

No. 12775

**HUNGARY
and
DEMOCRATIC PEOPLE'S REPUBLIC
OF KOREA**

Treaty concerning legal assistance in civil, family and criminal cases. Signed at P'yongyang on 5 October 1970

Authentic texts: Hungarian, Korean and Russian.

Registered by Hungary on 28 September 1973.

**HONGRIE
et
RÉPUBLIQUE POPULAIRE DÉMOCRATIQUE
DE CORÉE**

Traité relatif à l'entraide judiciaire en matière civile, familiale et pénale. Signé à Pyongyang le 5 octobre 1970

Textes authentiques : hongrois, coréen et russe.

Enregistré par la Hongrie le 28 septembre 1973.

[TRANSLATION — TRADUCTION]

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

The Presidium of the Hungarian People's Republic and the Presidium of the Supreme People's Assembly of the Democratic People's Republic of Korea, desiring to strengthen the close co-operation and friendship between the two countries in the sphere of legal relations, have decided to conclude a Treaty concerning legal assistance in civil, family and criminal cases and have for that purpose appointed as their plenipotentiaries:

The Presidium of the Hungarian People's Republic: András Gyenes, Deputy Minister for Foreign Affairs of the Hungarian People's Republic;

The Presidium of the Supreme People's Assembly of the Democratic People's Republic of Korea: Li Man Sok, Deputy Minister for Foreign Affairs of the Democratic People's Republic of Korea,

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. Nationals (individuals and bodies corporate) 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 nationals of the State in whose territory they are.

2. Nationals of either Contracting Party shall be entitled to appear before the authorities of the other Contracting Party having jurisdiction in civil, family and criminal cases and to institute proceedings and present petitions or claims under the same conditions as nationals of the latter Party.

Article 2. PROVISION OF LEGAL ASSISTANCE

1. The courts, procurators' offices and State notarial authorities 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.

¹ Came into force on 19 May 1971, i.e. 30 days after the exchange of instruments of ratification, which took place at Budapest, in accordance with articles 75 and 76.

Article 3. METHOD OF COMMUNICATION

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

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

Article 4. SCOPE OF LEGAL ASSISTANCE

Legal assistance shall include the performance of specific acts required in connexion with judicial proceedings, such as the carrying out of searches, seizures and attachments of property, the transmittal of delivery of physical evidence, the interrogation of accused persons, witnesses and experts, the taking of evidence from litigants and other persons, the carrying out of judicial inspections, the execution of applications for the service of documents, the transmittal of case records, and the preparation and transmittal of documents.

Article 5. FORM OF APPLICATIONS FOR LEGAL ASSISTANCE

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

- (a) The designation of the authority making the application;
 - (b) The designation 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 full names of the litigants 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 or convicted persons and the names of their parents;
 - (e) The names and addresses of the legal representatives of the persons in question;
 - (f) The subject of the application and any necessary information concerning the grounds therefore and, in criminal cases, a description of the offence.
2. Material transmitted under this Treaty must be signed and sealed.

Article 6. PROCEDURE FOR EXECUTING APPLICATIONS

1. In executing an application for legal assistance, the authority applied to shall apply the law 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 this does not conflict with the mandatory procedures of the Contracting Party applied to.

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 on request 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 or shall advise it of the circumstances which prevented the execution of the application.

Article 7. IMMUNITY OF WITNESSES AND EXPERTS

1. No person who, in response to a summons served upon him 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 crossing the frontier of the applicant State, nor may he be punished for such an offence in the territory of the applicant Contracting Party.

2. A witness or expert shall forfeit this privilege if he fails to leave the territory of the applicant Contracting Party within one month from the date on which the authority which is interrogating him informs him that his presence is no longer necessary. Such period shall not 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.

Article 8. APPLICATIONS FOR THE SERVICE OF DOCUMENTS

1. In effecting the service of documents, the authority applied to shall employ the procedure for service of documents in effect in its own State, provided that the documents to be served are drawn up in the language of the Contracting Party applied to or are accompanied by a certified translation. Otherwise, the authority applied to shall deliver the documents to the recipient only if he is willing to accept them.

