

No. 21260

**FINLAND
and
HUNGARY**

**Agreement on legal protection and legal assistance in civil,
family and criminal matters. Signed at Budapest on
22 May 1981**

*Authentic texts: Finnish, Hungarian and English.
Registered by Finland on 24 September 1982.*

**FINLANDE
et
HONGRIE**

**Accord relatif à la protection et à l'assistance légales en ma-
tière civile, familiale et pénale. Signé à Budapest
le 22 mai 1981**

*Textes authentiques : finnois, hongrois et anglais.
Enregistré par la Finlande le 24 septembre 1982.*

AGREEMENT¹ BETWEEN THE REPUBLIC OF FINLAND AND THE HUNGARIAN PEOPLE'S REPUBLIC ON LEGAL PROTECTION AND LEGAL ASSISTANCE IN CIVIL, FAMILY AND CRIMINAL MATTERS

The President of the Republic of Finland and the Presidential Council of the Hungarian People's Republic,

Confirming their endeavour, in accordance with the Final Act of the Conference on Security and Co-operation in Europe signed at Helsinki on 1 August 1975,² to develop and enhance mutual judicial co-operation in civil, family and criminal matters,

Have decided to conclude this Agreement and for this purpose appointed as their authorized representatives:

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

The Presidential Council of the Hungarian People's Republic: Mr. Imre Markója, Minister of Justice of the Hungarian People's Republic,

who, having exchanged their powers of attorney found to be in due order, have agreed as follows:

CHAPTER I. GENERAL PROVISIONS

Article 1. LEGAL PROTECTION

1. The nationals of one Contracting Party shall in the territory of the other Contracting Party before the courts and other authorities competent to deal with civil, family and criminal matters be entitled to the same legal protection concerning their person and property as the nationals of that Contracting Party.

2. The nationals of one Contracting Party shall freely and without obstacles have access to the authorities of the other Contracting Party referred to in paragraph 1 of this Article, appear before them, make applications and institute legal proceedings under the same conditions as the nationals of that Contracting Party.

3. The provisions of this Agreement shall also apply to the legal persons, established within the territories of the Contracting Parties in conformity with the provisions of their legislation and to other entities capable to appear as a party in court proceedings.

Article 2. LEGAL ASSISTANCE

1. The judicial authorities (the courts and public prosecutors) of the Contracting Parties shall upon request give each other legal assistance in civil, family and criminal matters.

2. Other authorities competent to deal with civil, family and criminal matters shall submit the requests for legal assistance through the judicial authorities of the requesting Party.

¹ Came into force on 1 August 1982, i.e., 30 days after the exchange of the instruments of ratification, which took place at Helsinki on 2 July 1982, in accordance with article 29.

² *International Legal Materials*, vol. 14 (1975), p. 1292 (American Society of International Law).

Article 3. THE SCOPE OF LEGAL ASSISTANCE

1. The Contracting Parties shall upon request afford each other legal assistance in accordance with the requirements provided for by the legislation of the Party addressed in particular by service of documents, hearing of witnesses, experts and interested persons, transmitting articles to be produced in evidence, investigations by experts and inspections.

2. The measures provided for by this Agreement shall be taken by the Party addressed without delay and according to the most expedient procedure prescribed by its internal law. The Party addressed shall take all the necessary steps to ensure the proper execution of the request for legal assistance.

Article 4. CHANNELS OF COMMUNICATION

1. The judicial authorities of the Contracting Parties shall communicate with each other in matters relating to legal assistance through Central Authorities.

2. For the purpose of the present Agreement the Central Authorities are, on the side of the Republic of Finland, the Ministry of Justice and, on the side of the Hungarian People's Republic, the Ministry of Justice and the General Prosecutor's Office.

Article 5. FORM AND CONTENTS OF THE REQUEST FOR LEGAL ASSISTANCE

1. The request for legal assistance shall be in writing and it shall indicate:

- a) The requesting authority and the authority requested to execute the request, if known to the requesting authority;
- b) The object and the contents of the request;
- c) The names, the nationality, the occupation and the habitual or present residence of the persons concerned;
- d) The names and addresses of the representatives of the persons referred to in subparagraph c) of this paragraph;
- e) In a request for service of documents, the document to be served;
- f) Where necessary, an account of the facts, on which evidence is to be produced and a list of the required documents and other evidence;
- g) In criminal matters in addition an account of the facts constituting the criminal offence and a description of its legal qualification.

