

No. 20559

**CZECHOSLOVAKIA
and
CUBA**

**Agreement concerning reciprocal legal assistance in civil,
family and criminal cases. Signed at Prague on 18 April
1980**

Authentic texts: Czech and Spanish.

Registered by Czechoslovakia on 2 November 1981.

**TCHÉCOSLOVAQUIE
et
CUBA**

**Accord relatif à une assistance judiciaire réciproque en ma-
tière civile, familiale et pénale. Signé à Prague le
18 avril 1980**

Textes authentiques : tchèque et espagnol.

Enregistré par la Tchécoslovaquie le 2 novembre 1981.

[TRANSLATION — TRADUCTION]

AGREEMENT¹ BETWEEN THE CZECHOSLOVAK SOCIALIST
REPUBLIC AND THE REPUBLIC OF CUBA CONCERNING RE-
CIPROCAL LEGAL ASSISTANCE IN CIVIL, FAMILY AND CRIM-
INAL CASES

The Czechoslovak Socialist Republic and the Republic of Cuba,

Desiring to develop the relations between their peoples in the spirit of friendship and mutual co-operation and to facilitate legal relations between the two countries, have agreed to conclude this Agreement concerning reciprocal legal assistance in civil, family and criminal cases:

PART I. GENERAL PROVISIONS

Article 1. LEGAL PROTECTION

1. Nationals of either Contracting Party shall enjoy in the territory of the other Contracting Party, in respect of their persons and property, the same rights as nationals of the said other Contracting Party.

2. For the purposes of the provisions of paragraph 1, nationals of either Contracting Party shall have free access to the other Contracting Party's courts and other authorities competent in civil, family and criminal cases and shall have the right to initiate proceedings before those authorities in order to protect their personal and property rights.

3. The provisions of this Agreement shall apply both to nationals and to bodies corporate of each of the Contracting Parties.

Article 2. LEGAL ASSISTANCE

1. The courts, procurator's offices and other authorities of the two Contracting Parties acting in civil, family and criminal cases (hereinafter referred to as "competent authorities") shall provide one another with legal assistance under the conditions specified in this Agreement.

2. The competent authorities shall provide each other with reciprocal legal assistance through the performance of various acts, such as the interrogation of witnesses, parties, defendants or other persons, the provision of expert evidence and the preparation, transmittal and delivery of documents.

Article 3. COMMUNICATION

1. Save as otherwise provided in this Agreement, the competent authorities of the Contracting Parties shall communicate through the central authorities.

2. For the purposes of this Agreement, the central authorities shall be the following:

¹ Came into force on 11 July 1981, i.e., 30 days after the date of the exchange of the instruments of ratification, which took place at Havana on 11 June 1981, in accordance with article 81.

- (a) For the Republic of Cuba:
 - The Office of the Procurator General of the Republic;
 - The Ministry of Justice;
- (b) For the Czechoslovak Socialist Republic:
 - The Office of the Procurator General of the Czechoslovak Socialist Republic;
 - The Ministry of Justice of the Czech Socialist Republic;
 - The Ministry of Justice of the Slovak Socialist Republic.

Article 4. LANGUAGE

Save as otherwise provided in this Agreement, the authorities of the Contracting Parties shall use their official languages in relations between them in the implementation of this Agreement.

Article 5. APPLICATIONS FOR LEGAL ASSISTANCE

1. Save as otherwise provided in this Agreement, legal assistance shall be provided on the basis of an application for legal assistance or a request for the service of documents (hereinafter referred to uniformly as “application for legal assistance”), in accordance with the legal regulations of the State in which it is to be executed.

2. Applications for legal assistance and the documents accompanying them must be signed by the competent authority and sealed with its seal. If it is required that the document should be accompanied by a translation, the latter must be certified to have been prepared by a duly qualified translator, by the competent State authority or by the diplomatic mission or a consular post of one of the Contracting Parties.

3. In providing reciprocal legal assistance, the authorities of the Contracting Parties may use their own printed forms.

4. The application for legal assistance must include:

- (a) The designation of the applicant competent authority;
- (b) The designation of the competent authority applied to;
- (c) An exact specification of the case in respect of which legal assistance is applied for, together with a statement of the subject and purpose of the application for legal assistance and the necessary data for its execution;
- (d) The given names and family names, nationalities, domicile or residence, civil status and profession or occupation of the parties and of the accused, indicted or convicted persons;
- (e) The given names and family names and the addresses of the legal representatives of the persons referred to in subparagraph (d) of this paragraph if they have been designated.

5. Requests for the service of documents must include, in addition to the information referred to in paragraph 4 of this article, the exact address of the addressee and the designation of the documents to be served.

6. If the application includes a request to conduct an interrogation, the application must also contain the questions to be asked.

7. Applications in criminal cases must also include the legal designation and the description of the act committed and, where possible, the dates of birth of the accused persons and their parents.

Article 6. EXECUTION OF APPLICATIONS FOR LEGAL ASSISTANCE

1. Applications for legal assistance shall be executed in accordance with the provisions of article 5, paragraph 1, of this Agreement. At the request of the applicant authority, the application for legal assistance may be executed in the manner specified therein.

2. The authority applied to shall notify in good time to the applicant authority, if the latter so requests, the place and date of execution of the application.

3. If the authority applied to does not have competence, it shall transmit the application without delay to the competent authority.

4. If it has not been possible to execute the application, the authority applied to shall return the documents and state the reasons which made it impossible to execute the application.

5. Where the exact address of the person referred to in the application for legal assistance is not known, the authority of the Party applied to shall take steps to ascertain his place of residence.