2. An application for the service of documents must indicate the exact address of the recipient and the title of the document to be served.

3. If the 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 recipient's address. If it is not possible to determine the address, the authority applied to shall notify the applicant authority accordingly and return to it the document to be served.

Article 9. CONFIRMATION OF SERVICE OF DOCUMENTS

Service of documents shall be confirmed in accordance with the regulations concerning the service of documents in effect in the State applied to. Such confirmation must 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. ATTESTATION AND RECOGNITION OF DOCUMENTS

1. Documents issued, drawn up or attested in the territory of either Contracting Party by a competent authority or official of that Party and bearing a seal shall be accepted in the territory of the other Contracting Party without authentication.

2. Official documents issued in the territory of one Contracting Party shall have the evidentiary value of official documents in the territory of the other Contracting Party as well.

Article 12. COSTS OF LEGAL ASSISTANCE

1. The Contracting Party applied to shall make no claim for repayment of the costs of legal assistance. Each Contracting Party shall assume all costs incurred for the provision of legal assistance in its territory.

2. The authority applied to shall inform the applicant authority of 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 13. INFORMATION

The Ministry of Justice of the Hungarian People's Republic and the Supreme Court of the Democratic People's Republic of Korea shall, on request, exchange information concerning legislation in force or formerly in force in their respective States, as well as information concerning the interpretation of legislation by the judicial authorities of the Contracting Parties.

Article 14. LANGUAGES USED IN CONNEXION WITH THE PROVISION
OF LEGAL ASSISTANCE

In communications relating to the provision of legal assistance, the authorities of the Contracting Parties may use the Russian language as a third language in addition to their own languages.

PART II. SPECIAL PROVISIONS

Chapter I. *LEGAL ASSISTANCE IN CIVIL AND FAMILY CASES*

*RECOVERY OF LEGAL COSTS AND EXEMPTION FROM SECURITY
FOR LEGAL COSTS*

Article 15

Nationals of either Contracting Party appearing before a court of the other Contracting Party and resident in the territory of one of the Contracting Parties shall not be required to deposit security for legal costs merely because they are aliens or are not domiciled or resident in the country in question.

Article 16

1. If a national exempted on the basis of the preceding article from the deposit of security for legal costs is required to pay legal costs, the competent court of the other Contracting Party shall, upon request, authorize the compulsory recovery of such costs free of charge.

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

Article 17

1. The application for authorization of compulsory recovery of legal costs shall be accompanied by a certified copy of the judgement concerning costs and by a certificate issued by the court which pronounced the judgement in question showing that the judgement has become final and is enforceable.

2. The aforesaid documents must be accompanied by a translation drawn up in the language of the Contracting Party in whose territory the costs are to be recovered.

3. The court authorizing enforcement of the judgement concerning the recovery of legal costs shall take into consideration only:

- (a) Whether the judgement has become final and enforceable
- (b) Whether the documents referred to in paragraph 1 above are accompanied by a certified translation.

Article 18

An application for recovery of legal costs in the territory of the other Contracting Party may be submitted:

- (a) To the court which rendered the judgement concerning costs or to the court which disposed of the action at first instance. Such court shall transmit the application to the competent court of the other Contracting Party in the manner specified in article 3, paragraph 1, of this Treaty;
- (b) Direct to the court of the other Contracting Party which is competent to rule on the recovery of legal costs, provided that the applicant is present in the territory of that Contracting Party.

Article 19

1. The court may consider the application for recovery of legal costs without interrogating the litigants.

2. The court which is competent to rule on the recovery of costs shall also decide the matter of the recovery of the costs referred to in article 16, paragraph 2, of this Treaty. Such costs shall be fixed by the competent court of the Contracting Party in whose territory they were incurred.

3. Acceptance of the application for recovery of costs may not be refused on the ground that the applicant has not paid the costs of the recovery proceedings in advance.

