

**No. 10601**

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**AUSTRIA  
and  
BULGARIA**

**Treaty concerning legal assistance in civil matters and concerning official documents (with protocol, and exchange of notes of 19 April 1967 and 20 October 1967). Signed at Sofia on 20 October 1967**

*Authentic texts: German and Bulgarian.*

*Registered by Austria on 24 July 1970.*

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**AUTRICHE  
et  
BULGARIE**

**Accord concernant l'assistance juridique en matière civile et les actes instrumentaires (avec protocole, et échange de notes des 19 avril 1967 et 20 octobre 1967). Signé à Sofia le 20 octobre 1967**

*Textes authentiques: allemand et bulgare.*

*Enregistré par l'Autriche le 24 juillet 1970.*

[TRANSLATION — TRADUCTION]

TREATY<sup>1</sup> BETWEEN THE REPUBLIC OF AUSTRIA AND  
THE PEOPLE'S REPUBLIC OF BULGARIA CONCERNING  
LEGAL ASSISTANCE IN CIVIL MATTERS AND CON-  
CERNING OFFICIAL DOCUMENTS

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The Federal President of the Republic of Austria and the Presidium of the National Assembly of the People's Republic of Bulgaria have agreed to conclude a Treaty concerning legal assistance in civil matters and concerning official documents, and for this purpose have appointed as their plenipotentiaries :

The Federal President of the Republic of Austria :

Dr. Lujo Tončić-Sorinj, Federal Minister for Foreign Affairs;

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

Mrs. Svetla Daskalova, Minister of Justice;

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

Chapter I

GENERAL PROVISIONS

*Article 1*

LEGAL PROTECTION

1. Nationals of either Contracting State shall have free and unimpeded access to the courts of the other Contracting State and may institute proceedings, present petitions and appear before them under the same conditions as nationals of the latter State.

2. The provisions of this Treaty relating to nationals of either Contracting State shall also apply to bodies corporate, including commercial companies, constituted under the law of either Contracting State and domiciled in its territory.

*Article 2*

EXEMPTION FROM DEPOSIT OF SECURITY FOR LEGAL COSTS

Nationals of one Contracting State appearing before the courts of the other Contracting State as plaintiffs (applicants) or intervenors and having their

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<sup>1</sup> Came into force on 22 August 1969, the sixtieth day following the date of the exchange of the instruments of ratification, which took place at Vienna on 23 June 1969, in accordance with article 30.

domicile or habitual residence in the territory of either Contracting State shall not be required to deposit security for legal costs on the ground that they are aliens or have no domicile or habitual residence in the State to which the court belongs.

### *Article 3*

#### METHOD OF COMMUNICATION IN LEGAL MATTERS

In matters governed by this Treaty, the courts of the Contracting States shall, save as otherwise provided in this Treaty, communicate with one another through their Ministries of Justice.

### *Article 4*

#### LANGUAGES

The courts may use their own language in applications for legal assistance or in the service of documents. The applications shall bear the official seal; they shall not require authentication.

### *Article 5*

#### LEGAL INFORMATION

For the purposes of actions under civil law, the Ministries of Justice of the two Contracting States shall provide each other, on request, with information concerning legal provisions in force or formerly in force in their respective States.

## Chapter II

### ENFORCEMENT OF AWARDS OF COSTS

### *Article 6*

1. Where a plaintiff (applicant) or intervenor, exempt from depositing security for legal costs by virtue of article 2 or the law of the State in which the complaint was filed, is required in pursuance of a final and enforceable judgement to pay legal costs, the award of costs shall on application by the successful party be enforced in the other Contracting State.

2. The provisions of paragraph 1 shall also apply to decisions retrospectively fixing the amount of legal costs.

*Article 7*

1. Applications for enforcement may be made either to the court competent to decide thereon or to the court which rendered judgement concerning legal costs at first instance.

2. If application is made to the court of one Contracting State which rendered judgement at first instance, it shall be transmitted to the competent court of the other Contracting State.

3. The judgements referred to in article 6 shall be enforced in accordance with the law of the State in which enforcement takes place, with no prior hearing of the parties but without prejudice to the right of the unsuccessful party to appeal.

