

No. 10320

**MONGOLIA
and
GERMAN DEMOCRATIC REPUBLIC**

Treaty concerning legal assistance in civil, family and criminal cases. Signed at Ulan Bator on 30 April 1969

Authentic texts: Mongolian, German and Russian.

Registered by Mongolia on 20 February 1970.

**MONGOLIE
et
RÉPUBLIQUE DÉMOCRATIQUE ALLEMANDE**

Traité relatif à l'entraide judiciaire en matière civile, familiale et pénale. Signé à Oulan-Bator le 30 avril 1969

Textes authentiques: mongol, allemand et russe.

Enregistré par la Mongolie le 20 février 1970.

[TRANSLATION — TRADUCTION]

TREATY¹ BETWEEN THE MONGOLIAN PEOPLE'S REPUBLIC AND THE GERMAN DEMOCRATIC REPUBLIC CONCERNING LEGAL ASSISTANCE IN CIVIL, FAMILY AND CRIMINAL CASES

The Mongolian People's Republic and the German Democratic Republic, being desirous of strengthening and further developing the fraternal friendship and co-operation between the two peoples in the sphere of legal relations, have decided, in order to safeguard socialist construction and to protect the rights and interests of the citizens of both countries, to conclude a Treaty concerning legal assistance in civil, family and criminal cases.

For this purpose they have appointed as their Plenipotentiaries :

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

Mr. Tsevegzhayyn Puntsagnorov, Vice-Chairman of the Council of Ministers of the Mongolian People's Republic;

The Chairman of the Council of State of the German Democratic Republic :

Dr. Kurt Wünsche, Vice-Chairman of the Council of Ministers of the German Democratic Republic and Minister of Justice,

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

PART I

LEGAL PROTECTION

Article 1

SCOPE OF LEGAL PROTECTION

1. Citizens of either Contracting Party shall enjoy in the territory of the other Contracting Party the same legal protection in respect of their personal and property rights as citizens of such other Party. For this purpose they shall have free and unimpeded access to the courts and other authorities having jurisdiction in civil, family and criminal cases and may also institute proceedings before such authorities to protect their personal and property rights.

¹ Came into force on 27 December 1969, 30 days after the exchange of the instruments of ratification, which took place at Berlin on 27 November 1969, in accordance with article 94.

2. The provisions of paragraph 1 of this article shall also apply, *mutatis mutandis*, to juridical persons.

Article 2

EXEMPTION FROM SECURITY FOR LEGAL COSTS

1. Citizens of either Contracting Party appearing before a court of the other Contracting Party as plaintiffs or third parties shall not be required to deposit security for legal costs if they reside in the territory of either Contracting Party.

2. The provisions of paragraph 1 of this article shall also apply, *mutatis mutandis*, to juridical persons.

EXEMPTION FROM LEGAL COSTS IN JUDICIAL PROCEEDINGS

Article 3

Citizens of either Contracting Party shall be entitled in the courts of the other Contracting Party to exemption from legal costs in connexion with judicial proceedings, under the same conditions and to the same extent as the latter Party's own citizens.

Article 4

1. Documents relating to personal and property status which are required to establish entitlement to exemption from legal costs under article 3 of this Treaty shall be issued by the competent authority 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 the Contracting Party in question, such documents shall be issued by the diplomatic or consular mission of his State.

3. The court ruling on a petition for exemption from legal costs may investigate, within the limits of its jurisdiction, any documents and information submitted, and, if necessary, may require additional information to be furnished by the authority of the other Contracting Party which issued the documents.

Article 5

1. A petition for exemption from legal costs may also be submitted through the competent court of the Contracting Party of which the petitioner is a citizen. This court shall transmit the petition for exemption from legal costs together with the documents issued in accordance with article 4 of this Treaty and the other documents submitted by the petitioner to the court of the other Contracting Party in accordance with article 9 of this Treaty.

2. A petitioner for exemption from legal costs may at the same time present a petition for the purpose of instituting proceedings in a matter relating to the petition for exemption from legal costs, and also a petition for the assignment of counsel or other relevant petitions.

Article 6

Exemption from legal costs granted by the competent court of either Contracting Party in a particular case shall apply to all acts performed in connexion with the said proceedings in the court of the other Contracting Party.

PART II

LEGAL ASSISTANCE IN CIVIL AND FAMILY CASES

Article 7

PROVISION OF LEGAL ASSISTANCE

1. The Contracting Parties undertake to ensure that their courts shall provide one another with legal assistance in civil and family cases in the manner specified in this Treaty.

2. For the purposes of this part of the Treaty, courts shall also mean other authorities of the Contracting Parties which have jurisdiction, under the law of their own States, in civil and family cases.

Article 8

SCOPE OF LEGAL ASSISTANCE

Legal assistance in civil and family cases shall include the transmittal of documents and the performance of specific acts required in connexion with judicial proceedings, such as the interrogation of witnesses and litigants and the conduct of expert examinations and inspections *in situ*.

