

No. 20176

**FINLAND
and
UNION OF SOVIET SOCIALIST REPUBLICS**

Treaty concerning the provision of legal protection and legal assistance in civil, family and criminal cases (with protocol). Signed at Helsinki on 11 August 1978

Authentic texts: Finnish and Russian.

Registered by Finland on 23 July 1981.

**FINLANDE
et
UNION DES RÉPUBLIQUES SOCIALISTES
SOVIÉTIQUES**

Accord relatif à la protection et à l'assistance légales en matière civile, familiale et criminelle (avec protocole). Signé à Helsinki le 11 août 1978

Textes authentiques : finnois et russe.

Enregistré par la Finlande le 23 juillet 1981.

[TRANSLATION — TRADUCTION]

TREATY¹ BETWEEN THE REPUBLIC OF FINLAND AND THE UNION OF SOVIET SOCIALIST REPUBLICS CONCERNING THE PROVISION OF LEGAL PROTECTION AND LEGAL ASSISTANCE IN CIVIL, FAMILY AND CRIMINAL CASES

The President of the Republic of Finland and the Presidium of the Supreme Soviet of the Union of Soviet Socialist Republics, acting in accordance with their friendly and good-neighbourly relations based on the Treaty of friendship, co-operation and mutual assistance between the Union of Soviet Socialist Republics and the Republic of Finland of 6 April 1948,²

Confirming their desire, in accordance with the provisions of the Final Act of the Conference on security and co-operation in Europe, signed in Helsinki on 1 August 1975,³ to develop and intensify mutual legal co-operation in civil, family and criminal cases,

Have decided to conclude this Treaty, and for that purpose have appointed as their plenipotentiaries:

The President of the Republic of Finland: Paavo Nikula, Minister of Justice of the Republic of Finland;

The Presidium of the Supreme Soviet of the Union of Soviet Socialist Republics: Vladimir Ivanovich Terebilov, Minister of Justice of the USSR;

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 of either Contracting Party shall enjoy in the territory of the other Contracting Party, in respect of their personal and property rights, the same legal protection before the courts, organs of the procurator's office and other authorities having jurisdiction in civil, family or criminal cases as nationals of the other Contracting Party.

2. Nationals of either Contracting Party shall have free and unimpeded access to the authorities of the other Contracting Party indicated in paragraph 1 of this article and may appear, present petitions and institute proceedings before them under the same conditions as nationals of the other Contracting Party.

3. The provisions of this Treaty shall also apply, *mutatis mutandis*, to bodies corporate established in the territory of the Contracting Parties in accordance with their laws, as well as to other organizations enjoying legal capacity in judicial proceedings.

¹ Came into force on 8 August 1980, i.e., 30 days after the date of the exchange of the instruments of ratification which took place at Moscow on 9 July 1980, in accordance with article 30.

² United Nations, *Treaty Series*, vol. 48, p. 149.

³ *International Legal Materials*, vol. 14, 1975, p. 1292.

Article 2. LEGAL ASSISTANCE

1. The judicial authorities of the Contracting Parties (courts, organs of the procurator's office and, in the USSR, organs of the State notariate) shall, on request, provide one another with legal assistance in civil, family and criminal cases. These authorities shall make application for legal assistance in accordance with their jurisdiction as defined by the laws of their State.

2. Other authorities having jurisdiction in civil, family or criminal cases shall make application for legal assistance through the appropriate judicial authorities of the applicant Contracting Party.

Article 3. SCOPE OF LEGAL ASSISTANCE

The Contracting Parties shall, within the requirements of their laws, provide one another with legal assistance by executing applications for the service of documents; the interrogation of witnesses, experts, litigants and other persons; the delivery of material evidence; the conduct of expert examinations and judicial inspections *in situ*; and by instituting criminal proceedings, providing information on the laws and judicial practice, and other information and documents.

Article 4. METHOD OF COMMUNICATION

In providing legal assistance, the judicial authorities of the Contracting Parties shall communicate with one another through the diplomatic channel.