Article 7. EXECUTION OF REQUESTS FOR THE SERVICE OF DOCUMENTS

1. Documents concerning civil and family law which are to be served on persons resident in the territory of the other Contracting Party shall be attached in duplicate to the request for service of documents.

2. If the document to be served is not drawn up in the language of the authority applied to, or if no translation into that language has been attached, the authority applied to shall serve the document on the addressee only if he is willing to accept it voluntarily.

3. The document attesting to service shall be prepared in conformity with the regulations of the Contracting Party applied to which relate to the service of documents. The said document must specify the place and date of service and the manner in which it was effected.

4. If service cannot be effected at the address indicated, the authority applied to shall take steps to ascertain the place of residence of the addressee. If the address cannot be ascertained, the said authority shall so inform the applicant authority and shall at the same time return the document.

5. At the request of the applicant authority, the authority applied to shall take steps, subject to the laws in force in the territory of the Contracting Party applied to, to have the document served personally on the person concerned.

Article 8. SERVICE OF DOCUMENTS ON OWN NATIONALS

A Contracting Party may also serve documents on its own nationals through its diplomatic missions or consular posts. In such case no coercive measures shall be applied.

Article 9. PROTECTION OF WITNESSES AND EXPERTS

1. A witness or expert who is resident in the territory of one of the Contracting Parties shall not be required to appear in response to a summons from an authority of the other Contracting Party. Accordingly, the summons shall not contain any threat of the adoption of coercive measures in the event of failure to appear.

2. A witness or expert who appears in response to a summons from an applicant authority of the other Contracting Party may not, in the territory of that Contracting Party, be prosecuted, detained or subjected to a previously imposed

punishment for an offence committed by him before he crossed the frontier of the applicant Contracting Party, irrespective of his nationality. Similarly, he may not be prosecuted in the territory of the applicant Contracting Party in respect of his testimony, his expert opinion or the offence which is the subject of the proceeding.

3. A witness or expert shall forfeit the protection provided for in paragraph 2 of this article if he fails to quit the territory of the applicant Contracting Party within a period of seven days counted from the date on which he was informed that his presence was no longer necessary. The said period shall not include the time during which the witness or expert has been unable for reasons beyond his control to leave the territory of the applicant Contracting Party.

4. Persons who have been summoned shall have the right to reimbursement for the cost of their travel and stay and for loss of earnings. Experts shall, in addition, be entitled to the payment of expert fees. The summons shall indicate the type of remuneration to the payment of which the said persons shall be entitled; an advance shall be paid to them, at their request, to cover the relevant costs.

5. If a person summoned to appear as a witness is detained in the territory of the Contracting Party applied to, the authorities of that Contracting Party which are mentioned in article 3, paragraph 2, of this Agreement may order the transfer of the said person to the territory of the applicant Contracting Party, subject to the condition that he shall there continue to be confined and shall be returned without delay after being interrogated.

Article 10. COSTS OF LEGAL ASSISTANCE

1. Each Contracting Party shall bear the costs of legal assistance incurred in its territory.

2. At the request of the applicant authority, the authority applied to shall inform it of the amount of the costs incurred.

Article 11. TRACING OF ADDRESSES

The competent authorities of the Contracting Parties shall help each other, in so far as possible, in tracing the addresses of persons resident in the territory of their respective States if that is necessary for the exercise of the rights of their nationals.

Article 12. INFORMATION ON LEGAL QUESTIONS

The Ministries of Justice of the two Contracting Parties shall, on request, provide each other with information on the legislation previously or currently in force in the territory of their States and the text of such legislation, as well as information concerning legal questions and legal practice.

Article 13. VALIDITY OF DOCUMENTS

1. Documents drawn up or authenticated in the territory of one Contracting Party by competent authorities and in due form shall be accepted in the territory of the other Contracting Party without any other authentication. The same shall apply to the signatures on documents of any other kind which have been authenticated in accordance with the legal provisions in force in the territory of one of the Contracting Parties.

2. The provisions of paragraph 1 of this article shall also apply to the authentication of copies and translations of documents which have been authenticated by the competent authority.

3. Documents which are considered official documents in the territory of one Contracting Party shall have the validity of official documents in the territory of the other Contracting Party as well.

Article 14. DENIAL OF LEGAL ASSISTANCE

The provision of legal assistance in accordance with this Agreement may be denied if in the view of the Contracting Party applied to the provision of the legal assistance would violate its sovereignty or security or if it would be inconsistent with the fundamental principles of its law.

PART II. CIVIL AND FAMILY CASES

Chapter 1. *CASES RELATING TO PERSONAL STATUS*

Article 15. LEGAL CAPACITY AND CAPACITY FOR LEGAL ACTION

1. The capacity of nationals of each Contracting Party shall be regulated by the law of that Contracting Party.

2. The capacity of bodies corporate shall be determined by the law of the Contracting Party under whose law they were constituted.

Article 16. ANNULMENT AND LIMITATION OF CAPACITY
FOR LEGAL ACTION

1. Save as otherwise provided in this Agreement, the authority competent for the annulment or limitation of capacity for legal action shall be the authority of the Contracting Party of which the person whose capacity for legal action is to be decided is a national.

2. Where the competent authority of one of the Contracting Parties finds that in the case of a national of the other Contracting Party who resides in the territory of the first-named Party there are reasons for the annulment or limitation of capacity for legal action, it shall notify that fact to the competent authority of the other Contracting Party. The same procedure shall be followed where the competent authority takes temporary steps for the protection of that person or his property.