Article 9

METHOD OF COMMUNICATION

In providing legal assistance, the courts of the two Contracting Parties shall, save as otherwise provided herein, communicate with one another through their central organs.

Article 10

LANGUAGES USED IN LEGAL ASSISTANCE

1. In affording each other legal assistance, the courts of the Contracting Parties shall use their own language or Russian.

2. In order to facilitate legal assistance, translations of documents into the language of the Contracting Party applied to or into Russian should be attached whenever possible even in cases where this is not prescribed by this Treaty.

Article 11

FORM OF APPLICATIONS FOR LEGAL ASSISTANCE

1. Applications for legal assistance (hereinafter called "legal assistance applications") and documents for transmittal shall be signed and bear the seal of the court; further certification shall be unnecessary.

2. Legal assistance applications shall be drawn up in the manner prescribed in the legislation of the applicant Contracting Party.

Article 12

CONTENT OF LEGAL ASSISTANCE APPLICATIONS

1. Legal assistance applications must specify :

—the subject to which they relate;

—the name of the applicant court, and also, whenever possible, the name of the court applied to;

—the names of the parties, their occupation and domicile.

2. In addition to the information prescribed in paragraph 1 of this article, applications for the service of documents shall also indicate the exact address of the recipient and the procedure for serving the documents.

3. Legal assistance applications for the performance of specific acts required in connexion with judicial proceedings must also contain : a designation of the facts concerning which evidence is to be taken and also, as appropriate, the questions to be put to the party concerned during interrogation.

PROCEDURE FOR EXECUTING LEGAL ASSISTANCE APPLICATIONS

Article 13

1. In executing an application for legal assistance, the court applied to shall apply the law of its own State.

2. At the request of the applicant court, the court applied to may take action of the nature and form indicated in the application, provided that this

does not conflict with the legislative principles of the Contracting Party applied to.

Article 14

1. If the court to which the application is made is not competent to execute it, it shall transmit it to the competent court.

2. At the appropriate time the court applied to shall directly notify the applicant court of the time and place of execution of the application.

3. If the person named in the application does not reside at the address indicated, the court applied to shall, on its own initiative, take the necessary measures to determine the address.

4. If it has been impossible to execute the application for legal assistance, the court applied to shall advise the applicant court of this and of the reasons which prevented the execution of the application.

APPLICATIONS FOR THE SERVICE OF DOCUMENTS

Article 15

1. In serving a document, the court applied to shall, in accordance with article 13 of this Treaty, apply the law of its own State.

2. If the document is not drawn up in the language of the Contracting Party applied to or is not accompanied by a certified translation into that language, the court applied to shall deliver the document to the recipient if he is willing to accept it.

3. Service of documents shall be confirmed by a receipt which shall indicate the date of service and bear the signature of the recipient and the server and the seal of the court; service of documents may also be confirmed by an official certificate of the court showing in what form and at what time the relevant document was served.

Article 16

1. Each Contracting Party shall have the right to serve documents on its own citizens residing in the territory of the other Contracting Party through its diplomatic or consular missions.

2. No compulsion of any kind may be used in serving documents in accordance with paragraph 1 of this article.

Article 17

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, in particular, costs incurred in taking evidence.

2. The authority applied to shall communicate to the applicant authority the amount of the costs incurred. If the applicant authority recovers these costs from the person liable therefor, they shall accrue to the Contracting Party which recovered them.

Article 18

DENIAL OF LEGAL ASSISTANCE

Legal assistance may be denied if the provision of such assistance might be prejudicial to the sovereignty or security of the Contracting Party applied to.

PART III

INFORMATION ON LEGAL QUESTIONS

Article 19

The Legal Committee of the Council of Ministers or the State Procurator of the Mongolian People's Republic and the Ministry of Justice or the Procurator-General of the German Democratic Republic shall, on request, furnish each other with information concerning laws in force and questions relating to their application.

PART IV

DOCUMENTS

Article 20

USE OF DOCUMENTS

1. Documents drawn up or attested by a court or other competent authority of either Contracting Party, signed and bearing an official seal, shall not require legalization for use in the courts or other authorities of the other Contracting Party.

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

Article 21

EVIDENTIAL VALUE OF OFFICIAL DOCUMENTS

Official documents drawn up in the territory of either Contracting Party shall have the same evidential value of official documents in the territory of the other Contracting Party as the latter Party's own documents.

TRANSMITTAL OF CIVIL REGISTRATION DOCUMENTS

Article 22

1. Each Contracting Party shall transmit to the other Contracting Party extracts from the civil registers relating to the birth, marriage and death of citizens of the other Contracting Party.

2. Each year extracts within the meaning of paragraph 1 of this article shall be transmitted free of duty or charge to the diplomatic or consular mission of the other Contracting Party.

3. The Contracting Parties shall, on request, transmit to each other free of charge civil registration documents for official use.

