFICATION OF DEATH

1. If a national of one Contracting Party dies in the territory of the other Contracting Party, the competent authority shall immediately notify the diplomatic or consular mission of the country of which the deceased was a national, communicating to it whatever information is available concerning the heirs or legatees, their domicile or residence and address, the condition of the estate and the existence of a will. The said authority shall also send such notification if it learns that the deceased has left property in the territory of a third State.

2. If the competent authority of one of the Contracting Parties to which notification has been sent in accordance with paragraph 1 of this article learns of the existence in the territory of the said Contracting Party or abroad of heirs or legatees not mentioned in such notification or learns that the deceased left a will, it shall notify the competent authority of the other Contracting Party accordingly.

3. If a national of one Contracting Party dies in the territory of that Contracting Party and a national of the other Contracting Party is concerned with the succession as an heir or legatee, the competent authority of the first-mentioned Contracting Party shall notify the diplomatic or consular mission of the other Contracting Party in accordance with paragraph 1 of this article.

Article 42

COMPETENCE OF DIPLOMATIC AND CONSULAR MISSIONS

1. In all succession proceedings arising in the territory of one of the Contracting Parties, diplomatic or consular missions shall have the right to represent the interests of nationals of their State before the authorities of that Contracting Party if such nationals are not present and have not appointed their representatives; in such cases, no special power of attorney shall be necessary.

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

Article 43

PUBLICATION OF WILLS

Wills shall be published by the competent authority of the Contracting Party in whose territory the will is to be found. A copy of the will, a copy of the minute of publication of the will, and, on request, the original will itself shall be transmitted to the competent authority of the Contracting Party of which the testator was a national.

Article 44

MEASURES FOR THE PROTECTION OF THE ESTATE

1. The competent authority of a Contracting Party in whose territory an estate has been left by a national of the other Contracting Party shall, in accordance with its laws, take such measures as are necessary to ensure the protection and the administration thereof.

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

Article 45

DELIVERY OF THE ESTATE

1. If, after the completion of succession proceedings, the movable estate of the deceased or the moneys realized from the sale of his movable or immovable estate are to be delivered to heirs in the territory of the other Contracting Party, the movable estate or the moneys realized shall be delivered to the diplomatic or consular mission of that State.

2. The succession authority shall issue instructions for the delivery of the estate to the diplomatic or consular mission if:

- (a) All claims of the heirs, legatees or creditors of the deceased presented within the period prescribed by the law of the Contracting Party in whose territory the estate is situated have been paid or secured;
- (b) All estate duties have been paid or secured;
- (c) The competent authorities have approved the export of the estate.

RECOGNITION AND ENFORCEMENTS OF JUDGEMENTS

Article 46

1. Final judgements of courts and guardianship or curatorship authorities of either Contracting Party in matters not relating to property shall be recognized in the territory of the other Contracting Party without further proceedings, provided that they do not conflict with this Treaty and that no court or guardianship or curatorship authority of the other Contracting Party has previously rendered a final judgement in the matter. This provision shall also apply to judgements rendered before the entry into force of this Treaty.

2. Final judgements of courts in civil and family cases relating to property rendered in the territory of either Contracting Party shall be recognized and enforced in the territory of the other Contracting Party, provided that they were rendered after the entry into force of this Treaty. This provision shall also apply to final judgements of courts relating to damages in criminal cases.

Article 47

1. The law applicable to the issue of authorization of enforcement shall be that of the Contracting Party in whose territory enforcement is to take place.

2. Applications for enforcement shall be made to the court which heard the case at first instance or, if the person concerned is in the territory of the other Contracting Party, to the competent court of that Contracting Party. The court of first instance shall transmit such applications, in the manner prescribed in article 3 of this Treaty, to the competent court of the other Contracting Party.