*Article 8*

1. The party submitting the application must produce :

- (a) A certified copy of the substantive part of the judgement, with endorsement of its finality and enforceability;
- (b) An authenticated translation thereof into the language of the court competent to decide on the application;
- (c) An authenticated translation of the application into the language of the court competent to decide thereon, where the application is made to the court which rendered judgement at first instance.

2. The costs of the endorsement provided for in paragraph 1 (a) and of the translations provided for in paragraphs 1 (b) and (c) shall be regarded as legal costs. Such costs shall, on request, be fixed by the court required to decide on the application for enforcement.

## Chapter III

## EXEMPTION FROM LEGAL STAMP TAX AND OTHER BENEFITS

*Article 9*

1. Nationals of one Contracting State appearing before the courts of the other Contracting State shall be admitted to benefits (judicial assistance for poor persons) granted in respect of income, property and family status under the same conditions and to the same extent as nationals of the latter State.

2. Where a party to an action is entitled in one Contracting State to the benefits referred to in paragraph 1, such benefits shall extend to the provision of legal assistance and the service of documents in connexion with that action in the other Contracting State.

*Article 10*

1. The certificate relating to income, property and family status necessary for obtaining the benefits referred to in article 9 shall be issued by the competent authority of the Contracting State in which the petitioner has his domicile or habitual residence.

2. Where the petitioner has his domicile or habitual residence in a third State, it shall be sufficient if the certificate is issued by such diplomatic or consular authority of the Contracting State of which he is a national as has competence in respect of his place of domicile or habitual residence.

*Article 11*

The authority seized of a petition for the authorization of the benefits referred to in article 9, paragraph 1, shall decide thereon in accordance with the law of its own State and may, if necessary, obtain additional information.

*Article 12*

1. Where a national of one Contracting State having his domicile or habitual residence in either Contracting State and appearing before a court of the other Contracting State wishes to avail himself of the benefits referred to in article 9, paragraph 1, he may so petition the competent court of his place of domicile or habitual residence, either in writing or orally, in accordance with the law of the latter State.

2. The court petitioned in accordance with paragraph 1 shall refer the petition, with the certificate and other documents provided for in article 10, to the competent court of the other Contracting State.

*Article 13*

1. The fact that a petition submitted pursuant to article 12, paragraph 1, is not drawn up in the language of the authority required to rule on it shall not affect its treatment. Arrangements for the translation of the petition, of the certificate provided for in article 10 and of any other documents shall be made by the authority petitioned.

2. If the benefits are authorized, the competent court shall, of its own motion, appoint a representative for the petitioner in accordance with the law of its own State.

*Article 14*

Where, according to the law of either Contracting State, the institution of proceedings at first or higher instance is conditional on the payment of legal stamp tax and the party having his domicile or habitual residence in the other Contracting State is required by the court to pay the said tax within a prescribed time-limit, the said time-limit may not be shorter than one month. The same minimum time-limit shall apply where a court requires a party having his domicile or habitual residence in the other Contracting State to correct a document or submit additional documents.

## Chapter IV

## LEGAL ASSISTANCE AND SERVICE OF DOCUMENTS

*Article 15*

1. The Contracting States undertake on request and through their courts to provide each other with legal assistance and to effect the service of documents in civil cases.

2. The Contracting States shall provide each other with legal assistance and effect the service of documents in guardianship cases, even when cases are dealt with by administrative authorities.

*Article 16*

An application for legal assistance or service of documents must contain the following particulars :

- (a) The subject of the application;
- (b) The given names, patronymics if any, surnames, status in the action, occupations and domicile or residence of the parties and in the case of bodies corporate, including commercial companies, their names and domicile;
- (c) The given names, patronymics if any, surnames and addresses of their legal representatives, where appropriate;
- (d) The necessary information concerning the subject of the application and specifically, where the application is for legal assistance, the circumstances concerning which evidence is to be obtained and, where appropriate, the questions to be put to the witnesses or other persons from whom evidence is to be taken and where the application is for service of documents, the address of the addressee.

*Article 17*

1. The mode of execution of applications for legal assistance and service of documents shall be determined by the law of the Contracting State to which the court applied to belongs.

2. However, the court applied to shall, if the applicant court so requests, follow a specified procedure provided that such procedure is not contrary to the legal principles of its own State.

*Article 18*

1. If the address of a person from whom evidence is to be taken or on whom a document is to be served is incomplete or is found to be incorrect, the court applied to shall, as far as possible, determine the correct address.

