

**No. 21201**

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**FINLAND  
and  
POLAND**

**Agreement on legal protection and legal assistance in civil,  
family and criminal cases. Signed at Helsinki on  
27 May 1980**

*Authentic texts: Finnish and Polish.*

*Registered by Finland on 1 August 1982.*

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**FINLANDE  
et  
POLOGNE**

**Accord relatif à la protection et à l'assistance légales en ma-  
tière civile, familiale et pénale. Signé à Helsinki le  
27 mai 1980**

*Textes authentiques : finnois et polonais.*

*Enregistré par la Finlande le 1<sup>er</sup> août 1982.*

## [TRANSLATION — TRADUCTION]

AGREEMENT<sup>1</sup> BETWEEN THE REPUBLIC OF FINLAND AND THE  
POLISH PEOPLE'S REPUBLIC ON LEGAL PROTECTION AND  
LEGAL ASSISTANCE IN CIVIL, FAMILY AND CRIMINAL CASES

The President of the Republic of Finland and the Council of State of the Polish People's Republic,

Affirming their desire to develop and deepen legal co-operation between them in civil, family and criminal cases in accordance with the Final Act of the Conference on Security and Co-operation in Europe, signed on 1 August 1975 at Helsinki,<sup>2</sup>

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

The President of the Republic of Finland: Christoffer Taxell, Minister of Justice of the Republic of Finland;

The Council of State of the Polish People's Republic: Jerzy Bafia, Minister of Justice of the Polish People's Republic,

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

## CHAPTER I. GENERAL PROVISIONS

*Article 1.* LEGAL PROTECTION

1. In respect of their persons and property, nationals of either Contracting Party shall enjoy in the territory of the other Contracting Party the same legal protection before the courts, prosecutorial authorities and other authorities competent in civil, family and criminal cases as nationals of the latter Party.

2. Nationals of either Contracting Party shall have free and unimpeded access to the authorities of the other Contracting Party which are mentioned in paragraph 1 of this article; they may appear before the said authorities, present petitions and institute proceedings under the same conditions as nationals of the latter Party.

3. The provisions of this Agreement shall apply, *mutatis mutandis*, to bodies corporate established in the territory of the Contracting Parties in conformity with their law and to other organizations competent to appear as parties in court proceedings.

*Article 2.* LEGAL ASSISTANCE

1. The courts and procurators' offices of the Contracting Parties, hereinafter referred to in this Agreement as "judicial authorities", shall provide one another on request with legal assistance in civil and criminal cases.

2. Other authorities competent in civil, family and criminal cases shall address requests for legal assistance through the judicial authorities of the applicant Party.

<sup>1</sup> Came into force on 16 October 1981, i.e., 30 days after the date of the exchange of the instruments of ratification, which took place at Warsaw on 15 September 1981, in accordance with article 29.

<sup>2</sup> *International Legal Materials*, vol. XIV, 1975, p. 1292.

*Article 3. EXTENT OF LEGAL ASSISTANCE*

1. The Contracting Parties shall provide each other on request with legal assistance, in conformity with the law of the Contracting Party applied to, through the service of documents, the interrogation of witnesses, experts, litigants and other persons, the transmittal of evidence, the conduct of expert examinations and inspections, the institution of criminal proceedings and the transmittal of other information and documents.

2. The Party applied to shall carry out the measures provided for in this Agreement promptly and in conformity with the most expeditious procedure provided for by its own law. The Party applied to shall take all necessary measures to ensure due compliance with the request for legal assistance.

*Article 4. CENTRAL AUTHORITIES*

The Contracting Parties shall communicate with each other through their central authorities. For the purposes of this Agreement the central authorities are:

- (a) For the Republic of Finland: the Ministry of Justice
- (b) For the Polish People's Republic:
  - The Ministry of Justice, and
  - The Office of the Procurator General.

*Article 5. REQUESTS FOR LEGAL ASSISTANCE*

1. Requests for legal assistance must be in writing and, depending on the substance of the request, must contain the following information:

- (a) The title of the applicant authority;
- (b) The title of the authority applied to;
- (c) The title of the case to which the request for legal assistance relates and the substance of the request;
- (d) The given names and surnames, nationality, occupation and place of domicile or residence of the persons concerned;
- (e) The names and addresses of agents and counsel of the persons referred to in subparagraph (d) above;
- (f) The title of the document to be served;
- (g) Where necessary, a report concerning the circumstances of the case and a list of the documents and other evidence required;
- (h) In criminal cases, in addition, the particulars of the circumstances of the offence and the legal specification of the offence.