3. If the authority of the other Contracting Party to which the facts referred to in paragraph 2 were notified does not initiate the necessary proceeding within a period of three months, or if it does not state its position within that period of time, the proceeding relating to the annulment or limitation of capacity for legal action shall be instituted by the authority of the Contracting Party in whose territory the person whose capacity for legal action is to be decided is resident. The decision shall be communicated to the competent authority of the other Contracting Party.

4. If the proceeding is conducted before the authority which is competent in accordance with the preceding paragraph, the annulment or limitation of capacity for legal action may be declared only on the basis of the grounds established by the legislation of both Contracting Parties.

5. The provisions of this article shall also apply in the event of restoration or modification of capacity for legal action.

Article 17. DECLARATIONS OF PERSONS AS MISSING OR DEAD
AND ESTABLISHMENT OF THE FACT OF DEATH

1. In proceedings to declare a person missing or dead or to establish the fact of death, the competent authorities shall be those of the Contracting Party of which the person was a national at the time when he was last known to be alive.

2. The authorities of one Contracting Party may declare a national of the other Contracting Party missing or dead and may establish the date of his death upon the application of persons resident in the territory of that Contracting Party if the persons concerned prove that, under the law of that Contracting Party, they have a legal interest in the matter.

3. In the cases referred to in paragraphs 1 and 2 of this article, the authorities of each Contracting Party shall apply the law of their own State.

4. Decisions taken in accordance with paragraph 2 of this article shall have legal effects solely in the territory of the Contracting Party whose authority took them.

Chapter 2. *FAMILY CASES*

Article 18. MARRIAGE

1. The requirements for marriage shall be governed, in the case of each person contracting the marriage, by the laws of the Contracting Party of which he or she is a national. Circumstances which invariably preclude marriage may also be judged according to the laws of the Contracting Party in whose territory the marriage is solemnized.

2. The form of solemnization of a marriage shall be governed by the legislation of the Contracting Party in whose territory the marriage is solemnized.

3. Where the marriage is solemnized before a representative of a diplomatic mission or consular post who has been duly authorized thereto by one of the Contracting Parties, the form of solemnization of the marriage shall be governed by the laws of that Contracting Party.

4. Observance of civil forms shall be required in all cases for the validity of a marriage between nationals of the Contracting Parties.

Article 19. PERSONAL AND PROPERTY RELATIONS OF SPOUSES

1. Where both spouses are nationals of one Contracting Party and are resident in the territory of the other Contracting Party, their personal and property relations shall be governed by the laws of the Contracting Party of which they are nationals.

2. Where one spouse is resident in the territory of one Contracting Party and the other spouse in the territory of the other Contracting Party, and both are nationals of one Contracting Party, their personal and property relations shall be governed by the laws of the Contracting Party of which they are nationals.

3. If one spouse is a national of one Contracting Party and the other is a national of the other Contracting Party, their personal and property relations shall be governed by the laws of the Contracting Party in whose territory they have or last had their joint domicile.

4. The competent authorities of the Contracting Party of which both spouses are nationals shall be competent to decide their personal and property relations. If, at the time of the initiation of proceedings, the spouses have their domicile in the terri-

tory of the other Contracting Party, the competent authorities of the latter Party shall also have competence in the proceedings.

5. Where one of the spouses is a national of one Contracting Party and the other is a national of the other Contracting Party, the competent authorities of the Contracting Party in whose territory they have or last had their joint domicile shall be competent to decide the personal and property relations of the spouses.

Article 20. DIVORCE

1. Divorce shall be governed by the laws of the Contracting Party of which the two spouses are nationals at the time when the application for the initiation of proceedings is submitted.

2. If one of the spouses is a national of one Contracting Party and the other is a national of the other Contracting Party, the competent authority before which the divorce proceedings are conducted shall decide in accordance with the laws of its own State.

3. In divorce proceedings in accordance with paragraph 1 of this article, the competent authorities shall be those of the Contracting Party of which both spouses are nationals at the time when the application is submitted. If, at the time when the application for divorce is submitted, both spouses have their domicile in the territory of the other Contracting Party, the latter Contracting Party's authority shall also have competence.

4. In the case referred to in paragraph 2 of this article the competent authorities shall be those of the Contracting Party in whose territory the spouses have or last had their joint domicile. Where one of the spouses is domiciled in the territory of one Contracting Party and the other in the territory of the other Contracting Party, the authorities of both Contracting Parties shall have competence.

Article 21. NULLITY OF MARRIAGE

1. The determination of the existence or non-existence of marriage and the declaration of nullity of marriage shall be governed by the laws of the Contracting Party whose laws, in accordance with article 18 of this Agreement, were applied to the solemnization of the marriage.

2. The competence of an authority shall be governed by the provisions of article 20 of this Agreement.

Article 22. LEGAL RELATIONS BETWEEN PARENTS AND CHILDREN

1. The acknowledgement, denial or investigation of paternity shall be governed by the laws of the Contracting Party whose nationality the child acquired at birth.

2. With regard to the form of acknowledgement of paternity, compliance with the laws of the Contracting Party in whose territory the paternity is acknowledged shall suffice.

3. Legal relations between parents and children shall be governed by the laws of the Contracting Party of which the child is a national.

4. Both the authority of the Contracting Party of which the child is a national and the authority of the Contracting Party in whose territory he has his domicile or residence shall be competent to decide on the relations referred to in the preceding paragraphs of this article.

MAINTENANCE OBLIGATIONS

Article 23

1. Maintenance obligations between parents and children shall be governed by the laws of the Contracting Party of which the person entitled to maintenance is a national.

2. In proceedings concerning the matters referred to in paragraph 1 of this article, the competent authority shall be that of the Contracting Party in whose territory the person entitled to maintenance is domiciled.