2. Any request for legal assistance shall bear a signature of the competent person as well as a seal.

Article 6. PROCEDURE FOR THE EXECUTION OF THE REQUEST FOR LEGAL ASSISTANCE

1. The authority which executes the request shall apply its own law as to the methods and procedures to be followed. However, such authority shall upon request apply other methods and procedures, if this is not incompatible with the law of the Party addressed.

2. Where the requested authority is not competent to execute the request, it shall be transmitted to the competent authority and the requesting authority shall be duly informed thereof.

3. The requesting authority shall, if it so desires, be duly in advance informed of the date and place where the request is to be executed. This information shall

equally be sent to the parties so that they may be present in accordance with the law of the Party addressed.

4. The requesting authority shall be informed in writing of the execution of the request. If the request cannot be executed, the authority of the Party addressed shall inform the requesting authority thereof in writing, state the reasons why the request has not been executed and return the relevant documents.

Article 7. SERVICE OF DOCUMENTS

1. Service of documents shall be effected by the Contracting Party if the document to be served is in the official language or one of the official languages of that Contracting Party or is accompanied by a certified translation into that language. A document drawn up in a language other than those specified in this Article shall, however, be served by delivery to an addressee who accepts it voluntarily.

2. Documents concerning an invitation or a writ of summons before an authority of the requesting Party must be transmitted to the Party addressed no later than forty-five days before the date mentioned as the date set for appearance in the invitation or writ of summons.

3. The request shall be accompanied by the document to be served or a copy thereof. They shall be furnished in duplicate.

4. A document concerning an invitation or a writ of summons before the authority of the requesting Party shall not contain a notice of any measures of compulsion in case of failure to appear.

Article 8. CERTIFICATE ON SERVICE OF DOCUMENTS

The certificate that the document has been served shall be drawn up in accordance with the rules laid down within the territory of the Party addressed. The certificate shall state the time, place and method of service as well as the name of the person to whom the document was delivered.

Article 9. REFUSAL TO GIVE EVIDENCE

1. A witness or expert, who in pursuance of a request for legal assistance appears before an authority of either of the Contracting Parties, is entitled to refuse to give evidence or a statement in so far as he has a privilege or duty to refuse to give the evidence or the statement under the law of the requesting Party or of the Party addressed.

2. The requesting authority shall attach to the request an account of the laws of the requesting Party governing the privileges and duties referred to in paragraph 1 of this Article.

Article 10. THE IMMUNITY OF A WITNESS, EXPERT, PARTY AND ACCUSED PERSON

1. A person, whatever his nationality, appearing of his own free will as a witness, expert or party upon invitation or writ of summons before the authorities of the requesting Party shall not in the territory of that Party, be liable to prosecution or detention or subjected to any other restriction of his personal liberty in respect of any act or conviction occurring before his arrival in its territory.

2. A person, whatever his nationality, appearing of his own free will upon a writ of summons before the authorities of the requesting Party to answer for acts forming the subject of proceedings against him, shall not in the territory of that Par-

ty, be liable to prosecution or detention or subjected to any other restriction of his personal liberty in respect of any act or conviction occurring before his arrival in its territory and not specified in the writ of summons.

3. The immunity provided for in paragraphs 1 and 2 of this Article shall cease when the person concerned having had, for a period of eight consecutive days from the date when he was informed by the judicial authorities that his presence is no longer required, an opportunity of leaving has nevertheless remained in the territory of the requesting Party or, having left it, has voluntarily returned. This period does not include any lapse of time during which such a person is unable to leave the said territory for reasons not dependent on him.

4. No person referred to in paragraphs 1 and 2 of this Article, who has failed to answer an invitation or a writ of summons to appear, service of which has been requested, shall be subjected to any punishment or other measures of restraint because of that failure.

5. A request for service of an invitation or a writ of summons upon a witness or an expert shall indicate the scope of travel and subsistence expenses to be reimbursed, compensation to be paid and, in relation to the expert, the remuneration for his work. Upon demand by such person the requesting Party shall deposit an advance on the expenses.

Article 11. LEGALISATION OF DOCUMENTS

Documents issued or authenticated by the competent authorities of a Contracting Party shall in the application of this Agreement be accepted by the other Contracting Party without any further legalisation or other analogous formality.

Article 12. ISSUE OF EXTRACTS FROM POPULATION REGISTERS AND OTHER DOCUMENTS

In application of this Agreement the Contracting Parties shall in conformity with the provisions of their legislation upon request issue each other extracts from population registers, educational certificates and certificates of employment and other documents relating to the personal rights of nationals of the other Contracting Party and of persons habitually resident in its territory. Such extracts and documents shall be issued without translation and free of charge.