*EXEMPTION FROM LEGAL COSTS**Article 20*

1. Nationals of either Contracting Party shall be exempt from legal costs in the territory of the other Contracting Party under the same conditions and to the same extent as the latter Party's own nationals.

2. Exemption from legal costs shall extend to all judicial proceedings, including actions for enforcement.

3. Nationals who have been granted exemption from legal costs under the law of one Contracting Party in the course of any judicial proceedings shall be exempt from such costs in connexion with judicial proceedings concerning the same case in the territory of the other Contracting Party.

Article 21

1. Documents relating to personal and 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, such documents shall be issued by the diplomatic or consular mission of his State.

3. Where necessary, the court ruling on a petition for exemption from legal costs may, in the manner specified in article 3 of this Treaty, require additional information to be furnished by the authority which issued the document in question.

Article 22

1. A national of either Contracting Party who wishes to petition a court of the other Contracting Party for exemption from legal costs may present his petition orally before the competent court of his place of domicile or residence, which shall draw up a minute of the petition. The court shall transmit the minute, together with the documents referred to in article 21 and the other documents submitted by the petitioner, to the competent court of the other Contracting Party in the manner specified in article 3, paragraph 1, of this Treaty.

2. The minute must 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 transmit to the other Contracting Party, when so requested through the diplomatic channel, 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 Party.

2. The documents referred to in paragraph 1 above shall be sent to the other Contracting Party through the diplomatic channel without translation, free of charge and exempt from duty.

PROVISIONS RELATING TO PERSONAL STATUS

Article 24

The legal capacity of individuals and their capacity for legal action shall be determined according to the law of the Contracting Party of which they are nationals.

Article 25. DECLARATION OF DEATH

1. In proceedings for declaring persons dead and for the establishment of the fact of death, the applicable law and the authorities having jurisdiction shall be those 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 either Contracting Party may declare a national of the other Contracting Party dead or establish the fact of his death:

- (a) Upon petition by a person wishing to exercise his rights of succession to movable or immovable property of the missing person which is situated in the territory of the former Contracting Party;
- (b) Upon petition by the spouse of the missing person where the said spouse at the time of filing the petition is resident in the territory of the former Contracting Party.

FAMILY LAW

Article 26. DISSOLUTION AND ANNULMENT OF MARRIAGE

Final judgements of the courts of one Contracting Party in proceedings for the dissolution or annulment of a marriage or in proceedings to establish the existence or non-existence of a marriage shall be recognized in the territory of the other Contracting Party without further proceedings, provided that at the time of the entry into force of the judgement at least one of the spouses was a national of the Contracting Party whose court rendered the judgement and that no final judgement concerning the same case has been rendered by a court of the other Contracting Party.

The above shall also apply to judgements rendered before the entry into force of this Treaty.

LEGAL RELATIONS BETWEEN PARENTS AND CHILDREN

Article 27

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

Article 28

Other legal relations between a child and its parents shall be determined by the law of the Contracting Party of which the child is a national.

Article 29

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

2. If both plaintiff and defendant are resident in the territory of the same Contracting Party, the courts of that Contracting Party shall also have jurisdiction; in that case as well, the provisions of articles 27 and 28 shall apply.

ADOPTION

Article 30

1. With regard to adoption, the applicable law shall be that 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 Contracting Party and the other a national of the other Contracting Party, the adoption must meet the requirements of the law in force in the territory of both Contracting Parties.

3. If the child is a national of one Contracting Party and the adopter is a national of the other Contracting Party, adoption shall be subject to the consent of the child and of his legal representative or of the competent State authority of the Contracting Party of which the child is a national, where the law of the latter Party so requires.

Article 31

In adoption proceedings, the authorities having jurisdiction shall be those of the Contracting Party of which the adopter is a national. In the case referred to in article 30, paragraph 2, jurisdiction shall lie with the authority of the Contracting Party in whose territory the spouses have or last had a joint 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 in this Treaty, be those of the Contracting Party of which the ward is a national.