Article 24

The Contracting Parties shall do everything necessary to ensure compliance with the maintenance obligation and with the execution of the sentence or any other decision taken by the competent authority with regard to maintenance. The Contracting Parties shall take steps to ensure that the transfers of payments for the maintenance of minor children are processed without any limitation or delay.

Article 25

If there are submitted to the competent authority of one Contracting Party applications relating to maintenance payments for which a person resident in the territory of the other Contracting Party is liable, the competent authority of the last-mentioned Contracting Party shall, upon request, provide assistance in determining the source and the amount of that person's income.

ADOPTION

Article 26

1. Adoption shall be governed by the laws of the Contracting Party of which the adopter is a national at the time when the proceedings are initiated. In the case referred to in article 27, paragraph 2, of this Agreement, when the spouses making the adoption are nationals of different Contracting Parties, the conditions established by the laws of both Contracting Parties must be complied with.

2. The consent of the minor who is to be adopted or of other persons and authorities shall be governed by the laws of the Contracting Party of which the minor is a national.

Article 27

1. In adoption proceedings the competent authorities shall be those of the Contracting Party of which the adopter is a national at the time when the proceedings are initiated.

2. If the persons making the adoption are spouses, one of whom is a national of one Contracting Party and the other a national of the other Contracting Party, the authority having competence in the adoption proceedings shall be that of the Contracting Party in whose territory they have or last had their joint domicile.

GUARDIANSHIP

Article 28

1. The establishment and termination of guardianship shall be governed by the laws of the Contracting Party of which the ward is a national.

2. The legal relations between a guardian and his ward shall be governed by the laws of the Contracting Party whose authority appointed the guardian.

3. Acceptance of the office of guardian and the obligation to serve as guardian shall be governed by the laws of the Contracting Party of which the guardian is a national.

4. Save as otherwise provided by this Agreement, the authority of the Contracting Party of which the ward is a national shall decide on the establishment and termination of guardianship.

5. Decisions relating to the establishment and termination of guardianship which are taken by the authorities of one Contracting Party and relate to nationals of that Party shall also have effect in the territory of the other Contracting Party.

Article 29

1. Where need arises to appoint a guardian in order to protect the interests of a national of one Contracting Party who has his domicile, residence or property in the territory of the other Contracting Party, the competent authority of the last-mentioned Contracting Party shall notify the fact without delay to the diplomatic mission or a consular post of the first-mentioned Contracting Party.

2. In urgent cases the competent authority shall adopt provisional measures necessary in accordance with the laws of its State, notifying the fact without delay to the diplomatic mission or consular post in accordance with paragraph 1 of this article. The said measures shall remain in effect until the authority of the other Contracting Party takes another decision in the matter and the authority which took the provisional measures is duly notified thereof.

Article 30

1. The authority which is competent in accordance with article 28, paragraph 4, may transfer guardianship to the competent authority of the other Contracting Party if the ward is domiciled or resident in the latter's territory. The transfer of guardianship shall take effect as soon as the authority of the last-mentioned Contracting Party accepts it. The last-mentioned authority shall immediately notify the applicant authority of the acceptance of guardianship.

2. The competent authority of the Contracting Party which, in accordance with paragraph 1 of this article, has accepted guardianship shall apply the laws of its own State. The said authority shall not be entitled to decide the civil status of the ward.

Article 31. EFFECTS OF THE INITIATION OF PROCEEDINGS

The initiation of proceedings relating to the personal and property relations of spouses, to divorce and to legal relations between parents and children before the competent authority of one Contracting Party shall preclude the initiation of proceedings in the same matter before a competent authority of the other Contracting Party. The competent authority which last received the same proposal for the initiation of such proceedings shall declare *ex officio* that it has no competence in the matter.

Chapter 3

Article 32. FORM OF LEGAL TRANSACTIONS AND MATERIAL RIGHTS

1. The form of legal transactions shall be determined by the law which is applicable to the transaction itself. It shall, however, be deemed sufficient if the law of the place where the transaction is concluded is complied with.

2. The form of legal transactions relating to immovable property and the material rights relating thereto shall be governed by the laws of the Contracting Party in whose territory the immovable property is situated. The authority competent to render the decisions shall be that of the said Contracting Party.

Article 33. LIABILITY FOR DAMAGE

Obligations arising out of unlawful actions or omissions which constitute grounds for compensation shall be governed by the laws of the Contracting Party in whose territory such actions or omissions took place. The authority competent in such matters shall be that of the said Contracting Party.

Chapter 4. SUCCESSION CASES

Article 34. PRINCIPLE OF EQUALITY

1. Nationals of one 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 nationals of the latter Contracting Party.

2. Nationals of one Contracting Party may make a testamentary disposition in respect of property situated in the territory of the other Contracting Party.

Article 35

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

Article 36. TESTAMENTARY DISPOSITIONS

1. The capacity to make or revoke a testamentary disposition, as well as proceedings for challenging a testamentary disposition which are based on lack of consent of the testator or on failure to express such consent, or on other defects of the testamentary disposition, shall be governed by the laws of the Contracting Party of which the testator was a national at the time of making or revoking the testamentary disposition.

2. The form of making or revoking a testamentary disposition shall be governed by the laws of the Contracting Party of which the testator was a national at the time of making or revoking the testamentary disposition; it shall also be valid if the laws of the Contracting Party in whose territory the said actions took place have been complied with.