2. Requests for legal assistance must be signed by a competent person and bear a seal.

*Article 6. PROCEDURE IN CONNEXION WITH REQUESTS FOR LEGAL ASSISTANCE*

1. The authority applied to shall render legal assistance in accordance with the procedure provided for under its own law. The said authority may, however, accede to a request for application of the judicial regulations of the applicant Party if they are not contrary to the law of the Party applied to.

2. If the authority applied to is not competent to render legal assistance, it shall transmit the request to the competent authority and shall so notify the applicant authority.

3. At the request of the applicant authority, the authority applied to shall, at the appropriate time, notify the applicant authority of the date and place of execution of the request. At the request of the applicant authority, the authority applied to shall send a similar notification to the parties, so that they may be present at the execution of the request, even if the authority applied to is not obliged to do so under its domestic law.

4. The authority applied to shall notify the applicant authority, in writing, of the action taken in connexion with the execution of the request. If the request cannot be executed, the authority applied to shall so notify the applicant authority in writing, stating the reasons therefor, and shall return the documents.

#### *Article 7. SERVICE OF DOCUMENTS*

1. A Contracting Party shall serve documents provided that they are drawn up in an official language of that Contracting Party or are accompanied by a certified translation into that language. However, the authority applied to shall serve a document which is not drawn up in the language specified in this article provided that the person on whom it is to be served is willing to accept it.

2. Documents containing a notice or summons to appear before an authority of the applicant Contracting Party shall be transmitted to the Party applied to not later than 90 days before the date of appearance specified in the notice or summons.

3. The document or a copy thereof shall be attached to the request for service; it shall be attached in two copies.

4. A document relating to a notice or summons to appear before an authority of the applicant Party shall not make reference to measures of constraint in the event of failure to appear.

#### *Article 8. CONFIRMATION OF SERVICE OF DOCUMENTS*

Service of documents shall be confirmed in accordance with the regulations in force in the territory of the Contracting Party applied to. Such confirmation shall indicate the date, place and manner of service, and also the person on whom the document has been served.

#### *Article 9. THE RIGHT TO REFUSE TO GIVE EVIDENCE*

1. A person who, in consequence of a request for legal assistance, has been summoned as a witness or expert by an applicant authority or authority applied to of a Contracting Party shall have the right to refuse to give evidence or an opinion, provided that he has the right or the obligation to make such a refusal under the law of the applicant Contracting Party or the Contracting Party applied to.

2. Where necessary, the applicant authority shall attach to the request information concerning the regulations of that Party governing the rights and obligations referred to in paragraph 1 of this article.

#### *Article 10. IMMUNITY OF WITNESSES, EXPERTS, LITIGANTS AND DEFENDANTS*

1. No witness, expert or litigant, irrespective of nationality, who, in response to a notice or summons, voluntarily appears before the authorities of the applicant Contracting Party may be prosecuted, detained or subjected to other measures of constraint or punished for an act committed prior to his arrival in the territory of the applicant Party.

2. No person, irrespective of nationality, who, in response to a summons, appears voluntarily before an authority of the applicant Contracting Party as a defendant in respect of an offence which is the subject of proceedings against him may be prosecuted, detained or subjected to other measures of constraint or punished for an act committed prior to his arrival in the territory of the applicant Party, unless the said act has been specified in the summons.

3. The immunity provided for in paragraphs 1 and 2 of this article shall terminate if the person concerned remains for a period of 15 consecutive days beyond the time when he is officially notified that his presence is no longer required and, although able to leave, remains in the territory of the applicant Party or returns to that territory after leaving it. The said period shall not include time during which the person is unable to quit the said territory for reasons beyond his control.

4. A person referred to in paragraphs 1 and 2 of this article who fails to appear in spite of service on him of a notice or summons to do so shall not be punished or subjected to other measures of constraint by reason of such failure to appear.

5. A request for service of a summons on a witness or expert must indicate the amount of reimbursable expenses for travel and subsistence and, in the case of an expert, the amount of remuneration for his services. At the request of such persons, the applicant Party shall make an advance payment to cover expenses.

#### *Article 11.* AUTHENTICATION OF DOCUMENTS

Documents transmitted by one Contracting Party to the other Contracting Party in connexion with the rendering of legal assistance shall not require authentication.

#### *Article 12.* ISSUANCE OF DOCUMENTS ATTESTING CIVIL STATUS AND OTHER DOCUMENTS

On the basis of this Agreement, each Contracting Party shall, on request and in conformity with its own law, make available to the other Contracting Party documents relating to civil status, educational certificates, employment certificates and other documents affecting the individual rights and interests of nationals of the latter Contracting Party. Such documents shall be made available to the latter Contracting Party without translation and free of charge.