2. The conditions for the establishment or 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 a guardian or curator and his ward shall be determined by the law of the Contracting Party by an authority of which the guardian or curator was appointed.

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 as a guardian or curator over a national of the other Contracting Party if the former resides in the territory of the Contracting Party in which the guardianship or curatorship is to be exercised and if the appointment best serves the 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 Contracting Party whose domicile, residence or property is in the territory of the other Contracting Party, the authority of the latter Contracting Party shall at once notify the 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 any provisional measures required in the circumstances (as regards lodging, maintenance and care), provided that it at once notifies the diplomatic or consular mission of the State of which the person concerned is a national. Such measures shall remain in effect until such time as the diplomatic or consular mission or the authorities referred to in article 33, paragraph 1, decide otherwise.

Article 35

1. The competent 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 former Party whose domicile, residence or property is situated 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 which has assumed guardianship or curatorship in accordance with paragraph 1 above shall exercise it in conformity with the law of its own State. However, the law of the Contracting Party of which the ward is a national shall apply in matters relating to the legal capacity and the capacity for legal action of the ward.

The said authority shall not be entitled to decide questions relating to the personal status of the ward, but it may grant such authorization for the solemnization of a marriage as 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, in the territory of the other Contracting Party, enjoy equal rights with nationals of the latter Party in matters of statutory or testamentary succession to property situated in the territory of the latter Party and in making or revoking a testamentary disposition.

Article 37. APPLICABLE LAW

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

Article 38. REVERSION OF ESCHEATED PROPERTY TO THE STATE

If there are no heirs or in the event that all the heirs renounce their claim to an estate or lose their successorial capacity, immovable property shall revert to the Contracting Party in whose territory the estate is situated and movable property 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 a 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 according to the law of the Contracting Party of which the testator was a national at the time of making or revoking the testamentary disposition.

Article 40. JURISDICTION IN MATTERS OF SUCCESSION

1. Proceedings in matters of succession to movable property shall, with the exception specified in paragraph 4 of this article, be conducted by the authorities of the Contracting Party of which the decedent was a national at the time of his death.

2. Proceedings in matters of succession to immovable property shall be conducted by the authorities of the Contracting Party in whose territory such property is situated.

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

4. If all the movable property of an estate left by a national of one Contracting Party is situated in the territory of the other Contracting Party, the authorities of the latter Contracting Party shall, upon the request of an heir or legatee and subject to the consent of all heirs whose domicile or residence is known, conduct proceedings in matters of succession.

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 at once notify the diplomatic or consular mission of the country of which the decedent was a national, communicating to it whatever information is available concerning the heirs and legatees, their domicile or residence and address, the particulars of the estate and the existence of a will. The said authority shall provide such notification even if it learns that the decedent has left property in the territory of a third State.

2. If a national of one Contracting Party dies in the territory of the Contracting Party of which he was a national and if a national of the other Contracting Party has an interest in the estate as an heir or legatee, the competent authority of the former Contracting Party shall notify the diplomatic or consular mission of the other Contracting Party in accordance with paragraph 1 above.

Article 42. COMPETENCE OF DIPLOMATIC OR CONSULAR MISSIONS

1. In all succession proceedings arising in the territory of one of the Contracting Parties, the diplomatic or consular mission of the other Contracting Party shall have the right to represent the interests of nationals of its own State before the competent authorities without special power of attorney if such nationals are not present and have not appointed other representatives.

2. If a national of one Contracting Party dies in the territory of the other Contracting Party and was not domiciled or resident there, his personal effects shall be transmitted to the diplomatic or consular mission without proceedings of any kind.

Article 43. PUBLICATION OF WILLS

The publication of a will shall be effected by the competent authority of the Contracting Party in whose territory the will is to be found.

A copy of the will and of the minute concerning its publication and, if requested, the original of the will 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 authorities of the Contracting Party in whose territory an estate has been left by a national of the other Contracting Party shall, in accordance with their own law, take such measures as are necessary to ensure the protection and administration of the estate.