Article 48

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

- (a) The complete text of the judgement, and, if such text does not show that the judgement has become final, an official document to that effect;

- (b) If the respondent did not participate in the proceedings, a document showing that he or his representative was served at least once, in due time and proper form, with a summons to appear in court;
- (c) A certified translation of the documents specified in (a) and (b) above.

Article 49

In issuing authorization of enforcement, the court may, when necessary, summon the applicant to appear before it and require him to furnish clarification or, if his application is defective, to correct it. It may also interrogate the debtor concerning the application or request the court which rendered the judgement to furnish clarification.

Article 50

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

2. The debtor may not submit to the court which rules on authorization of enforcement objections either to the admissibility of enforcement or to the claims satisfied by the judgement unless such objections are admissible under the law of the Contracting Party in whose territory the judgement was rendered.

Article 51

REFUSAL TO ENFORCE JUDGEMENTS

Authorization of enforcement of judgements may be refused:

- (a) If the judgement whose enforcement is sought has not become final;
- (b) If the respondent or the person against whom the judgement was rendered did not participate in the proceedings because neither he nor his representative was served in due time and proper form, in the manner prescribed by this Treaty, with a summons to appear in court; or
- (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 Contracting Party in whose territory recognition or enforcement is sought. However, this provision shall not apply where there has been a material change in the circumstances on which the nature of the enforcement provisions and the time of enforcement were based in the earlier judgement.

Article 52

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

Article 53

The provisions of articles 46 to 52 of this Treaty shall also apply to amicable arrangements arrived at before courts.

Chapter II

*LEGAL ASSISTANCE IN CRIMINAL CASES**Article 54*

OBLIGATION TO EXTRADITE

1. Each Contracting Party undertakes to extradite to the other on request, under the conditions laid down by this Treaty, persons in its territory whose presence is required for the purpose of criminal prosecution or for the execution of a sentence.

2. Extradition shall take place only in respect of acts which, under the law of both Contracting Parties, are recognized as criminal offences and are punishable with deprivation of liberty for a period of more than one year or with a heavier penalty (hereinafter called "extraditable offences").

Article 55

REFUSAL OF EXTRADITION

Extradition shall not take place if:

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

- (e) Under the law of at least one of the Contracting Parties, the criminal proceeding may be instituted only on the complaint of the injured party and the latter failed to lodge such a complaint in due time.

Article 56

OBLIGATION TO PROSECUTE

1. Each Contracting Party undertakes to prosecute under its own law, at the request of the other Contracting Party, any of its nationals who commit an extraditable offence in the territory of the other Contracting Party. The request for prosecution shall be accompanied by documents containing the particulars of the offence and all the available evidence relating thereto.

2. In the case of the Hungarian People's Republic, requests for prosecution shall be submitted, up to the point of committal for trial, by the General Procurator of the Hungarian People's Republic and, after committal for trial, by the Minister of Justice of the Hungarian People's Republic. In the case of the Mongolian People's Republic, such requests shall be submitted by the Procurator of the Republic and by the President of the Supreme Court of the Mongolian People's Republic.

3. The Contracting Party which receives such a request shall notify the other Contracting Party of the result of the prosecution and, if sentence is passed and becomes final, shall transmit a copy of the sentence.

Article 57

REQUISITION FOR EXTRADITION

1. A requisition for extradition for the purpose of execution of a sentence shall be accompanied by a certified copy of the final sentence and the complete text of the statute defining the offence. If the convicted person has already served a part of his sentence, the particulars in that regard shall also be transmitted.

2. A requisition for extradition for the purpose of criminal prosecution shall be accompanied by a certified copy of the warrant of arrest, a description of the circumstances of the offence, and the text of the statute defining the offence; if the offence resulted in material damage, the extent of such damage shall be indicated.

3. In the case of offences in respect of which proceedings may be instituted only on the complaint of the injured party, the date on which such a complaint

was lodged shall be indicated in the requisition. It shall also be stated whether any statutory limitations exist relative to the period within which the complaint may be lodged.