Article 37. RIGHT OF THE STATE TO SUCCESSION

Where, in accordance with the laws of the Contracting Party which govern legal relations in respect of succession, there are no heirs, the inheritance of movable property shall descend to the Contracting Party of which the decedent was a national at the time of his death, and the inheritance of immovable property shall descend to the Contracting Party in whose territory the property is situated.

Article 38. COMPETENCE IN MATTERS OF SUCCESSION

1. Except in the cases referred to in paragraph 2 of this article, the authority competent in proceedings relating to succession to movable property shall be that of the Contracting Party of which the decedent was a national at the time of his death.

2. If the entire movable estate of a decedent who was a national of one Contracting Party is situated in the territory of the other Contracting Party, then, upon application by an heir, proceedings concerning the said estate shall be conducted before the authority of the last-mentioned Contracting Party if all known heirs agree.

3. In proceedings relating to succession to immovable property, the competent authority shall always be that of the Contracting Party in whose territory the property is situated.

4. The provisions of paragraphs 1 and 3 of this article shall also apply to proceedings relating to disputes arising in connection with the succession.

5. Decisions on the question whether movable property or immovable property is involved shall be governed by the laws of the Contracting Party in whose territory the property is situated.

Article 39. PROTECTION OF THE ESTATE

1. The authority of the Contracting Party in whose territory an estate has been left by a national of the other Contracting Party shall, in accordance with the laws of its own State, take such measures as are necessary to ensure the protection and administration of the estate. This provision shall also apply in cases in which the estate may be acquired by a national of the other Contracting Party.

2. Measures taken under paragraph 1 of this article shall be reported without delay by the competent authorities to the diplomatic mission or a consular post of the other Contracting Party, which may participate, either directly or through a representative, in carrying out the measures for protection of the estate. At the request of the diplomatic mission or consular post, the measures adopted may be delayed, modified or rescinded.

3. Measures taken under paragraph 1 must be rescinded at the request of the authority which is competent to conduct the succession proceedings.

Article 40. PUBLICATION OF THE WILL

The authority competent for the opening and publication of the will and for the probate of its status and content, as well as for procedures relating to its validity, shall be that of the Contracting Party in whose territory the will is found. If the testator was a national of the other Contracting Party at the time of his death, an authenticated copy of the will and a document describing the status and content thereof shall be sent to the competent authority of the latter Contracting Party. The original of the will shall be sent upon request.

Article 41. DELIVERY OF THE ESTATE

1. When the movable estate is found in the territory of one Contracting Party, the said estate shall, with a view to the rendering of a judgement in the succession case, be delivered to the competent authority or the diplomatic mission or a consular post of the Contracting Party of which the decedent was a national at the time of his death, on condition that the provisions of paragraph 4 (b) of this article are complied with.

2. Succession duties on immovable property shall be collected by the Contracting Party in whose territory the said property is situated. Save as otherwise provided in this Agreement, succession duties on movable property shall be collected by the Contracting Party of which the decedent was a national at the time of his death.

3. If, according to the results of the succession proceedings, the estate descends to heirs who have their domicile or residence in the territory of the other Contracting Party and it is not possible to deliver the estate to the said heirs or their representatives, the estate shall be delivered to the diplomatic mission or a consular post of the said other Contracting Party.

4. The estate shall be delivered subject to compliance with the following conditions:

- (a) All taxes and charges related to the estate have been paid or secured;
- (b) The competent authority has granted the permission necessary for the export of the components of the estate or for the transfer of sums of money; and
- (c) All debts of the decedent to his creditors, claimed within the time-limit specified by the laws of the Contracting Party in whose territory the estate is situated, have been paid or secured.

Chapter 5. *LEGAL COSTS*

Article 42. EXEMPTION FROM DEPOSIT OF SECURITY FOR LEGAL COSTS

1. Nationals of one Contracting Party appearing before authorities of the other Contracting Party shall not, irrespective of their domicile or residence, be required to deposit security for legal costs.

2. An authority of one Contracting Party may require nationals of the other Contracting Party to deposit security for costs relating to the submission of evidence under the same conditions and to the same extent as its own nationals.

EXEMPTION FROM PAYMENT OF LEGAL DUES AND COSTS

Article 43

Nationals of one Contracting Party shall, in the territory of the other Contracting Party, enjoy the right to exemption from the payment of legal and notarial dues and to free legal representation under the same conditions as nationals of the said other Party.

Article 44

1. An application for the exemption referred to in article 43 of this Agreement may also be submitted by the applicant to the competent authority of the Contracting Party of which he is a national. A request for the initiation of proceedings in the matter for which the exemption is to be granted may be annexed to the said application.

2. The application submitted in conformity with the provisions of paragraph 1 and, where appropriate, the request for the initiation of proceedings shall be sent to the competent authority of the other Contracting Party in the manner specified in article 3 of this Agreement.

Article 45

1. An application for exemption in accordance with article 43 of this Agreement must be accompanied by a document attesting to the applicant's personal, family and property situation and issued by the competent authority of the Contracting Party in whose territory the applicant is domiciled or resident.

2. If the applicant is not domiciled or resident in the territory of either Contracting Party, the said document may be issued by the diplomatic mission or a consular post of the Contracting Party of which the applicant is a national.

3. The authority ruling on the application for exemption may require the authority which issued the attesting document to supplement the information or to furnish the necessary explanations.

Chapter 6. *RECOGNITION AND ENFORCEMENT OF JUDGEMENTS*

Article 46

Each Contracting Party shall, under the conditions established by this Agreement, recognize and enforce in its territory the following decisions of the competent authorities of the other Contracting Party:

- (a) Judgements relating to property claims and rendered in civil and family cases, as well as settlements approved by the court in such cases;
- (b) Judgements relating to compensation for damage which have been established in criminal cases.