Article 13. REFUSAL OF LEGAL ASSISTANCE

1. Legal assistance may be refused if it is likely to prejudice the sovereignty or security of the Party addressed or if it is incompatible with the basic principles of its law.

2. Legal assistance in criminal matters may, in addition, be refused if:

- a) The matter concerns an offence which is not punishable under the law of the Party addressed, including in particular fiscal offences;
- b) The matter concerns an offence in respect of which the person who has been charged in the territory of the requesting Party is on trial or has been definitively convicted or acquitted in the territory of the Party addressed;
- c) When the offence is one which is already the subject of investigation in the territory of the Party addressed;
- d) The competent authorities of the Party addressed have decided to abandon the investigation or proceedings or not to initiate them for the offence in question; or

- e) The prosecution or enforcement of sentence is time-barred under the law of the Party addressed.

Article 14. LANGUAGES

1. Without prejudice to the provisions of Article 7, paragraph 1, and Article 26, paragraph 3, of this Agreement the request for legal assistance as well as any documents attached thereto shall be accompanied by a certified translation into the official language or one of the official languages of the Party addressed or into English or German, if the document concerned is not drawn up in one of these languages.

2. The reply and any other communication emanating from the Party addressed may be drawn up in the official language or one of the official languages of the requesting Party or of the Party addressed or in English or German.

3. If, according to the provisions of the present Agreement, the documents are to be accompanied by a certified translation into the official language or one of the official languages of the Party addressed or into English or German, these translations shall be made or certified by a sworn translator, notary public, the Central Authority or by a diplomatic officer or consular agent of one of the Contracting Parties.

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

Article 15. EXCHANGE OF INFORMATION

The Central Authorities of the Contracting Parties shall upon request supply each other with information on their legislation in force or formerly in force as well as on the case law in respect to legal questions arising in the application of this Agreement.

Article 16. EXPENSES OR FEES INCURRED BY LEGAL ASSISTANCE

1. The Contracting Parties shall not require from each other any payment or reimbursement of expenses or fees incurred by legal assistance.

2. The Party addressed shall, upon request, inform the requesting Party of the costs and expenses incurred by the execution of the request.

Article 17. EXEMPTION FROM GIVING SECURITY FOR COSTS

No security, bond or deposit of any kind may be imposed upon nationals of the Contracting Parties who appear before the courts of the other Contracting Party, by reason of their foreign nationality or of the absence of habitual or present residence in the territory of that Party.

Article 18. LEGAL AID AND ADVICE

A national of a Contracting Party shall be entitled to legal aid and advice in the territory of the other Contracting Party on the same terms and conditions as nationals of the latter Contracting Party.

Article 19. CERTIFICATES FOR LEGAL AID OR ADVICE

1. Certificates of personal, family and economic status possibly required for obtaining legal aid or advice shall be issued by the competent authorities of the Contracting Party in whose territory the person concerned has his habitual or present residence.

2. If the national of a Contracting Party applying for legal aid or advice does not have his habitual or present residence in the territory of either of the Contracting Parties, the certificates may be issued or certified by the diplomatic officer or consular agent of the Party of which he is a national.

3. The authority competent to grant legal aid or advice may request for supplementary information from the authority issuing the certificate concerned.

Article 20. APPLICATIONS FOR LEGAL AID OR ADVICE

A national of a Contracting Party who wishes to apply for legal aid or advice mentioned in Article 18 of this Agreement from an authority of the other Contracting Party, may submit his application to the competent authority of the Contracting Party in the territory of which he has his habitual or present residence. The latter authority shall send the application together with the certificates given 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 MATTERS

Article 21. DECISIONS RELATING TO DIVORCES

Decisions, which no longer are subject to ordinary forms of review given in the territory of a Contracting Party and by which divorce has been pronounced to the nationals of the Contracting Parties, shall be recognized in the territory of the other Contracting Party if

- a) Both spouses were nationals of the Contracting Party whose authority has given the decision; or
- b) Both spouses had their habitual residence in the territory of the Contracting Party whose authority has given the decision.

Article 22. DECLARATIONS OF DISAPPEARANCE OR DEATH AND CONFIRMATION OF DEATH

A decision relating to declaration of disappearance or death or a confirmation of death given by the court of one Contracting Party and which no longer is subject to ordinary forms of review shall be recognized in the territory of the other Contracting Party, if the person concerned, at the time he was last known to be alive, was a national of the Contracting Party whose court has given the decision.