2. The measures taken under paragraph 1 above shall be reported forthwith to the diplomatic or consular mission of the other Contracting Party, which may participate either directly or through a representative in carrying out such measures. If the mission so requests, such measures may be modified or rescinded.

Article 45. DELIVERY OF THE ESTATE

1. If, after the completion of succession proceedings, the movable estate, or the monies realized from the sale of the movable or immovable estate, are to be delivered to heirs or legatees who did not in person or through a representative participate in the proceedings and who are present in the territory of the other Contracting Party, the movable property or monies realized shall be delivered to the diplomatic or consular mission of the latter Party.

2. The authority conducting the succession proceedings shall order the estate to be delivered to the diplomatic or consular mission provided that:

- (a) All claims presented by heirs, legatees or creditors of the decedent within the time-limit prescribed by the law of the Contracting Party in whose territory the estate is to be found have been paid or secured;
- (b) All estate duties have been paid or secured; and
- (c) The competent authorities have given their consent to the export of the estate.

RECOGNITION AND ENFORCEMENT OF JUDGEMENTS

Article 46

1. Final judgements of the courts and authorities concerned with guardianship and curatorship of one Contracting Party in cases not relating to property shall, provided that they are not at variance with the provisions of this Treaty, be recognized in the territory of the other Contracting Party without further proceedings unless a court or authority of the latter Contracting Party concerned with guardianship and curatorship has previously rendered a final judgement in the case. The same shall apply to judgements rendered before the entry into force of this Treaty.

2. Final judgements in civil and family cases relating to property which are rendered by courts in the territory of one Contracting Party shall be recognized and enforced in the territory of the other Contracting Party, provided that such judgements were rendered after the entry into force of this Treaty. The same shall apply to final judgements in actions for damages arising out of criminal cases.

Article 47

1. Authorization of enforcement shall be governed by the law of the Contracting Party in whose territory enforcement is to be effected.

2. An application for authorization of enforcement shall be made to the court which heard the case at first instance or to the competent court of the other Contracting Party if the person concerned is present in the territory of the latter Party. The court of first instance shall transmit the application to the competent court of the other Contracting Party in the manner prescribed in article 3 of this Treaty.

Article 48

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

- (a) The complete text of the judgement and an official document confirming that the judgement has become final and enforceable, where this is not apparent from the text of the judgement itself;
- (b) If the party against whom judgement was rendered did not participate in the proceedings, a certificate showing that he or his representative was served at least once with a summons in due time and proper form;
- (c) A certified translation of the documents specified in (a) and (b) above.

Article 49

In connexion with the authorization of enforcement, the court may, where necessary, summon the person making the application and require him to furnish clarification or to correct his application. It may also interrogate the judgement debtor indicated in the application for enforcement and require the court which rendered the judgement to furnish additional information.

Article 50

1. The manner of enforcement shall be determined by the law of the Contracting Party in whose territory enforcement is to be effected.

2. The judgement debtor may submit objections to the court which ordered authorization of enforcement in respect of the order's admissibility and in respect of the claims upheld by the judgement only if such objections are permissible under the law of the Contracting Party in whose territory the order was issued.

Article 51. REFUSAL TO ENFORCE JUDGEMENTS

Authorization for enforcement of a judgement may be refused:

- (a) If the judgement which is to be enforced has not become final;

- (b) If the respondent or the person against whom the judgement in the case was rendered did not participate in the proceedings because neither he nor his representative was served in due time and proper form with a summons in the manner prescribed by this Treaty;
- (c) If the judgement conflicts with an earlier judgement which has become final and which was rendered in an action between the same litigants 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. 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 costs arising in connexion with the enforcement of judgements, 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 46-52 of this Treaty shall also apply to amicable arrangements arrived at in court.