Article 5. APPLICATION FOR LEGAL ASSISTANCE

1. Applications for legal assistance shall be in writing and, depending upon the content of the application, shall contain the following particulars:

- (a) The title of the applicant authority;
- (b) The title of the authority applied to;
- (c) The title of the case in respect of which legal assistance is applied for, and the content of the application;
- (d) The full names of persons involved in the case, their nationality, occupation and domicile or residence;
- (e) The full names and addresses of the representatives of the persons mentioned in subparagraph (d) of this paragraph;
- (f) The title of the document served;
- (g) Where applicable, a statement of the circumstances requiring clarification, as well as a list of the documents and other evidence required;
- (h) In criminal cases, a description of the circumstances and the legal definition of the offence.

2. Applications for legal assistance must be signed by a competent person and certified by a seal.

*Article 6. PROCEDURE FOR EXECUTING APPLICATIONS
FOR LEGAL ASSISTANCE*

1. The authority applied to shall render legal assistance in the manner prescribed by the procedural laws of its own State. However, it may, on request, apply the judicial procedures of the applicant Contracting Party, provided that they do not conflict with the laws of the Contracting Party applied to.

2. If the authority applied to is not competent to provide legal assistance, it shall transmit the application to the competent authority.

3. At the request of the applicant authority, the authority applied to shall notify the applicant authority and the parties concerned in good time of the time and place of execution of the application so that they may be present during the execution of the application in accordance with the laws of the Contracting Party applied to.

4. The authority applied to shall inform the applicant authority in writing of the execution of the application. If it has not been possible to execute the application, the applicant authority shall be informed of this immediately in writing with an indication of the reasons which prevented execution, and the documents shall be returned.

Article 7. SERVICE OF DOCUMENTS

1. Service of documents shall be effected in the USSR provided that the documents are drawn up in the Russian language or accompanied by a certified translation into the Russian language, and in Finland, provided that they are drawn up in the Finnish language or accompanied by a certified translation into the Finnish language. In other cases, the documents shall be delivered to the addressee if he is willing to accept them.

2. A personal summons to appear before an authority must be transmitted to the Contracting Party applied to at least 90 days before the date on which the case mentioned in the summons is to be examined.

3. The document to be served shall be attached in duplicate to the application for service.

4. A personal summons to appear before an authority shall not include penalties for failure to appear.

Article 8. CONFIRMATION OF SERVICE OF DOCUMENTS

Service of documents shall be confirmed in accordance with the regulations for such service in force in the territory of the Contracting Party applied to. Such confirmation shall contain particulars of the time, place and manner of service and the name of the person on whom the document has been served.

Article 9. RIGHT OF REFUSAL TO GIVE TESTIMONY

1. A person summoned on the basis of an application for legal assistance to the authorities of the applicant Contracting Party or the Contracting Party applied to as a witness or expert is entitled to refuse to give testimony or fulfil other functions if the right or obligation to refuse is stipulated in the laws of the applicant Contracting Party or the Contracting Party applied to.

2. The judicial authorities of the applicant Contracting Party must, where necessary, attach to the application information on the laws governing the rights and obligations referred to in paragraph 1 of this article.

Article 10. IMMUNITY OF THE WITNESS, EXPERT, INJURED PARTY, RESPONDENT AND DEFENDANT

1. A witness, expert, injured party, respondent or defendant of any nationality, who, in response to a summons, freely appears before the authorities of

an applicant Contracting Party, may not be prosecuted, taken into custody or subjected to any other restraint or punishment in the territory of the applicant Contracting Party, for an act committed before he crossed the frontier of the applicant Contracting Party if this act was not the reason for summoning him as the defendant.

2. The person referred to in paragraph 1 of this article shall forfeit this guarantee if he fails to leave the territory of the applicant Contracting Party within 15 days from the date on which he has been officially informed that his presence is no longer required, or if, having left this territory, he returns to it. This period shall be deemed not to include any period of time during which this person may be unable, owing to circumstances beyond his control, to leave the territory of the applicant Contracting Party.

3. The person referred to in paragraph 1 of this article who has not appeared in answer to a served summons to appear before the authorities of the applicant Contracting Party may not be subjected to any punishment or restraint as a result.