4. In transmitting and executing applications under paragraph 3 of this article, the Contracting Parties shall communicate with each other as prescribed in article 9 of this Treaty.

Article 23

1. The Contracting Parties shall transmit to each other legal decisions which have entered into force and affect the civil status of citizens of the other Contracting Party.

2. The decisions referred to in paragraph 1 of this article shall be transmitted free of charge to the diplomatic or consular mission.

Article 24

Applications by citizens of either Contracting Party for the preparation of extracts from the civil registers of the other Contracting Party may be transmitted directly to the competent civil registration authority.

PART V

RULES OF CONFLICT

1. *PERSONAL STATUS**Article 25*

LEGAL CAPACITY

Legal capacity shall be determined in accordance with the law of the Contracting Party of which the person concerned is a citizen.

Article 26

LEGAL CAPACITY OF JURIDICAL PERSONS

The legal capacity of a juridical person shall be determined in accordance with the law of the Contracting Party on the basis of whose law the juridical person was constituted.

*Article 27*DECLARATION OF PERSONS AS MISSING OR DEAD AND ESTABLISHMENT
OF THE FACT OF DEATH

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

2. The authorities of either Contracting Party may declare a citizen of the other Contracting Party missing or dead, or establish the time of death (establish the fact of his death) upon the application of any person resident in its territory if his rights and interests are governed by its law.

3. In the cases provided for in paragraphs 1 and 2, the authorities of the Contracting Parties shall apply the law of their own State.

2. *FAMILY CASES**Article 28*

MARRIAGE

1. The prerequisites for marriage shall be determined for each of the future spouses by the law of the Contracting Party of which the person in question is a citizen.

2. The form of marriage shall be determined by the law of the Contracting Party in whose territory the marriage takes place.

3. The form of marriage, to be applied by a duly authorized diplomatic or consular mission, shall be determined by the law of the country of the diplomatic or consular mission.

PERSONAL AND PROPERTY RELATIONS OF SPOUSES

Article 29

1. If both spouses are of the same nationality, the personal and property relations of the spouses shall be those prescribed by the law of the Contracting Party of which they are citizens.

2. Where one spouse is a citizen of one Contracting Party and the other a citizen of the other Contracting Party, their personal and property relations shall be those prescribed by the law of the Contracting Party in whose territory they have, or last had, their common domicile.

Article 30

1. In actions to settle the personal and property relations of spouses, the court of the Contracting Party of which the spouses are citizens, shall have jurisdiction. Where the spouses have their domicile in the territory of the other Contracting Party during the court proceedings, the court of that Contracting Party shall also have jurisdiction.

2. Where one spouse is a citizen of one Contracting Party and the other a citizen of the other Contracting Party, the court of the Contracting Party in whose territory they have, or last had, their common domicile shall have jurisdiction in actions to settle the personal and property relations of the spouses.

DISSOLUTION OF MARRIAGE

Article 31

1. In actions to dissolve marriage, the applicable law shall be that of the Contracting Party of which the spouses were citizens when the suit was brought.

2. Where one spouse is a citizen of one Contracting Party and the other a citizen of the other Contracting Party, the court dealing with the proceedings shall apply the law of its own State.

Article 32

1. In actions to dissolve marriage as provided for in article 31, paragraph 1, of this Treaty, the court of the Contracting Party of which the spouses were

citizens when the suit was brought shall have jurisdiction. If, when the suit was brought, both spouses had their domicile in the territory of the other Contracting Party, its court shall also have jurisdiction.

2. In actions to dissolve marriage as provided for in article 31, paragraph 2, of this Treaty, the court of the Contracting Party in whose territory both spouses have their domicile shall have jurisdiction. Where one spouse has his domicile in the territory of one Contracting Party and the other in the territory of the other Contracting Party, the courts of the two Contracting Parties shall have jurisdiction for the dissolution of marriage.

Article 33

ANNULMENT OF MARRIAGE

In actions to annul (establish the non-existence of) marriage and establish jurisdiction in such cases, the provisions of articles 31 and 32 of this Treaty shall apply *mutatis mutandis*.

LEGAL RELATIONS BETWEEN PARENTS AND CHILDREN

Article 34

1. Actions to establish or contest paternity or to establish that a child is the issue of a particular marriage shall be decided in accordance with the law of the Contracting Party of which the child is a citizen by birth.

2. As to the form of recognition of paternity, it shall, however, be deemed sufficient if the law of the Contracting Party in whose territory paternity is recognized is complied with.

Article 35

Legal relations between parents and children and between a child born out of wedlock and his parents shall be governed by the law of the Contracting Party of which the child is a citizen.

Article 36

Decisions on the legal relations referred to in articles 34 and 35 of this Treaty shall be within the jurisdiction both of the court of the Contracting Party of which the child is a citizen and of the court of the Contracting Party in whose territory the child has his domicile or residence.