Chapter II. *LEGAL ASSISTANCE IN CRIMINAL CASES*

Article 54. OBLIGATION TO EXTRADITE

1. Each Contracting Party undertakes to extradite to the other Party, upon request and under the condition specified in 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 be admissible only in respect of offences which, under the law of both Contracting Parties, are recognized as crimes and punishable with deprivation of liberty for a term of more than one year or with a heavier penalty (hereinafter referred to as "extraditable offences").

Article 55. REFUSAL TO EXTRADITE

Extradition shall be precluded if:

1. The person claimed is a national of the Contracting Party applied to;
2. The person claimed has committed an offence in the territory of the Contracting Party applied to;
3. Under the law of the Contracting Party applied to, exemption from prosecution or punishment has been acquired by lapse of time or for other lawful reasons;
4. The person claimed has been sentenced or discharged for the same offence in the territory of the Contracting Party applied to.

Article 56. OBLIGATION TO PROSECUTE

1. Each Contracting Party undertakes, at the request of the other Contracting Party, to prosecute under its own law any of its nationals who have committed an extraditable offence in the territory of the other Contracting Party.

The request must be accompanied by documents setting forth the particulars of the offence and all available evidence concerning the offence.

2. Requests for prosecution on the Hungarian side shall be made before indictment by the Chief Procurator of the Hungarian People's Republic and after indictment by the Ministry of Justice of the Hungarian People's Republic. On the Korean side, such requests shall be made before indictment by the Chief Procurator of the Democratic People's Republic of Korea and after indictment by the Supreme Court of the Democratic People's Republic of Korea.

3. The Contracting Party to which a request for prosecution has been made shall inform the other Contracting Party of the results of the proceedings and, in the event that a 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 law defining the offence. If the convicted person has already served part of his sentence, the particulars in that regard shall also be transmitted.

2. A requisition for extradition to answer a criminal charge must be accompanied by a certified copy of the warrant of arrest, a description of the circumstances of the offence and the text of the law defining the offence; if the offence resulted in material damage, the extent of such damage must be specified.

3. In the case of offences in respect of which proceedings have been instituted on the complaint of the injured party, the requisition must indicate the date of submission of the complaint.

In addition, information must be furnished concerning such statutory limitations as may exist for the submission of such complaints.

4. The requisition for extradition shall be accompanied where possible, by a description of the person claimed; information concerning his personal status, nationality and place of residence shall be transmitted, and photographs and fingerprints shall also be furnished.

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

Article 58. INFORMATION TO SUPPLEMENT A REQUISITION FOR EXTRADITION

If the requisition for extradition does not contain all the necessary particulars, the Contracting Party applied to may request supplementary information. It may for that purpose set the applicant Contracting Party with 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 where extradition is precluded under this Treaty.

Article 60. DETENTION PENDING RECEIPT OF THE REQUISITION
FOR EXTRADITION

1. The person claimed may be arrested before receipt of the requisition for extradition if either Contracting Party makes an application for his arrest, citing a warrant of arrest, a final sentence or some other decision by a court. Such an application may be made by post, telegraph, telephone or wireless.

2. The competent authorities of either Contracting Party may arrest a person present in its territory even without receiving such an application if they have information that the person in question has committed an extraditable offence in the territory of the other Contracting Party.

3. The other Contracting Party shall be immediately notified of the time of arrests made pursuant to paragraphs 1 and 2 above.

Article 61. RELEASE OF DETAINED PERSONS

1. A detained person may be released if, in the cases referred to in article 58, information to supplement the requisition for extradition is not transmitted by the applicant Contracting Party within the time-limit set under article 58.

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

Article 62. POSTPONEMENT OF EXTRADITION

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

Article 63. TEMPORARY EXTRADITION

1. If postponement of extradition pursuant to 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 a requisition with statement of grounds.

2. A temporarily extradited person shall be returned after the completion of the criminal proceedings for the purpose of which he was extradited.

Article 64. CONCURRENT REQUISITIONS FOR EXTRADITION

If requisitions for extradition are received from more than one State, the Contracting Party applied to shall decide which of the requisitions 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 committed before his extradition other than the offence for which he was extradited.