#### *Article 13.* DENIAL OF LEGAL ASSISTANCE

1. Legal assistance may be denied if rendering it might impair the sovereignty or prejudice the security of the Contracting Party applied to or would contravene the fundamental principles of its law.

2. Furthermore, legal assistance may be denied in criminal cases if:

- (a) The case concerns an act which is not recognized as an offence under the law of the Party applied to;
- (b) The case concerns an act for which, under the law of the Party applied to, prosecution is inadmissible for reasons of lapse of time, demency or on other legal grounds;
- (c) The case concerns an act in connexion with which, in the territory of the Party applied to, the institution of legal proceedings has been denied or such proceedings have been discontinued or a judgement has been rendered;
- (d) Preliminary or judicial proceedings are pending in the territory of the Party applied to.

*Article 14. LANGUAGES*

1. With the exception provided for in article 7, paragraph 1, of this Agreement, the request for legal assistance and the documents annexed thereto shall be accompanied by a certified translation into an official language of the Party applied to or into the English language if the document in question is not drawn up in one of those languages.

2. The reply and all other information provided by the Party applied to shall be drawn up in an official language of the Party applied to or of the applicant Party or in the English language.

3. If under the provisions of this Agreement it is required that a certified translation into an official language of the Party applied to should be attached to the documents, such translation must be certified by an official translator, by a notary, by the applicant authority or by a diplomatic representative or consular official of one of the Contracting Parties.

4. The official languages of the Republic of Finland are Finnish and Swedish. The official language of the Polish People's Republic is Polish.

*Article 15. EXCHANGE OF INFORMATION*

The central authorities of the Contracting Parties shall, on request, provide each other with information concerning their law currently or formerly in force and concerning judicial practice with regard to legal problems arising in connexion with the application of this Agreement.

*Article 16. COSTS OF LEGAL ASSISTANCE*

The Contracting Parties shall not require from each other reimbursement of costs arising from the rendering of legal assistance.

*Article 17. EXEMPTION FROM DEPOSIT OF SECURITY FOR LEGAL COSTS*

Nationals of either Contracting Party who appear before the courts of the other Contracting Party shall not be required to pay security or a deposit on the ground that they are aliens or have no domicile or residence in the territory of the latter Contracting Party.

*Article 18. EXEMPTION FROM COURT COSTS*

Nationals of either Contracting Party who appear before the courts or other authorities of the other Contracting Party shall enjoy exemption from court costs on the same grounds and to the same extent as nationals of the latter Party.

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

1. Certificates relating to personal, family and property status which are required for the purposes of exemption from court costs 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 a Contracting Party who seeks exemption from court costs is not domiciled or resident in the territory of either of the Contracting Parties, a certificate may be issued or authenticated by a diplomatic representative or consular official of the State of which he is a national.

3. The authority competent to grant exemption from court costs may ask the authority issuing the certificate for additional information.

*Article 20. REQUEST FOR EXEMPTION FROM COURT COSTS*

A national of one of the Contracting Parties who intends to seek exemption from court costs in accordance with article 18 of this Agreement from the authorities of the other Contracting Party may make a request in that connexion to the competent authority of the Contracting Party in whose territory he is domiciled or resident. The said authority shall transmit the request, together with the certificates issued in accordance with article 19 of this Agreement, to the competent authority of the other Contracting Party.

CHAPTER II. SPECIAL PROVISIONS RELATING TO CIVIL  
AND FAMILY CASES

*Article 21. MARRIAGE*

1. The form of marriage shall be that prescribed by the law of the Contracting Party in whose territory the marriage is solemnized.

2. The conditions for the marriage of nationals of the Contracting Parties shall be those prescribed by the law of the Contracting Party in whose territory the marriage is solemnized, provided that one of the prospective spouses is a national of that Contracting Party or is domiciled in its territory.

*Article 22. JUDGEMENTS RELATING TO DIVORCE, SEPARATION  
AND ANNULMENT OF MARRIAGE*

Final judgements issued in the territory of either Contracting Party decreeing the divorce, separation or annulment of marriage of nationals of the Contracting Parties shall be recognized in the territory of the other Contracting Party, provided that:

- (a) Both spouses were nationals of the Contracting Party whose authority issued the judgement;
- (b) Both spouses were domiciled in the territory of the Contracting Party whose authority issued the judgement; or
- (c) One of the spouses was a national of one Contracting Party, and the other a national of the other Contracting Party, and one of them was domiciled in the territory of the Contracting Party whose authority issued the judgement.

*Article 23. DECLARATION OF PERSONS AS MISSING OR DEAD  
AND ESTABLISHMENT OF THE FACT OF DEATH*

Final judgements declaring a person to be missing or dead or establishing the fact of his death and issued by a court of either Contracting Party shall be recognized in the territory of the other Contracting Party if the person was a national of the Contracting Party whose court issued the judgement at the time when, according to the last available report, the person was alive.