ADOPTION

Article 37

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

2. If the child is a citizen of the other Contracting Party, adoption or termination of adoption shall be subject to the express consent of the child, when this is prescribed by the law of the country of his citizenship, and to the consent of his legal representative and of the competent public authority of that Contracting Party.

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

Article 38

In matters of adoption or termination of adoption, the authorities having jurisdiction shall be those of the Contracting Party of which the adopter is a citizen at the time of adoption or termination of adoption. In the case provided for in article 37, paragraph 3, the authority in whose area of activity the spouses have, or last had, their common domicile or residence shall have jurisdiction.

3. GUARDIANSHIP AND CURATORSHIP

Article 39

1. In establishing or terminating guardianship or curatorship, the applicable law shall be that of the Contracting Party of which the persons over whom the guardianship or curatorship is to be or is exercised (hereinafter called "wards") are citizens.

2. 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.

3. 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 guardian or curator is a citizen.

Article 40

1. Save as otherwise provided herein, the authority of the Contracting Party of which the ward is a citizen shall determine the establishment or termination of guardianship or curatorship.

2. Decisions on the establishment or termination of guardianship or curatorship rendered by the authorities of either Contracting Party in respect of its own citizens shall also be recognized and have legal force in the territory of the other Contracting Party.

Article 41

1. Where, in the territory of either Contracting Party, need arises to take measures to protect the interests of a citizen of the other Contracting Party whose residence or property is in the territory of the first Contracting Party, the competent authority of the first Contracting Party shall at once notify the diplomatic or consular mission of the second Contracting Party.

2. In urgent cases, the competent authority may itself take preliminary measures in accordance with the law of its own State and shall forthwith notify the diplomatic or consular mission in accordance with paragraph 1 of this article. The preliminary measures shall remain in effect pending other measures by the competent authority of the other Contracting Party, of which the authority which took the preliminary measures shall be notified.

Article 42

1. The authority of the Contracting Party having jurisdiction under article 40, paragraph 1, of this Treaty may transfer guardianship or curatorship to an authority of the other Contracting Party if the ward has his domicile or residence in the territory of that Contracting Party. The transfer shall become effective when the authority applied to assumes the guardianship or curatorship and notifies the applicant authority accordingly.

2. The authority of the Contracting Party assuming the guardianship or curatorship in accordance with paragraph 1 of this article shall exercise it in accordance with the law of its own State. It may not decide questions relating to the ward's personal status.

4. SUCCESSION

Article 43

PRINCIPLE OF EQUALITY

1. Citizens of either Contracting Party may acquire property and rights in the territory of the other Contracting Party by statutory or testamentary succession under the same conditions and to the same extent as the citizens of the latter Party.

2. Citizens of either Contracting Party may dispose by will of their property situated in the territory of the other Contracting Party.

Article 44

LAW OF SUCCESSION

1. Succession to movables shall be determined by the law of the Contracting Party of which the decedent was a citizen at the time of his death
2. Succession to immovables shall be determined by the law of the Contracting Party in whose territory the immovable is situated.

WILLS

Article 45

1. The capacity to make or revoke a will and the contesting of a will on the ground of defective testamentary dispositions shall be determined by the law of the Contracting Party of which the testator was a citizen at the time of making the testamentary disposition.
2. The form of a testamentary disposition and of its revocation shall be determined by the law of the Contracting Party of which the testator was a citizen at the time of making or revoking the testamentary disposition. As to the form of making or revoking, a testamentary disposition shall also have legal force when the law of the Contracting Party in whose territory the testamentary disposition was made or revoked is complied with.

JURISDICTION IN MATTERS OF SUCCESSION

Article 46

1. In proceedings in matters of succession to movables, the competent authority shall be that of the Contracting Party of which the decedent was a citizen at the time of death, save as otherwise provided herein.
2. In proceedings in matters of succession to immovables, the competent authority shall be that 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 citizen 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, be conducted by the authorities of that Contracting Party.

Article 47

The decision as to which property is to be deemed movable and which immovable shall be made in accordance with the law of the Contracting Party in whose territory the property is situated.

Article 48

NOTIFICATION OF DEATH

1. If a citizen of one of the Contracting Parties dies in the territory of the other Contracting Party, the competent authority shall directly and immediately notify the diplomatic or consular mission of the other Contracting Party of such death, communicating to it whatever information is available concerning the heirs, their domicile or residence, the size of the estate and the existence of a will. If this authority knows of property left by the decedent in another State, it shall also communicate information concerning it.

2. If an authority engaged in proceedings in matters of succession establishes that the heir is a citizen of the other Contracting Party, it must notify the diplomatic or consular mission of that Contracting Party.

3. If the diplomatic or consular mission learns of the death first, it shall notify the competent succession authority with a view to the protection of the estate.

Article 49

MEASURES FOR THE PROTECTION OF THE ESTATE

If estates left by citizens of one Contracting Party are situated in the territory of the other Contracting Party, the succession authority shall, on request or *proprio motu*, take, in accordance with the law of its own State, measures necessary for ensuring the protection or administration of such estates.