Article 47

1. The judgements referred to in article 46 of this Agreement shall be recognized and enforced provided that:

- (a) The judgement has become final and enforceable in accordance with the laws of the Contracting Party in whose territory it was rendered;
- (b) The authority which rendered the judgement was competent according to the provisions of this Agreement or according to the laws of the Contracting Party in whose territory recognition or enforcement is sought;
- (c) No final judgement in the same case and between the same parties has been previously rendered by an authority of the Contracting Party in whose territory the judgement is to be enforced and no final judgement of an authority of a third State has been recognized in the territory of the said Contracting Party;
- (d) The judgement was rendered on the basis of legislation specified by this Agreement;
- (e) The party against whom the judgement was rendered was not deprived of the opportunity to attend the proceedings or, in the event of his incapacity for legal action, deprived of the opportunity to appoint a representative, and the summons or the application for the initiation of proceedings was served upon him personally;
- (f) The Contracting Party in whose territory the judgement is to be recognized or enforced considers that the recognition or enforcement would not violate its sovereignty or security and would not be contrary to the basic principles of its legislation.

2. Preliminary judgements and preliminary measures adopted with respect to maintenance obligations may be enforced in the territory of the Contracting Party applied to even if they are subject to appeal.

Article 48

1. Judgements rendered by the competent authorities of one Contracting Party in connection with the personal status of nationals of the other Contracting Party shall be recognized in the territory of the latter Contracting Party under the conditions specified in article 47 of this Agreement.

2. Recognition of the judgements referred to in paragraph 1 may be sought by anyone who has a legal interest therein.

Article 49

Final judgements of the competent authorities of one Contracting Party in connection with the personal status of its own nationals shall be considered valid in the territory of the other Contracting Party without examination.

Article 50

The authority competent to recognize the judgement and to order its enforcement shall be that of the Contracting Party in whose territory the judgement is to be recognized or enforced.

Article 51

1. An application for recognition or enforcement of a judgement may be submitted directly to the competent authority of the Contracting Party in whose territory the judgement is to be recognized or enforced or to the authority which decided the matter at first instance. In such case the application shall be transmitted to the competent authority of the other Contracting Party in the manner specified in article 3 of this Agreement.

2. The application must be accompanied by:

- (a) A certified copy of the judgement and, annexed thereto, a certification that the judgement has become final and enforceable if its final nature or enforceability is not evident from the judgement itself;
- (b) An authenticated certificate to the effect that the party against whom the judgement was rendered had been summoned to the proceedings properly and in good time;
- (c) An authenticated translation of the accompanying documents referred to in subparagraphs (a) and (b) into the language of the Contracting Party in whose territory the judgement is to be recognized or enforced.

Article 52

1. The authority ruling on the recognition and enforcement of a judgement shall confine itself to verifying whether the conditions specified in articles 47 and 51 of this Agreement have been fulfilled. Upon verifying that the conditions have been fulfilled, it shall recognize the judgement or order its enforcement.

2. Save where another form of procedure is specified by this Agreement, the competent authority which rules on the recognition and enforcement of the judgement shall proceed in accordance with the laws of its own State.

Article 53

1. If the party exempted in accordance with article 42 of this Agreement from the deposit of security has been required to pay costs by a judgement which has become final, the competent authority of the Contracting Party shall, at the request of the entitled person, order enforcement of the judgement free of charge.
2. The provisions of article 51 of this Agreement shall also apply in the cases referred to in paragraph 1 of this article.
3. The authority competent to order enforcement of a judgement in accordance with paragraph 1 shall confine itself to verifying whether the judgement relating to costs has become final and enforceable.

Article 54

The authority of the Contracting Party in whose territory the costs were paid by the State, subject to deposit of security, shall request the competent authority of the other Contracting Party to collect those costs. The amount collected shall be delivered to the diplomatic mission or a consular post of the other Contracting Party.

Article 55

The provisions of this Agreement concerning the enforcement of judgements shall not affect the laws of the Contracting Parties which relate to the transfer of money and the export of articles obtained through the enforcement of judgements.

Chapter 7. *TRANSMITTAL OF DOCUMENTS RELATING TO CIVIL STATUS*

Article 56

1. Each Contracting Party shall transmit to the other Contracting Party extracts from the civil register relating to nationals of the said other Contracting Party. The extracts shall be transmitted free of charge through the diplomatic missions or consular posts.
2. The Contracting Parties shall, upon request, transmit to each other extracts from the civil register for official use by the competent authorities, free of charge and in the manner established in paragraph 1 of this article.
3. Applications by nationals of either Contracting Party for the transmittal of extracts from the civil register or of other documents relating to civil status may be sent direct to the competent authority of the other Contracting Party. The documents applied for shall be sent to the applicant through the diplomatic mission or a consular post of the Contracting Party whose authority prepared the document. The diplomatic mission or consular post shall, on handing over the document, collect the prescribed fees.

Article 57

1. Where the competent authority of one of the Contracting Parties makes a new entry or correction in the civil register relating to the civil status of a national of the other Contracting Party, it shall transmit to the said other Contracting Party an extract from the civil register containing the said new entry or correction.
2. Each Contracting Party shall transmit to the other Contracting Party copies of judgements which have become final relating to the civil status of nationals of the said other Contracting Party.

3. The documents referred to in paragraphs 1 and 2 of this article shall be transmitted free of charge in the manner specified in article 56, paragraph 1, of this Agreement.

PART III. CRIMINAL CASES

Chapter 1

Article 58. PROVISION OF LEGAL ASSISTANCE

Save as otherwise provided in this part, the provision of legal assistance in criminal cases shall be governed by the provisions of part I.