2. Such consent shall not be required if:

- (a) The extradited person fails to leave the territory of the applicant Contracting Party within one month from the termination of the proceedings or, in the case of a convicted person, within one month from the date of completion or remission of the sentence, such periods shall not be deemed to include any time during which the extradited person is unable through no fault of his own to leave the territory of the applicant Contracting Party;
- (b) The extradited person leaves the territory of the applicant Contracting Party but subsequently returns thereto.

Article 66. SURRENDER

The Contracting Party applied to shall notify the applicant Contracting Party of the place and time 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 returns to the territory of the Contracting Party applied to, he shall be re-extradited upon receipt of a new requisition, without production of the documents referred to in article 57.

Article 68. CONVEYANCE IN TRANSIT

1. Each Contracting Party undertakes to authorize the conveyance in transit through its territory, at the request of the other Contracting Party, of 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. An application for authorization of conveyance in transit shall be drawn up and submitted in the same manner as a requisition for extradition.

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

Article 69. NOTIFICATION OF THE RESULTS OF PROSECUTION

The Contracting Parties shall inform each other of the results of the prosecution of persons extradited to them. If the extradited person was convicted, a copy of the judgement shall be transmitted after it has become final.

Article 70. COMMUNICATION IN MATTERS RELATING TO EXTRADITION
AND CONVEYANCE IN TRANSIT

Communication in matters relating to the extradition and conveyance in transit of offenders and to the conveyance of detained persons (article 71) shall take place directly between the Ministry of Justice or the Chief Procurator of the Hungarian People's Republic and the Supreme Court of the Chief Procurator of the Democratic People's Republic of Korea.

Article 71. CONVEYANCE OF DETAINED PERSONS

1. If need arises for the interrogation as a witness of a person who is being detained in the territory of the other Contracting Party, the authorities specified in article 70 of this Treaty may arrange for the conveyance of such person to the territory of the applicant Contracting Party, on condition that the said person shall be kept in custody and returned as soon as possible after his interrogation.

2. If need arises for the interrogation as a witness of a person who is being detained in a third State, those authorities of the Contracting Party applied to which are specified in article 70 of this Treaty shall authorize the conveyance of such person through the territory of their own State. The provisions of article 7 of this Treaty shall be complied with in that regard.

Article 72. DELIVERY OF ARTICLES

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

2. The Contracting Party applied to may temporarily postpone the delivery of such articles if it has need of them for other criminal proceedings.

3. The rights of third parties to claimed articles shall remain unaffected. 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 shall not be granted in criminal cases where such assistance is requested in respect of non-extraditable offences.

Article 74. NOTIFICATION OF SENTENCES

1. Each Contracting Party shall annually communicate to the other Contracting Party information concerning final sentences pronounced in respect of nationals of the other Contracting Party. A copy of the operative part of the sentence shall accompany such communications.

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

3. In the cases referred to in paragraphs 1 and 2 above, the Contracting Parties shall also, if possible, transmit the fingerprints of convicted persons.

4. The information referred to in paragraphs 1 and 2 above 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 exchange of the instruments of ratification shall take place at Budapest.

Article 76

1. This Treaty shall enter into force 30 days after the exchange of the instruments of ratification. The Treaty shall remain in force for a term of 10 years from the date of its entry into force.

2. Unless this Treaty is denounced by one of the Contracting Parties at least one year before the expiry of the above-mentioned term, it shall be extended for an indefinite period of time and shall remain in force until such time as it is denounced by one of the Contracting Parties on one year's notice.

Article 77

This Treaty was concluded on 5 October 1970 at P'yongyang, in duplicate in the Hungarian, Korean and Russian languages, all three texts being equally authentic. In the event of differences in interpretation, the Russian text shall be authoritative.

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

For the Presidium
of the Hungarian People's
Republic:

[ANDRÁS GYENES]

For the Presidium of the Supreme
People's Assembly of the Democratic
People's Republic of Korea:

[LI MAN SOK]