Article 50

If a citizen of either Contracting Party dies during a temporary stay in the territory of the other Contracting Party, his personal effects shall be inventoried and delivered without any formal proceedings to the diplomatic or consular mission of the Contracting Party of which the decedent was a citizen.

Article 51

OPENING OF WILLS

The opening and publication of a will shall be within the jurisdiction of the succession authority of the Contracting Party in whose territory the will is to be found. If the testator resided in the territory of the other Contracting Party, a copy of the will, the minute concerning the condition and content thereof and, where necessary, the minute concerning the opening and publication of the will shall be transmitted to the competent succession authority; on request, the original will itself shall also be transmitted.

Article 52

ESCHEAT

Where under the legislation of a Contracting Party governing the law of succession there are no heirs to an estate, movables shall revert to the Contracting Party of which the decedent was a citizen at the time of his death and immovables shall revert to the Contracting Party in whose territory they are situated.

Article 53

COMPETENCE OF DIPLOMATIC OR CONSULAR MISSIONS IN SUCCESSION PROCEEDINGS

In succession proceedings, including succession disputes, the diplomatic or consular mission of either Contracting Party shall have the right to represent citizens of its own State before the courts or other authorities of the other Contracting Party without special power of attorney, if such citizens are not present and have not appointed other representatives.

DELIVERY OF THE ESTATE

Article 54

1. If a movable estate is situated in the territory of either Contracting Party, it shall, for the purpose of carrying out the succession proceedings, be delivered to the authority having jurisdiction in succession proceedings or the diplomatic or consular mission of the Contracting Party of which the decedent was a citizen, subject to compliance with the prerequisites specified in article 55, paragraph 2 (b), of this Treaty.

2. The two Contracting Parties reserve the right, before delivery of the movables pursuant to paragraph 1 of this article, to require payment of taxes and duties connected with succession to the estate.

Article 55

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 who have their domicile or residence in the territory of the other Contracting Party and it is impossible for the estate or the moneys realized to be delivered to them or their representatives directly, the estate shall be delivered to the diplomatic or consular mission of that Contracting Party.

2. Action shall be taken pursuant to paragraph 1 of this article when:

(a) All estate charges or duties have been paid or secured;

- (b) The competent authorities have agreed to the export of the articles in the estate or the transfer of the moneys realized from their sale.

PART VI

RECOGNITION AND ENFORCEMENT OF JUDGEMENTS

Article 56

RECOGNIZABLE AND ENFORCEABLE JUDGEMENTS

1. Each Contracting Party shall recognize and enforce in its territory, in accordance with this Treaty, the following judgements rendered in the territory of the other Contracting Party:

- (a) Judgements in civil and family cases, and amicable arrangements in civil and family cases concerning property;
- (b) Sentences in criminal cases relating to damages;
- (c) The awards of arbitral tribunals, and amicable arrangements in economic and commercial disputes where one of the parties is an economic organization.

2. Judgements within the meaning of paragraph 1 of this article shall also be deemed to include judgements in succession cases rendered by the authorities of the Contracting Party which, under the domestic law of that Contracting Party, have jurisdiction in matters of succession.

3. The extent to which a dispute is to be deemed an economic or commercial dispute within the meaning of paragraph 1 (c) of this article shall be determined according to the law of the Contracting Party in whose territory the decision of the arbitral tribunal is to be enforced.

Article 57

PREREQUISITES FOR THE RECOGNITION AND ENFORCEMENT OF JUDGEMENTS

The judgements listed in article 56 of this Treaty shall be recognized and enforced under the following conditions :

- (a) The judgement has become final and enforceable in accordance with the law of the Contracting Party in whose territory it was rendered;
- (b) The court of the Contracting Party in whose territory the judgement was rendered had jurisdiction under the law of the Contracting Party in

whose territory recognition and enforcement are sought or under this Treaty;

- (c) The party which has lost the case and did not participate in the court proceedings has, under the law of the Contracting Party in whose territory the judgement was rendered, been notified in proper form and due time that the case was under examination, and, in the case of persons lacking capacity to sue, could have been properly represented;
- (d) Final judgement has not previously been rendered in the same matter and between the same parties by a court or arbitral tribunal of the Contracting Party in whose territory the judgement is to be recognized or enforced, or proceedings have not previously been instituted in the matter before a court of such Contracting Party.

Article 58

RECOGNITION OF JUDGEMENTS IN MATTERS NOT RELATING TO PROPERTY

Judgements of the courts of either Contracting Party in matters not relating to property shall be recognized in the territory of the other Contracting Party without further proceedings, subject to compliance with article 57 of this Treaty.

Article 59

RECOGNITION AND ENFORCEMENT OF DOCUMENTS IN ALIMONY CASES

Documents which award payment of alimony and which have been prepared under the auspices of the competent guardianship and curatorship authorities in the territory of either Contracting Party shall be recognized and enforced in the territory of the other Contracting Party, subject to compliance with the conditions relating to documents specified in article 57 of this Treaty in so far as the provisions of this article are applicable to documents in alimony cases.