Article 59. TRANSFER OF PROSECUTION

1. Each contracting Party shall, in accordance with its laws and at the request of the other Contracting Party, prosecute its own nationals for having committed in the territory of the other Contracting Party acts which are subject to punishment by the courts.

2. The undertaking to prosecute shall also apply to those violations of the law which are subject to punishment by the courts under the laws of the applicant Contracting Party, while under the legislation of the Contracting Party applied to they are considered merely violations which under the laws of the Contracting Party applied to are subject to action by authorities other than courts.

3. In a proceeding whose prosecution is transferred complaints submitted by persons who have suffered damage and are applying for compensation shall form part of the proceeding. The competent authorities of the Contracting Party which has undertaken the prosecution shall endeavour, in accordance with their legislation to ensure that a decision on the claims for compensation is taken in the criminal proceeding.

Article 60. CONTENTS OF THE APPLICATION FOR TRANSFER OF PROSECUTION

1. The application for transfer of prosecution, or the annexes thereto, must contain:

- (a) Personal data, including nationality;
- (b) Description of the facts of the case;
- (c) Items of evidence;
- (d) A certified copy of the relevant documents where necessary, and in other cases the results of the investigations;
- (e) A copy of the text of the provisions applicable to the act in accordance with the legislation in force at the place at which the act was committed;
- (f) The application for compensation.

2. If the Contracting Party applied to requests additional items of evidence, the applicant Contracting Party shall supply them.

3. If, at the time of submission of the application for transfer of prosecution, the accused person is in prison or in preventive detention, arrangements shall be made for his transfer to the territory of the Contracting Party applied to.

4. The Contracting Party applied to shall communicate the final decision to the applicant Contracting Party. At the request of the applicant Contracting Party, a copy of the decision shall be sent to it.

Chapter 2. EXTRADITION

Article 61. OBLIGATION TO EXTRADITE

The Contracting Parties shall, on request and subject to the conditions specified in this Agreement, extradite to each other individuals situated in their territories against whom a criminal prosecution is to be undertaken or a sentence is to be executed.

Article 62. CONDITIONS FOR EXTRADITION

1. Extradition for the purpose of criminal prosecution shall be permitted solely in the case of those offences which are punishable under the laws of both Contracting Parties by at least one year of deprivation of freedom.

2. Extradition for the purpose of execution of a sentence shall be permitted solely in the case of those acts which are punishable under the laws of both Contracting Parties and only when the person convicted has been sentenced to at least one year of deprivation of freedom.

Article 63. REFUSAL OF EXTRADITION

1. Extradition shall not take place:

- (a) If the person claimed is a national of the Contracting Party applied to at the time when the application for extradition is delivered;
- (b) If the offence was committed in the territory of the Contracting Party applied to;
- (c) If under the laws of the Contracting Party applied to the prosecution cannot be undertaken or the sentence cannot be executed owing to lapse of time or for other legal reasons;
- (d) If extradition is not permitted under the laws of one of the Contracting Parties;
- (e) If the person claimed has been sentenced for the same act in the territory of the Contracting Party applied to, or if the case has been dismissed and the dismissal has become final.

2. In cases in which extradition is not granted, the Contracting Party applied to shall communicate that fact to the applicant Contracting Party, explaining the reasons for the refusal of extradition.

Article 64. REQUISITION FOR EXTRADITION

1. A requisition for extradition for the purpose of prosecution must be accompanied by the warrant for arrest, a description of the act, a statement of the elements of evidence which have given rise to the suspicion of criminal action, and the text of the legislation applicable to the act on which the requisition for extradition is based. Where the action has caused damage, the extent and amount of such damage must be indicated.

2. A requisition for extradition for the purpose of execution of a sentence must be accompanied by a copy of the sentence which has become final and by the text of the legislative provision applied. If the convicted person has already completed part of his sentence, information relating to the duration of that part must also be communicated.

3. In so far as possible, a requisition for extradition shall be accompanied by a description, information concerning the situation and a photograph of the person claimed, as well as information relating to his nationality and to his whereabouts, if such information is not evident from the warrant for arrest or from the sentence.

Article 65. INFORMATION SUPPLEMENTARY TO THE REQUISITION
FOR EXTRADITION

If the requisition for extradition does not contain all the essential data, the Contracting Party applied to may request the submission of supplementary information, fixing a time-limit of up to two months for the purpose. The said time-limit may be extended at the request of the applicant Contracting Party.

Article 66. DETENTION PENDING EXTRADITION

Upon receiving the requisition for extradition, the Contracting Party applied to shall, without delay, take steps for the detention of the person claimed. Such steps shall not be required if it is evident that in accordance with this Agreement the extradition cannot be carried out.

Article 67. PREVENTIVE DETENTION

1. A person may be detained before receipt of the requisition for extradition if the competent authority of the applicant Contracting Party transmits a warrant for arrest or a final judgement and at the same time gives notice of the requisition for extradition. The requisition may be sent by mail, teletype, radio, telephone or any other similar method.

2. The competent authorities of one Contracting Party may, even in the absence of an application in accordance with paragraph 1 of this article, detain a person who is in its territory provided that the said person has committed in the territory of the other Contracting Party an offence which is extraditable under this Agreement.

3. Where a person has been detained in accordance with paragraphs 1 and 2 of this article, the other Contracting Party shall be notified immediately.

Article 68. RELEASE OF DETAINED PERSONS

1. The Contracting Party applied to may release the detained person if the supplementary information has not been sent to it within the time-limit specified in article 65 of this Agreement.