*Article 24. DENIAL OF RECOGNITION AND PROCEEDINGS FOR RECOGNITION*

1. Recognition of a judgement referred to in article 22 or 23 of this Agreement may be denied if:

- (a) The judgement was issued before the entry into force of this Agreement;
- (b) Proceedings undertaken previously between the same parties and in the same matter are pending before an authority of the Party applied to;

- (c) The judgement is contrary to a judgement issued in the territory of the Party applied to or a judgement issued in a third State which satisfies the conditions for recognition and relates to the same parties and the same matter in proceedings instituted before the proceedings in which the first of the judgements was issued;
- (d) The judgement was issued in proceedings during which a party was not present and was not notified of the institution of the proceedings in good time to enable him to take part in the proceedings, or
- (e) Recognition is contrary to the fundamental principles of the law of a Contracting Party.

2. Proceedings for recognition of a judgement shall be subject to the law of the Contracting Party in whose territory recognition is to take place.

3. The provisions of articles 22 and 23 of this Agreement shall be without prejudice to the possibility of recognition of judgements by the Contracting Parties in other cases.

#### *Article 25. MATTERS OF SUCCESSION*

Nationals of either Contracting Party shall have the same right to inherit property and rights which are enforceable in the territory of the other Contracting Party and to make and revoke testamentary dispositions relating to such property and rights as nationals of the other Contracting Party who reside in the territory of that Party. The property and rights shall be transferred to them in consequence of statutory or testamentary succession under the same conditions as are prescribed for nationals resident in the territory of the latter Party.

### CHAPTER III. SPECIAL PROVISIONS RELATING TO CRIMINAL MATTERS

#### *Article 26. REQUEST FOR THE INSTITUTION OF CRIMINAL PROCEEDINGS*

1. Each Contracting Party shall, at the request of the other Contracting Party, institute criminal proceedings in accordance with its own law against a person who is its own national and is suspected of having committed an offence in the territory of the other Contracting Party.

2. The request for the institution of criminal proceedings must be drawn up in writing and contain the following information:

- (a) The name of the applicant authority;
- (b) A description of the offence in connexion with which the request for the institution of proceedings is submitted and, where possible, a detailed description of the time and place of the offence;
- (c) The legal provisions of the applicant Party on the basis of which the act is considered an offence;
- (d) Accurate information relating to the identity of the suspected person, his nationality and place of domicile or residence and, where necessary, a description of his person.

3. The request for the institution of proceedings must be accompanied by certified copies of the documents of the preliminary proceedings and any physical evidence which is in the possession of the applicant Party. It shall not be necessary to attach to the documents of the preliminary proceedings the translations referred to in



article 14, paragraph 1, of this Agreement. The request must be signed and bear a seal.

4. In transmitting the physical evidence referred to in paragraph 3 of this article, the regulations limiting the import and export of objects shall not be applied except where the transmittal of such evidence would threaten the security of the Party applied to or would be contrary to the fundamental principles of its law.

5. The Party applied to shall notify the applicant Party of the method of execution of the request and of the result of the criminal proceedings and shall transmit a copy of the judgement rendered in the matter.

*Article 27.* PROVISION OF INFORMATION RELATING TO CRIMINAL JUDGEMENTS

The Contracting Parties shall provide each other, on request, with information concerning final judgements rendered in criminal matters by a court of the Party applied to in connexion with persons accused of having committed offences in the territory of the applicant Party.

CHAPTER IV. FINAL PROVISIONS

*Article 28.* RELATIONSHIP TO OTHER INTERNATIONAL TREATIES

The provisions of this Agreement shall be without prejudice to the rights and obligations of the Contracting Parties which arise out of other international treaties concluded by them before the entry into force of this Agreement.

*Article 29.* ENTRY INTO FORCE OF THE AGREEMENT

This Agreement is subject to ratification and shall enter into force after the expiry of 30 days from the date of the exchange of the instruments of ratification, which shall take place at Warsaw.

*Article 30.* PERIOD OF VALIDITY OF THE AGREEMENT

1. This Agreement is concluded for a period of five years.

2. If the Agreement is not denounced, it shall be automatically extended for additional periods of five years. Denunciation shall take place through notification not later than six months before the expiry of each five-year period.

DONE at Helsinki on 27 May 1980, in duplicate in the Finnish and Polish languages, both texts being equally authentic.

For the President of the Republic of Finland:

CHRISTOFFER TAXELL

For the Council of State of the Polish People's Republic:

JERZY BAFIA