2. If the court applied to is not competent to execute an application, it shall of its own motion transmit the application to the competent court and shall notify the applicant court accordingly.

*Article 19*

1. Where the documents to be served are drawn up in the language of the court applied to or are accompanied by an authenticated translation into that language, the court applied to shall effect service in accordance with the law of its own country; this provision shall be without prejudice to article 17.

2. In cases other than those specified in paragraph 1, the documents shall be served on the addressee only if he is willing to accept them.

*Article 20*

Service shall be proved by a certificate of service or an official report, which must bear the signatures of the recipient and of the authority effecting service and indicate the date of service.

*Article 21*

1. Courts to which application is made for legal assistance shall execute the application, applying, where necessary, the same measures of compulsion as they apply in executing applications for legal assistance from the courts of their own State. Measures of compulsion, even where they are prescribed by the law of the applicant Contracting State, shall not be applied in order to ensure the personal appearance of parties unless they are permissible under the law of the Contracting State applied to.

2. The court applied to shall, at the request of the applicant court, notify the parties or the applicant court in good time of the place and date of execution of the application for legal assistance.

#### *Article 22*

Where an application cannot be executed, the documents shall be returned with a statement of the reasons for which the application could not be executed or its execution was refused.

#### *Article 23*

1. Costs incurred in executing an application shall not be reimbursed as between the Contracting States, apart from experts' fees and other expenses incurred in connexion with the taking of expert testimony.

2. The amount and nature of the costs incurred shall be communicated to the applicant court.

#### *Article 24*

Execution of an application may be refused only if the State applied to considers that such execution might impair its sovereign rights, threaten its security or be contrary to its legal principles.

### Chapter V

## OFFICIAL DOCUMENTS

#### *Article 25*

1. Officially signed and sealed documents issued by a court or administrative authority of either Contracting State, within the limits of its official powers, shall have the evidential value of official documents before the courts and administrative authorities of the other Contracting State. This provision shall also apply to other domestic documents regarded as having the evidential value of official documents under the law of the Contracting State in which they were issued.

2. The same evidential value shall attach to the authentication by a court or administrative authority of either Contracting State, or by a notary public, of a signature affixed to a private document.



*Article 26*

The documents referred to in article 25, paragraph 1, and the authentication of signatures referred to in article 25, paragraph 2, shall require no further legalization for use in the courts or by the administrative authorities of the other Contracting State.

*Article 27*

1. The Contracting States shall, on request, transmit to each other, free of taxes and charges, civil registration certificates and authenticated copies of judicial decisions in matters relating to personal status for official use by their authorities. The application shall adequately explain the official interest in the matter.

2. In applying the provisions of paragraph 1 the diplomatic channel shall be employed.

*Article 28*

1. The Contracting States shall transmit to each other, free of taxes and charges, civil registration certificates relating to births, marriages and deaths of nationals of the other Contracting State, provided that such matters relating to personal status were recorded after the date of the entry into force of this Treaty.

2. Where a marginal note is added after the date of the entry into force of this Treaty to the record of a birth, marriage or death, a complete copy of the original entry and the marginal note shall be transmitted in accordance with paragraph 1.

## Chapter VI

## FINAL PROVISIONS

*Article 29*

This Treaty shall not affect the provisions of any other treaty binding on one or both of the Contracting States at the time of the entry into force of this Treaty.

*Article 30*

1. This Treaty shall be subject to ratification. The exchange of the instruments of ratification shall take place at Vienna.

2. This Treaty shall enter into force on the sixtieth day following the exchange of the instruments of ratification.

*Article 31*

This Treaty is concluded for an indefinite period. Either Contracting State may denounce it by giving written notice to that effect to the other Contracting State. The denunciation shall take effect one year after the date on which notice was given.

DONE at Sofia on 20 October 1967, in duplicate in the German and Bulgarian languages, both texts being equally authentic.