Article 60

PREREQUISITES FOR THE RECOGNITION AND ENFORCEMENT OF JUDGEMENTS OF ARBITRAL TRIBUNALS

Judgements of arbitral tribunals shall be recognized and enforced provided that, in addition to the conditions specified in article 57 of this Treaty, the following conditions are also met:

- (a) The judgement has been rendered on the basis of a written agreement to submit for arbitration a specific case or future cases resulting from specific legal relations and the arbitral tribunal has rendered the judge-

ment within the limits of its authority as laid down in the arbitral agreement;

- (b) The agreement to submit the dispute for arbitration has legal force under the law of the Contracting Party in whose territory the judgement is to be recognized or enforced.

Article 61

APPLICATIONS FOR THE ENFORCEMENT OF JUDGEMENTS

1. An application for the enforcement of a judgement may be made directly to the competent court of the Contracting Party in whose territory the judgement is to be enforced or to the court which rendered judgement in the case at first instance. The application shall be transmitted to the competent court of the other Contracting Party in the manner prescribed in article 9 of this Treaty.

2. The application shall be accompanied by the following:

- (a) The official judgement or a certified copy of the judgement and, if the text does not show that the judgement has become final and enforceable, an official document to that effect;
- (b) If the party against whom judgement was rendered did not participate in the proceedings, a certificate showing that he was notified, in proper form and due time, that the case was under examination, or, in the case of persons lacking capacity to sue, was not denied proper representation;
- (c) A certified translation of the documents referred to in (a) and (b).

3. Applications for the enforcement of judgements of arbitral tribunals shall also be accompanied by a certified translation of the agreement to submit the dispute to the arbitration of the tribunal dealing with the case.

Article 62

PROCEDURE FOR THE ENFORCEMENT OF JUDGEMENTS

1. The court of the Contracting Party in whose territory the judgement is to be enforced shall apply the law of its own State in enforcing it.

2. The court adjudicating on the application for enforcement shall confine itself to establishing whether the conditions specified in articles 57 to 60 of this Treaty are complied with.

3. The debtor may object to a ruling on enforcement provided his objections are admissible under the law of the Contracting Party whose court adjudicates on the enforcement.

Article 63

MORATORIUM ON THE RECOGNITION AND ENFORCEMENT OF JUDGEMENTS

The judgements referred to in article 56 of this Treaty and the documents relating to obligations to pay alimony referred to in article 58 of this Treaty shall be recognized and enforced only if they become final and enforceable after the entry into force of this Treaty.

Article 64

ENFORCEMENT OF JUDGEMENTS RELATING TO PAYMENT OF LEGAL COSTS

1. If a party to a case who, in accordance with article 2 of this Treaty, has been exempted from depositing security for legal costs is required, under a final judgement of either Contracting Party, to pay legal costs, this judgement shall, upon the application of the appropriate party, be enforced without charge in the territory of the other Contracting Party.

2. The court adjudicating on an application for the enforcement of a judgement in accordance with paragraph 1 of this article shall confine itself to establishing whether the judgement relating to the costs has become final and enforceable.

3. Article 61 of this Treaty shall apply, *mutatis mutandis*, to applications for enforcement and to the documents accompanying them.

Article 65

EXPORT OF ARTICLES AND TRANSFER OF FUNDS

The provisions of this Treaty concerning the enforcement of judgements shall not affect the legislation of the Contracting Parties relating to the transfer of funds or the export of articles acquired as a result of the enforcement.

PART VII

LEGAL ASSISTANCE IN CRIMINAL CASES AND EXTRADITION

1. *LEGAL ASSISTANCE**Article 66*

PROVISION OF LEGAL ASSISTANCE

1. The Contracting Parties undertake that their Courts shall provide one another with legal assistance under the conditions laid down in this Treaty.

2. For the purposes of this part of this Treaty, the term "courts" shall include other authorities of the Contracting Parties which have jurisdiction in criminal cases under the domestic law of their own States.

Article 67

SCOPE OF LEGAL ASSISTANCE

Legal assistance in criminal cases shall include the service of documents and evidence and the performance of specific acts required in connexion with judicial proceedings, such as the interrogation of accused persons, witnesses or experts, legal investigations, the securing of expert opinions, searches of dwellings and persons, etc.

Article 68

METHOD OF COMMUNICATION

In affording legal assistance in criminal cases, the provisions of articles 9 to 18 of this Treaty shall apply, *mutatis mutandis*.