Article 23. REFUSAL OF RECOGNITION AND RECOGNITION PROCEEDINGS

1. Recognition of a decision referred to in Articles 21 and 22 of this Agreement may be refused if

- a) The decision was rendered before this Agreement had entered into force;
- b) Proceedings between the same parties and having the same purpose are pending before an authority of the Party where recognition is sought and those proceedings were the first to be instituted;
- c) The decision is incompatible with a decision rendered in the territory of the Party where recognition is sought or incompatible with a decision which shall be recognized by that Party, between the same parties and having the same purpose, in proceedings instituted before the proceedings where the first mentioned decision was rendered;

- d) The decision was rendered in proceedings in the absence of the respondent who had not received notice of the institution of the proceedings in sufficient time to enable him to defend the proceedings; or
 - e) The recognition is incompatible with the basic principles laid down in the law of the Party where recognition is sought.
2. The procedure possibly necessary for recognition of a decision shall be governed by the internal law of the Party where recognition is sought.

Article 24. EQUAL TREATMENT WITH RESPECT TO INHERITANCE

The nationals of a Contracting Party shall be entitled to inherit property and rights to be enforced in the territory of the other Contracting Party as well as to make and revoke a testamentary disposition relating to such property and rights on the same basis as nationals of the latter Contracting Party. They shall be entitled to obtain property and rights by intestate succession and through a testamentary disposition on the same conditions as the nationals of that Contracting Party, residing in the territory of that Party.

Article 25. THE FORM OF TESTAMENTARY DISPOSITIONS

1. A testamentary disposition made by a national of a Contracting Party shall be valid as regards form if its form complies with the internal law:
- a) Of the State where the testator made it; or
 - b) Of the Contracting Party of which the testator was a national when he made the disposition or at the time of his death; or
 - c) Of the State in which territory he had his domicile or habitual residence at either of these moments; or
 - d) So far as immovables are concerned, of the State where the immovables are situated.
2. The provisions of paragraph 1 of this Article shall also apply to the revocation of a testamentary disposition.

CHAPTER III. SPECIAL PROVISIONS RELATING TO CRIMINAL MATTERS

Article 26. REQUEST FOR CRIMINAL PROCEEDINGS

1. Each Contracting Party shall at the request of the other Contracting Party take proceedings, in accordance with its own legislation, if the suspected person is a national of the Party addressed or a national of the requesting Party resident in the territory of the Party addressed, and under suspicion of an offence committed in the territory of the requesting Party.
2. The request shall be made in writing and it shall indicate as follows:
- a) The requesting authority;
 - b) A description of the offence giving rise to the request for proceedings and a description as detailed as possible of the time and place of the offence;
 - c) The provisions of the legislation of the requesting Party under which the offence in question is punishable; and
 - d) A detailed description of the identity of the person under suspicion and of his nationality, habitual or present residence and, if necessary, data suitable for the identification of the person concerned.

3. The request for proceedings shall be accompanied by the certified copies of the records of the investigation and material evidence at the disposal of the requesting Party. The provisions of paragraph 1 of Article 14 of this Agreement concerning the translation of documents attached to the request will not be applied. The request shall bear a signature as well as a seal.

4. The Party addressed shall notify the requesting Party of the decision relating to the execution of the request and, where proceedings have been taken, of the result of the proceedings and transmit a copy of the decision.

Article 27. INFORMATION CONCERNING JUDGEMENTS
IN CRIMINAL MATTERS

The Contracting Parties shall upon request supply each other with information on judgements in criminal matters given by a court of the Party addressed concerning persons who are accused of an offence in the territory of the requesting Party on condition that such judgements no longer are subject to ordinary forms of review.

CHAPTER IV. FINAL CLAUSES

Article 28. OTHER INTERNATIONAL AGREEMENTS

The Provisions of this Agreement shall not affect the rights and obligations of either Contracting Party under any other international agreement which they may have concluded before the entry into force of this Agreement.

Article 29. ENTRY INTO FORCE

This Agreement shall be subject to ratification and it shall enter into force on the thirtieth day after the exchange of the instruments of ratification which shall take place at Helsinki.

Article 30. DURATION OF THE AGREEMENT

1. This Agreement shall remain in force for five years from the date of its entry into force. If there has been no denunciation, it shall be renewed tacitly every five years.

2. Any denunciation shall be notified by a diplomatic note at least six months before the expiry of any five-year period.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto, have signed this Agreement and put their official seal on it.

DONE at Budapest, on the 22nd day of May 1981 in two original copies in the Finnish, Hungarian and English languages, all texts being equally authentic. However, in case divergencies between the texts arise, the English text shall prevail.

Authorized by the President of the Republic of Finland:

CHRISTOFFER TAXELL

Authorized by the Presidential Council of the Hungarian People's Republic:

IMRE MARKÓJA