4. An application for service of documents or a summons must indicate the amount which will be paid to the witness or expert to cover his expenses, as well as the remuneration to which he is entitled. The applicant Contracting Party shall, at the request of these persons, pay an advance to cover their expenses.

Article 11. AUTHENTICATION OF DOCUMENTS

Documents transmitted by the Contracting Parties to each other in connection with the provision of legal assistance shall be accepted without authentication.

Article 12. TRANSMITTAL OF CIVIL REGISTRATION AND OTHER DOCUMENTS

For purposes of the application of this Treaty, each of the Contracting Parties shall, in accordance with its laws, transmit to the other Contracting Party, on request, information on the registration of civil registration documents, documents relating to education or work, and other documents concerning the personal rights and interests of the citizens of the other Contracting Party. Such information and documents shall be transmitted to the other Contracting Party untranslated and free of charge.

Article 13. DENIAL OF LEGAL ASSISTANCE

Legal assistance shall not be provided if its provision might be prejudicial to the sovereignty or security of the Contracting Party applied to or conflict with its fundamental legal principles.

Article 14. LANGUAGES

1. Applications for legal assistance and addenda thereto shall be drawn up in the Russian or Finnish language, or a certified translation into one of these languages shall be attached thereto.

2. The translation may be certified by an official translator, a notary, the applicant authority or a diplomatic or consular representative of one of the Contracting Parties.

Article 15. EXCHANGE OF INFORMATION

The Ministries of Justice of the Contracting Parties shall, on request, provide one another with information concerning the laws in force or formerly in force

and the judicial practice relating to the legal matters subject to examination in accordance with this Treaty.

Article 16. COSTS OF PROVIDING LEGAL ASSISTANCE

The Contracting Parties shall make no claim against one another for reimbursement of the cost of providing legal assistance.

*Article 17. EXEMPTION FROM THE OBLIGATION
TO DEPOSIT SECURITY FOR LEGAL COSTS*

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

Article 18. FREE LEGAL ASSISTANCE

Nationals of one Contracting Party appearing before the courts or other authorities of the other Contracting Party shall be provided with free legal assistance and shall be ensured free legal proceedings on the same basis and with the same advantages as nationals of the other Contracting Party.

*Article 19. DOCUMENTS RELATING TO PERSONAL, FAMILY
AND PROPERTY STATUS*

1. Documents relating to personal, family and property status which are essential for obtaining free legal assistance shall be issued by the competent authorities of the Contracting Party in whose territory the person concerned is domiciled or resident.

2. If a national of one of the Contracting Parties wishing to receive free legal assistance is not domiciled or resident in the territory of either Contracting Party, the documents may be issued by the diplomatic mission or consular authority of his State.

3. The authority ruling on the question of granting free legal assistance may require additional information to be furnished by the authority which issued the documents.

Article 20. APPLICATION FOR FREE LEGAL ASSISTANCE

A national of one Contracting Party who wishes to apply to an authority of the other Contracting Party for free legal assistance in accordance with article 18 may make such application to the competent authority of the Contracting Party in whose territory he is domiciled or resident. The said authority shall transmit the application together with the documents issued in accordance with article 19 to the competent authority of the other Contracting Party.

PART II. SPECIAL PROVISIONS IN CIVIL AND FAMILY CASES

*Article 21. DECLARATION OF PERSONS AS MISSING OR DEAD,
AND ESTABLISHMENT OF THE FACT OF DEATH*

A decision taken by a court of a Contracting Party to declare a national of one of the Contracting Parties missing or dead or to establish the fact of death shall be recognized in the territory of the other Contracting Party if:

(a) That person was a national of the Contracting Party whose court made the decision at the time when he was last known to be alive, or

- (b) That person was last domiciled in the territory of the Contracting Party whose court made the decision, and the decision was taken on the application of a person whose rights and interests are based on the laws, including the conflict norms, of that Contracting Party.

Article 22. CONTRACT OF MARRIAGE

1. The form of contract of marriage shall be determined by the law of the Contracting Party in whose territory the marriage is contracted.