Article 69

IMMUNITY OF WITNESSES AND EXPERTS

1. No person of whatsoever citizenship who, in response to a request transmitted to him by a court of the Contracting Party applied to, appears as a witness or expert in a civil, family or criminal case before an authority of the applicant Contracting Party may be prosecuted or detained for a punishable offence committed before he crossed the frontier of the applicant State, or be punished on the basis of a past sentence. Proceedings may not be instituted against any such person for other breaches of the law committed before he crossed the frontier, nor may action determined on the basis of such breaches of the law be taken. Nor may he be prosecuted or detained in connexion with his interrogation as a witness or his expert advice or in connexion with the criminal case which was the subject of the proceedings.

2. The witness or expert shall forfeit the privilege provided for in paragraph 1 of this article if, being at liberty to do so, he fails to leave the territory of the applicant Contracting Party within seven days from the date on which the applicant authority informed him that his presence was no longer necessary. Such period of seven days 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 leave the territory of the applicant Contracting Party.

3. Persons summoned shall be entitled to reimbursement for travel expenses, subsistence abroad and non-receipt of wages; experts shall also be entitled to a fee for their services. The summons shall indicate the remuneration to which

such persons shall be entitled, and, upon application, they shall receive an advance to cover the expenses in question.

4. Persons summoned shall not be required to accede to the request. Summonses shall not contain any threat of coercive measures for failure to accede to the request.

Article 70

If a person held in custody in the territory of the Contracting Party applied to is summoned for interrogation as a witness or expert by a court of the other Contracting Party and is to be temporarily handed over, article 68 of this Treaty shall apply, *mutatis mutandis*, to the application.

Article 71

OBLIGATION TO PROSECUTE

1. Each Contracting Party undertakes to prosecute under its own domestic law, at the request of the other Contracting Party, any of its citizens who commit an offence in the territory of the other Contracting Party if they are extraditable under article 74 of this Treaty.

2. Requests for prosecution shall be accompanied by the findings of the preliminary investigation and any further evidence that may be available concerning the offence.

3. The Contracting Party applied to shall notify the other Contracting Party of the results of the prosecution. If a final decision has been rendered in the case, a copy of it shall accompany the notification.

Article 72

NOTIFICATION OF SENTENCES

1. Each Contracting Party undertakes to communicate to the other Contracting Party at the beginning of each year information concerning final sentences pronounced by its courts in the preceding year against citizens of the other Contracting Party.

2. At the request of either Contracting Party, the other Contracting Party shall transmit information regarding all other sentences (including those which have not yet become final) pronounced by its courts against citizens of the applicant Contracting Party. In justifiable cases, information may be transmitted concerning persons who are not citizens of the applicant Contracting Party.

3. The applications and information referred to in paragraphs 1 and 2 of this article shall be transmitted through the diplomatic channel.

2. EXTRADITION

Article 73

OBLIGATION TO EXTRADITE

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.

Article 74

EXTRADITABLE OFFENCES

1. Extradition for the purpose of criminal prosecution shall take place only in respect of acts which are punishable under the law of both Contracting Parties with deprivation of liberty for a term of more than one year.

2. Extradition with a view to the execution of a sentence shall take place only in respect of acts which are punishable under the law of both Contracting Parties and where the person concerned has been sentenced to deprivation of liberty for a term of more than one year.

REFUSAL OF EXTRADITION

Article 75

Extradition shall not take place if :

- (a) The person claimed is a citizen of the Contracting Party applied to;
- (b) The offence was committed in the territory of the Contracting Party applied to and no request for prosecution has been submitted in accordance with article 71, paragraph 1, of this Treaty;
- (c) Under the law of the Contracting Party applied to, exemption from prosecution or punishment has been acquired by lapse of time or on other legal grounds;
- (d) Under the law of one of the Contracting Parties, extradition is not permitted;
- (e) The person claimed has already been prosecuted in the territory of the Contracting Party applied to for the same offence and sentenced or discharged.

Article 76

If extradition is not permitted, the Contracting Party applied to shall so notify the applicant Contracting Party, informing it of the grounds for refusal of extradition.

Article 77

CONDITIONAL EXTRADITION

If the extradition of a person who has been sentenced *in absentia* by a court of the applicant Contracting Party is required in order to execute the sentence, the Contracting Party applied to may make such extradition conditional on new proceedings being held in the presence of the person to be extradited.

Article 78

METHOD OF COMMUNICATION

The State Procurator and Procurator-General of the Contracting Parties shall communicate with each other in matters relating to criminal prosecution and extradition.

Article 79

REQUISITION FOR EXTRADITION

1. A requisition for extradition for the purpose of criminal prosecution shall be accompanied by the following: the warrant of arrest and a description of the circumstances of the offence; a description of the evidence which shows the person in question to be highly suspect; the text of the statute defining the offence referred to in the requisition; if the offence resulted in material damage, the extent of such damage shall be indicated.

2. 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.

3. The requisition for extradition shall, whenever possible, be accompanied by a personal description and a photograph of the person claimed, particulars concerning his identity, nationality and residence, in so far as this information is not evident from the warrant of arrest or the sentence.

Article 80

SUPPLEMENTARY INFORMATION

If all the information required is not provided in the requisition for extradition, the Contracting Party applied to may request supplementary information and set a time-limit within which supplementary information shall be transmitted. Such time-limit may be extended on request.