4. The requisition for extradition shall, so far as possible, be accompanied by a personal description of the person claimed, particulars concerning his identity, nationality and residence, and photographs and fingerprints.

5. The Contracting Party submitting the requisition for extradition shall not be bound to enclose with the requisition proof of the guilt of the person claimed.

Article 58

SUPPLEMENTARY INFORMATION

If all the information required is not provided in the requisition for extradition, the Contracting Party applied to may request supplementary information. For this purpose it may set the applicant Contracting Party a time-limit not exceeding two months. Such time-limit may be extended for valid reasons.

Article 59

ARREST OF PERSONS LIABLE TO EXTRADITION

Upon receipt of a requisition for extradition, the Contracting Party applied to shall take immediate steps to arrest the person claimed, save in cases in which, in accordance with this Treaty, extradition may not take place.

Article 60

DETENTION PENDING RECEIPT OF REQUISITION FOR EXTRADITION

1. A person liable to extradition may be arrested even before receipt of the requisition for extradition if one of the Contracting Parties applies for his arrest, specifying that there exists a warrant of arrest or a final sentence or other judicial decision in respect of the person in question. Such application may be made by post, telegraph, telephone or wireless.

2. The competent authorities of either Contracting Party may arrest a person present in their territory even in the absence of such application if,

according to their information, he has committed an extraditable offence in the territory of the other Contracting Party.

3. Where an arrest has been made under the provisions of paragraphs 1 and 2 of this article, the other Contracting Party shall be notified immediately.

Article 61

RELEASE FROM DETENTION

1. A person who has been detained may be released if, in the cases specified in article 58, supplementary information for the requisition for extradition is not received, within the time-limit set in accordance with the said article, from the Contracting Party which submitted such requisition.

2. A person detained in accordance with article 60 may be released if the requisition for his extradition is not received from the other Contracting Party within two months from the date on which notification of his detention was sent.

Article 62

POSTPONEMENT OF EXTRADITION

If the person claimed is being prosecuted for or has been convicted of another offence in the territory of the Contracting Party applied to, his extradition may be postponed until the termination of the proceedings or the execution or remission of the sentence.

Article 63

TEMPORARY EXTRADITION

1. If the postponement of extradition as provided in article 62 may result in exemption from prosecution being acquired by lapse of time or may prejudice seriously the investigation of an offence, the person claimed may be extradited for a temporary period on receipt of an application for such extradition with statement of grounds.

2. A temporarily extradited person shall be returned immediately upon the completion of the criminal proceeding for the purpose of which he was extradited.

Article 64

CONCURRENT REQUISITIONS FOR EXTRADITION

If requisitions for a person's extradition are received from more than one State, the Contracting Party applied to shall decide which of the requisitions submitted shall be complied with.

Article 65

LIMITS TO THE PROSECUTION OF EXTRADITED PERSONS

1. An extradited person may not, without the consent of the Contracting Party applied to, be prosecuted, punished or surrendered to a third State for an offence which was committed before his extradition and which is not the offence for which he was extradited.

2. Such consent shall not be required if:

- (a) 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 proceedings in the case or, in the event of his conviction, within one month after the completion or remission of the sentence; such period of one month shall not be deemed to include any period of time during which the extradited person is unable through no fault of his own to quit the territory of the applicant Contracting Party;
- (b) The extradited person quits the territory of the applicant Contracting Party but subsequently returns thereto.

Article 66

SURRENDER OF THE PERSON CLAIMED

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

Article 67

RE-EXTRADITION

If an extradited person in some manner evades prosecution and reappears in the territory of the Contracting Party applied to, he shall be re-extradited upon receipt of a new requisition, without production of the documents and information specified in article 57 of this Treaty.