2. The conditions for the contract of marriage of nationals of the Contracting Parties shall be determined by the laws of the Contracting Party in whose territory the marriage is contracted if one spouse is a national of that Contracting Party or is domiciled in its territory.

3. Marriage between nationals of the Contracting Parties contracted in accordance with the provisions of paragraphs 1 and 2 of this article or in accordance with the conflict norms stipulated in the laws of the Contracting Party in whose territory the marriage is concluded shall be recognized as valid in the territory of both Contracting Parties.

4. A Contracting Party may refuse to recognize as valid a marriage referred to in paragraph 3 of this article if such recognition conflicts with the fundamental legal principles of that Contracting Party.

5. The provisions of this article shall not prevent recognition by the Contracting Parties of marriages as valid in cases not covered by this article.

Article 23. DECISIONS REGARDING DISSOLUTION OR ANNULMENT OF A MARRIAGE OR THE SEPARATION OF THE SPOUSE

1. A decision regarding the dissolution or annulment of the marriage of, or the separation of, nationals of the Contracting Parties rendered in the territory of one of the Contracting Parties shall be recognized in the territory of the other Contracting Party if:

- (a) Both spouses are nationals of the Contracting Party whose authority rendered the decision, or
- (b) Both spouses are domiciled in the territory of the Contracting Party whose authority rendered the decision, or
- (c) One of the spouses is a national of one, and the second a national of the other Contracting Party or one of the spouses is domiciled in the territory of the Contracting Party whose authority rendered the decision.

2. The Contracting Party may deny the recognition referred to in paragraph 1 of this article of a decision rendered by the authority of the other Contracting Party if:

- (a) A decision has already been rendered in the case and has entered into force in the territory of the Contracting Party where the decision must be recognized, or a decision of the authority of a third State has been recognized, or
- (b) The respondent was not promptly and duly notified of the examination of the case, except when he has agreed notwithstanding to participate in the proceedings.

3. The provisions of this article shall not prevent the recognition by either Contracting Party of the decisions of the authorities of the other Contracting Party regarding the dissolution or annulment of a marriage, or of separation, in cases not covered by this article.

Article 24. NATIONAL SYSTEM OF SUCCESSION

Nationals of either Contracting Party shall enjoy the same rights as nationals of the other Contracting Party resident in the territory of the latter in respect of succession to property in the territory of the other Contracting Party and to rights to be exercised there, and in respect of the capacity to make or revoke wills disposing of such property and such rights. The property or rights shall descend to them according to the law and according to the will under the same conditions as those applying to nationals of the Contracting Party resident in its territory.

Article 25. FORM OF A WILL

1. The will of a national of either Contracting Party shall be deemed to be in valid form if it has been drawn up in compliance with:

- (a) The laws of the State in whose territory it was drawn up, or
- (b) The laws of the Contracting Party of which the testator was a national at the time of making his will or at the time of his death, or the laws of the State in whose territory he was domiciled at one of those times.

In the part concerning immovable property, the will shall be deemed valid if the laws of the State in whose territory the immovable property is located have been observed.

2. The provisions of paragraph 1 of this article shall also apply to the revocation of a will.

PART III. SPECIAL PROVISIONS IN CRIMINAL CASES

Article 26. APPLICATION FOR THE INSTITUTION OF CRIMINAL PROCEEDINGS

1. Each Contracting Party shall, at the request of the other Contracting Party, institute, in accordance with its laws, criminal proceedings against any of its nationals who is suspected of having committed an offence in the territory of the other Contracting Party.

2. Applications for the institution of criminal proceedings must be in writing and contain the following particulars:

- (a) The title of the applicant authority;
- (b) A description of the act in respect of which application for the institution of criminal proceedings has been made;
- (c) The precisest possible indication of the time and place of commission of the act;
- (d) The text of the law of the applicant Contracting Party on which qualification of the act as an offence is based;
- (e) The precisest possible description of the suspect and other particulars regarding his character and domicile or residence.

Documents pertaining to the preliminary investigation, as well as evidence, at the disposal of the applicant Contracting Party shall be attached to the application.