2. The person detained in accordance with article 67 of this Agreement, may be release if the requisition for extradition does not arrive within two months after the date on which the preventive detention was notified to the other Contracting Party.

Article 69. POSTPONEMENT OF EXTRADITION

If the person whose extradition is applied for is being prosecuted or has been sentenced for another criminal offence in the territory of the Contracting Party applied to, extradition may be postponed until the termination of the criminal proceeding or the completion of the sentence.

Article 70. TEMPORARY EXTRADITION

1. If postponement of extradition might result in acquisition of exemption from prosecution by reason of lapse of time or might seriously prejudice the investigation of the offence committed by the person whose extradition is applied for, he may, on receipt of a requisition with statement of grounds from the applicant Contracting Party, be extradited temporarily for the purpose of carrying out certain proceedings.

2. A temporarily extradited person shall be returned immediately after the completion of the proceedings for the purpose of which he was extradited, not later than three months after the date of the temporary extradition.

Article 71. REQUISITIONS FROM SEVERAL STATES FOR EXTRADITION

When the extradition of a person has been applied for by more than one State, the Contracting Party applied to shall decide which of the requisitions shall be complied with, taking account of the nationality of the person whose extradition has been applied for and of the place and severity of the act.

Article 72. LIMITS TO PROSECUTION

1. An extradited person may not, without the consent of the Contracting Party applied to, be prosecuted or punished for punishable acts which he committed before extradition and which are not referred to in the requisition for extradition, nor may he be handed over to a third State.

2. The consent of the Contracting Party applied to shall not be required if:

- (a) The extradited person, not being a national of the applicant Contracting Party, fails to quit the territory of the said Contracting Party within one month after the date of termination of the proceeding or completion of the sentence even though he had the opportunity to do so. Such period of time shall not include any period 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 voluntarily.

Article 73. NOTIFICATION OF THE RESULTS OF PROSECUTION

The Contracting Parties shall inform each other of the results of the prosecution of extradited persons. If judgement has been pronounced in respect of such persons and has become final, a copy thereof shall be transmitted.

Article 74. SURRENDER

The Contracting Party applied to shall notify the applicant Contracting Party of the place and date of surrender of the person claimed. If the applicant Contracting Party fails to accept the extradited person within 15 days after the date fixed for his surrender, such person may be released from custody. The said time-limit may be extended by agreement between the Contracting Parties, but not longer than by an additional 15 days.

Article 75. RE-EXTRADITION

If an extradited person in some manner evades the prosecution or punishment which gave rise to the extradition and returns to or remains in the territory of the Contracting Party applied to, he shall be re-extradited upon receipt of a new requisition from the applicant Contracting Party, without any need to produce the documents referred to in article 64 of this Agreement

Article 76. CONVEYANCE IN TRANSIT

1. Each Contracting Party shall, at the request of the other Contracting Party, authorize the conveyance in transit through its territory of persons who have been extradited by a third State to the said other Contracting Party. The Contracting Party applied to shall not be obliged to authorize such conveyance in cases in which extradition is inadmissible under the provisions of this Agreement.

2. An application for conveyance in transit shall be formulated and transmitted in the same manner as a requisition for extradition.

3. The authorities of the Contracting Party applied to shall effect conveyance in transit in whatever manner they find most convenient.

Article 77. COSTS OF EXTRADITION AND CONVEYANCE IN TRANSIT

1. The costs of extradition shall be borne by the Contracting Party in whose territory they were incurred, with the exception of transport costs, which shall be borne by the applicant Contracting Party.

2. The costs of conveyance in transit shall be borne by the applicant Contracting Party.

Article 78. DELIVERY OF ARTICLES

1. There shall be delivered to the applicant Contracting Party the articles used in the act by reason of which extradition is possible under the provisions of article 62 of this Agreement and also the articles acquired through the commission of the act, or, where necessary, the monetary equivalent thereof, and any other article of the offender which could be used as evidence in the criminal proceeding; such articles shall be delivered even in cases in which the offender cannot be extradited by reason of his death or other circumstances.

2. The Contracting Party applied to may temporarily retain the articles whose delivery is claimed if it has need of them for other criminal proceedings.

3. The rights of third parties to the articles delivered shall remain unaffected. After the termination of the criminal proceeding the applicant Contracting Party shall return the articles to the Contracting Party applied to, with a view to their delivery to the persons entitled to them. In justifiable cases and with the consent of the Contracting Party applied to, the articles may be delivered direct to the persons entitled to them.

Article 79. NOTIFICATION OF SENTENCES

1. Each Contracting Party shall notify the other Contracting Party each year of final sentences pronounced in criminal cases in respect of nationals of the said other Contracting Party.

2. The competent authorities of each Contracting Party shall transmit free of charge to the authorities of the other Contracting Party, at the request of the latter authorities, extracts from the register of sentences imposed.

PART IV. FINAL PROVISIONS

Article 80

This Agreement shall be ratified. The exchange of the instruments of ratification shall take place at Havana.

Article 81

This Agreement shall enter into force on the thirtieth day after the exchange of the instruments of ratification and shall remain in force for five years.

Its validity shall be extended for successive periods of five years provided that neither of the Contracting Parties denounces it in writing six months before the date of expiry of the current term of its validity.

DONE at Prague on 18 April 1980, in duplicate in the Czech and Spanish languages, both texts being equally authentic.

IN WITNESS WHEREOF the plenipotentiaries have signed this Agreement and have thereto affixed their seals.

For the Czechoslovak Socialist
Republic:

JAN NĚMEC

For the Republic
of Cuba:

PEDRO W. LUIS TORRES