Article 68

CONVEYANCE IN TRANSIT

1. Each Contracting Party undertakes to convey through its territory, at the request of the other Contracting Party, any person extradited by a third

State to the other Contracting Party. The Contracting Parties shall not be bound to authorize such conveyance in cases where extradition is not provided for under the terms of this Treaty.

2. A request for conveyance in transit shall be submitted and drawn up in the same manner as a requisition for extradition.

3. The manner, route and other conditions of conveyance shall be determined in each individual case by agreement between the competent authorities of the Contracting Parties.

Article 69

NOTIFICATION OF RESULTS OF PROSECUTION

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

Article 70

METHOD OF COMMUNICATION IN MATTERS RELATING TO EXTRADITION AND CONVEYANCE IN TRANSIT

In matters relating to the extradition of offenders and their conveyance in transit, and to the appearance of persons held in custody (article 71), the Ministry of Justice or the General Procurator of the Hungarian People's Republic and the Supreme Court or the Procurator of the Mongolian People's Republic shall communicate with each other direct.

Article 71

APPEARANCE OF PERSONS HELD IN CUSTODY

1. If need arises for the interrogation as a witness of a person who is held in custody in the territory of the other Contracting Party, the agencies specified in article 70 of this Treaty may arrange for such person to be delivered to the territory of the requesting Contracting Party, subject to his being kept in custody and returned as soon as possible after the interrogation is completed.

2. If need arises for the interrogation as a witness of a person who is held in custody in a third State, the agencies of the Contracting Party applied to specified in article 70 of this Treaty shall authorize the conveyance of such person through the territory of their State. This shall be without prejudice to the provisions of article 7 of this Treaty.

Article 72

DELIVERY OF ARTICLES

1. Articles acquired through the commission of an extraditable offence, and all other articles which may be used as physical evidence in criminal proceedings, shall be delivered to the Contracting Party which requests them even if the offender cannot be extradited by reason of death or any other circumstances.

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

3. These provisions shall not affect the rights of third parties to the articles to be delivered. After the conclusion of the criminal proceedings, such articles shall be returned to the Contracting Party which delivered them for transmittal to the persons entitled to them.

Article 73

REFUSAL OF LEGAL ASSISTANCE IN CRIMINAL CASES

Legal assistance in criminal cases shall not be provided if it is requested in connexion with a non-extraditable offence.

Article 74

NOTIFICATION OF SENTENCES

1. Each Contracting Party shall annually communicate to the other Contracting Party information concerning final sentences pronounced with respect to nationals of the other Contracting Party. Such communications shall be accompanied by the operative part of the sentences concerned.

2. Each Contracting Party shall on request transmit to the other Contracting Party information regarding the previous convictions of persons formerly resident in its territory where criminal proceedings have been initiated against such persons in the territory of the applicant Contracting Party.

3. In the cases specified in paragraphs 1 and 2 of this article, the Contracting Parties shall also, in so far as possible, transmit the fingerprints of the convicted persons.

4. The information specified in paragraphs 1 and 2 of this article shall be transmitted by the Contracting Parties in the manner prescribed in article 3 of this Treaty.

PART III
FINAL PROVISIONS

Article 75

This Treaty shall be subject to ratification. The instruments of ratification shall be exchanged at Ulan-Bator.

Article 76

1. This Treaty shall enter into force thirty days after the exchange of the instruments of ratification. It shall remain in force for a period of ten years from the date on which it entered into force.

2. If neither Contracting Party gives notice of termination of this Treaty twelve months before the expiry of the period specified above, the Treaty shall be extended indefinitely and shall remain in force until twelve months' prior notice of its termination is given by either Contracting Party.

Article 77

This Treaty has been drawn up in duplicate in the Hungarian, Mongolian and Russian languages, all three texts being equally authentic. In the event of conflicting interpretations, the Russian text shall prevail.

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

DONE at Budapest on ~~8~~ November 1968.

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

For the Presidium
of the Great People's Khural
of the Mongolian People's Republic:

KOROM Mihály

DAMDIN