3. The Contracting Party applied to shall inform the applicant Contracting Party of the measures taken in respect of the application and of the results of the criminal proceedings, and shall send it a copy of the decision rendered in the case.

Article 27. PROVISION OF INFORMATION REGARDING GUILTY VERDICTS

The Contracting Parties shall, on request, provide one another with information regarding guilty verdicts which have been rendered by the courts of the Contracting Party applied to, and which have entered into force, in respect of persons against whom criminal proceedings have been instituted in the territory of the applicant Contracting Party.

Article 28. DENIAL OF LEGAL ASSISTANCE IN CRIMINAL CASES

1. In addition to the cases stipulated in article 13, legal assistance shall not be provided:

- (a) In respect of an act which is not considered an offence under the laws of the Contracting Party applied to;
- (b) In respect of an act in connection with which criminal proceedings cannot be instituted under the laws of the Contracting Party applied to because of prescription or amnesty or on other legal grounds.

2. Legal assistance in criminal cases may be denied:

- (a) In respect of an act in connection with which a decision has been taken in the territory of the Contracting Party applied to waive criminal proceedings or to discontinue the case, or in connection with which a judgement has been rendered;
- (b) If a preliminary investigation is being conducted in connection with the offence or if the case is under examination by a court in the territory of the Contracting Party applied to.

PART IV. FINAL PROVISIONS

Article 29. RELATIONSHIP TO OTHER INTERNATIONAL TREATIES

The provisions of this Treaty shall not affect the rights and obligations of the Contracting Parties arising from other international treaties to which one or both of the Contracting Parties were party before this Treaty entered into force.

Article 30. ENTRY INTO FORCE OF THE TREATY

This Treaty shall be subject to ratification and shall enter into force 30 days after the exchange of the instruments of ratification, which shall take place in Moscow.

Article 31. PERIOD OF VALIDITY OF THE TREATY

1. This Treaty shall be valid for five years from the day on which it enters into force.

2. The Treaty shall remain in force for subsequent five-year periods unless one of the Contracting Parties denounces it by notifying the other Contracting Party in writing six months prior to the date of expiry of this Treaty.

DONE in Helsinki on 11 August 1978, in duplicate in the Finnish and Russian languages, both texts being equally authentic.

For the President of the Republic of Finland:

PAAVO NIKULA

For the Supreme Soviet of the Union of Soviet Socialist Republics:

VLADIMIR IVANOVICH TEREBILOV

PROTOCOL TO THE TREATY BETWEEN THE REPUBLIC OF FINLAND
AND THE UNION OF SOVIET SOCIALIST REPUBLICS CONCERNING
THE PROVISION OF LEGAL PROTECTION AND LEGAL ASSISTANCE
IN CIVIL, FAMILY AND CRIMINAL CASES SIGNED AT HELSINKI
ON 11 AUGUST 1978

In signing on this date the Treaty between the Republic of Finland and the Union of Soviet Socialist Republics concerning the Provision of Legal Protection and Legal Assistance in Civil, Family and Criminal Cases, the plenipotentiaries of the Contracting Parties confirmed the following:

1. Application for the service of documents in criminal cases may be made only by the courts of the Republic of Finland and by the courts and the organs of the procurator's office of the Union of Soviet Socialist Republics.
2. Application for the institution of criminal proceedings may be made mutually only by the official prosecutor of the Republic of Finland and by the organs of the procurator's office of the Union of Soviet Socialist Republics.
3. In the Republic of Finland criminal proceedings for an offence committed abroad shall be instituted by order of the Chancellor of Justice.
4. Application for the service of documents in criminal cases and for the institution of criminal proceedings mentioned in paragraphs 1 and 2 of this Protocol shall be made in the manner prescribed in article 4 of the Treaty.

This Protocol, which is an integral part of the above Treaty, has been drawn up in duplicate in the Finnish and Russian languages, both texts being equally authentic.

DONE in Helsinki on 11 August 1978.

For the President of the Republic of Finland:

PAAVO NIKULA

For the Presidium of the Supreme Soviet of the Union of Soviet Socialist Republics:

VLADIMIR IVANOVICH TEREBILOV