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

For the Republic of Austria :

Dr. LUJO TONČIĆ-SORINJ

For the People's Republic of Bulgaria :

Sv. DASKALOVA

PROTOCOL TO THE TREATY BETWEEN THE REPUBLIC OF AUSTRIA AND THE PEOPLE'S REPUBLIC OF BULGARIA CONCERNING LEGAL ASSISTANCE IN CIVIL MATTERS AND CONCERNING OFFICIAL DOCUMENTS

In connexion with the signing this day of the above Treaty, the following points have been agreed upon :

1. In the Republic of Austria, civil registration certificates shall include marriage certificates issued by the competent denominational authorities of legally recognized Churches and religious associations in respect of marriages celebrated before them before 1 August 1938 and birth certificates (declarations of birth) and death certificates issued by such authorities in respect of births and deaths recorded before 1 January 1939; in so far as relates to Burgenland, the relevant date shall be 1 October 1895 instead of 1 August 1938 or 1 January 1939.

The Federal Ministry of Foreign Affairs of the Republic of Austria shall send the Ministry of Foreign Affairs of the People's Republic of Bulgaria a list of such Churches and religious associations within three months after the date of the entry into force of this Treaty.

2. The Treaty of Legal Assistance and the agreement concerning the reciprocal communication of civil registration certificates of nationals of the two countries, concluded on 31 May 1911 between Austria-Hungary and the Kingdom of Bulgaria, as embodied in the State Treaty of 20 October 1922 between

the Republic of Austria and the Kingdom of Bulgaria, shall not be applicable as between the Republic of Austria and the People's Republic of Bulgaria.

DONE at Sofia on 20 October 1967, in duplicate in the German and Bulgarian languages, both texts being equally authentic.

IN WITNESS WHEREOF the plenipotentiaries have signed this Protocol, which constitutes an integral part of the Treaty.

For the Republic of Austria :  
Dr. LUJO TONČIĆ-SORINJ

For the People's Republic of Bulgaria :  
Sv. DASKALOVA

## EXCHANGE OF NOTES

### I

#### MINISTRY OF FOREIGN AFFAIRS

No. 67333

#### *Note verbale*

The Ministry of Foreign Affairs of the People's Republic of Bulgaria presents its compliments to the Embassy of the Republic of Austria at Sofia and has the honour to state that the Government of the People's Republic of Bulgaria endorses the following agreement :

The chief educational authority of either Contracting State shall, at the request of the chief educational authority of the other Contracting State, transmit the following documents and information for official use, provided that this is satisfactorily proved to be in the public interest and that all costs and fees payable are reimbursed :

- (a) Counterparts or official copies of certificates and diplomas issued by educational institutions or, if necessary, other documents which may be substituted for the originals;
- (b) Information concerning types of certificates and the rights to which they entitle the holder;
- (c) Documents concerning the educational system and the organization of educational institutions and concerning curricula and the rules governing instruction and examinations.

If the competent Austrian authorities agree to the foregoing, the Ministry of Foreign Affairs has the honour to propose that this note and the note of reply should be regarded as an official agreement between the People's Republic of

Bulgaria and the Republic of Austria, which shall enter into force simultaneously with the Treaty between the People's Republic of Bulgaria and the Republic of Austria concerning Legal Assistance in Civil Matters and concerning Official Documents.

The Ministry of Foreign Affairs of the People's Republic of Bulgaria takes this opportunity to renew to the Embassy of the Republic of Austria the assurances of its highest consideration.

Sofia, 19 April 1967.

To the Embassy of the Republic of Austria  
Sofia

## II

### AUSTRIAN EMBASSY SOFIA

No. 1053-A/67

#### *Note verbale*

The Austrian Embassy has the honour to refer to the note verbale of the Ministry of Foreign Affairs of the People's Republic of Bulgaria, No. 67333, of 19 April 1967, which reads as follows :

[*See note I*]

The Austrian Embassy has the honour to inform the Ministry of Foreign Affairs of the People's Republic of Bulgaria that the competent Austrian authorities agree to the contents of the above note verbale. Accordingly, the note verbale of the Ministry of Foreign Affairs of the People's Republic of Bulgaria dated 19 April 1967 and this note of reply constitute an agreement between the Republic of Austria and the People's Republic of Bulgaria concerning the exchange of documents and information pertaining to education from educational authorities, which shall enter into force simultaneously with the Treaty between the Republic of Austria and the People's Republic of Bulgaria concerning Legal Assistance in Civil Matters and concerning Official Documents.

The Austrian Embassy takes this opportunity to renew to the Ministry of Foreign Affairs of the People's Republic of Bulgaria the assurances of its highest consideration.

Sofia, 20 October 1967.

To the Ministry of Foreign Affairs  
of the People's Republic of Bulgaria  
Sofia