ARREST OF PERSONS LIABLE TO EXTRADITION

Article 81

After receipt of a requisition for extradition, the Contracting Party applied to shall take immediate steps to find the person claimed and, where appropriate, to arrest him.

Article 82

1. A person liable to extradition may, upon application, be arrested even before receipt of the requisition for extradition if the competent authority of the applicant Contracting Party refers to a warrant for the arrest of such person or a final sentence and if this authority gives notice at the same time that the requisition for extradition is being transmitted. . Such application may be made by post, telegraph, telephone or other similar means.

2. The competent authorities of either Contracting Party may arrest a person present in their territory even in the absence of an application in accordance with paragraph 1 of this article if, according to their information, he has committed an offence referred to in article 74 of this Treaty in the territory of the other Contracting Party.

3. Each Contracting Party shall immediately notify the other Contracting Party of arrests made under paragraphs 1 and 2 of this article.

Article 83

1. The Contracting Party to which a requisition for extradition has been made shall terminate the proceedings relating to the extradition of persons claimed and release persons who have been detained if supplementary information for the requisition for extradition is not received within the time-limit set in accordance with article 80 of this Treaty.

2. A person detained in accordance with article 82 of this Treaty 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 84

POSTPONEMENT OF EXTRADITION

1. 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 of the sentence.

2. If the postponement of extradition may result in exemption from prosecution being acquired by lapse of time or may prejudice seriously the investigation

of an offence against the person claimed, such person may be extradited for a temporary period for the purpose of criminal prosecution on receipt of a requisition with a statement of grounds. The applicant Contracting Party shall return the extradited person no later than three months from the date of his extradition. In justified cases, this time-limit may be extended.

Article 85

RECEIPT OF REQUISITIONS FOR EXTRADITION FROM MORE THAN ONE STATE

If requisitions for extradition because of certain or various offences are received from more than one State, the Contracting Party applied to shall decide which of the requisitions submitted shall be complied with, taking account of the nationality of the person claimed and the place and gravity of the offence.

Article 86

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) An extradited person who is not a citizen of the applicant Contracting Party fails to quit the territory of the applicant Contracting Party 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 of his own will.

Article 87

NOTIFICATION OF THE RESULTS OF PROSECUTION

The Contracting Party making the requisition for extradition shall inform the Contracting Party to whom the requisition for extradition was made of the results of proceedings taken against extradited persons. If such persons are convicted, a copy of the sentence shall be transmitted after it has become final.

Article 88

SURRENDER

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

Article 89

RE-EXTRADITION

If an extradited person in some way or other evades prosecution or punishment and reappears in the territory of the Contracting Party to whom the requisition for his extradition was made, he shall be re-extradited upon receipt of a new requisition, without production of the documents and information specified in article 79 of this Treaty.

Article 90

DELIVERY OF ARTICLES

1. The Contracting Party applied to shall deliver to the applicant Contracting Party all articles used in the commission of offences for which extradition of offenders is permitted under article 74 of this Treaty and articles acquired through the commission of an offence. Such articles shall be delivered 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 in accordance with paragraph 1 of this article. After the conclusion of the criminal proceedings in the case, the Contracting Party to whom the articles were delivered shall return them to the Contracting Party applied to for transmittal to the person entitled to them. If persons present in the territory of the applicant Contracting Party are entitled to the articles, the latter may, by agreement with the Contracting Party applied to, transmit the articles directly to such persons.

Article 91

CONVEYANCE OF OFFENDERS IN TRANSIT

1. Each Contracting Party shall, upon request, authorize the other Contracting Party to convey through its territory any person extradited by a third State

to the other Contracting Party. The Contracting Party applied to 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 Contracting Party applied to shall authorize conveyance in transit in such manner as it deems most appropriate.

Article 92

COSTS PERTAINING TO EXTRADITION AND CONVEYANCE IN TRANSIT

Costs pertaining to extradition and conveyance in transit shall be borne by the Contracting Party in whose territory they were incurred.

PART VIII

FINAL PROVISIONS

Article 93

1. This Treaty shall be subject to ratification.
2. The instruments of ratification shall be exchanged at Berlin.

Article 94

1. This Treaty shall enter into force thirty days after the exchange of the instruments of ratification and shall remain in force for a period of five years.

2. This Treaty shall be extended for successive periods of five years unless one of the two Contracting Parties denounces it in writing at least six months before the expiry of the current period. This Treaty shall cease to have effect after the expiry of a period of one year from the date on which it was denounced in writing.

This Treaty has been drawn up in duplicate, in the Mongolian, German and Russian languages, all three texts being equally authentic. In the event of conflicting interpretations of the Treaty, 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 Ulan Bator on 30 April 1969.

For the Mongolian People's
Republic:

PUNTSAGNOROV

For the German Democratic
Republic:

K. WÜNSCHE