

No. 21872

**UNION OF SOVIET SOCIALIST REPUBLICS
and
VIET NAM**

**Treaty concerning legal assistance in civil, family and criminal
cases. Signed at Moscow on 10 December 1981**

Authentic texts: Russian and Vietnamese.

Registered by the Union of Soviet Socialist Republics on 18 April 1983.

**UNION DES RÉPUBLIQUES SOCIALISTES
SOVIÉTIQUES
et
VIET NAM**

**Traité relatif à l'entraide judiciaire en matière civile, familiale
et pénale. Signé à Moscou le 10 décembre 1981**

Textes authentiques : russe et vietnamien.

Enregistré par l'Union des Républiques socialistes soviétiques le 18 avril 1983.

[TRANSLATION — TRADUCTION]

TREATY¹ BETWEEN THE UNION OF SOVIET SOCIALIST REPUBLICS
AND THE SOCIALIST REPUBLIC OF VIET NAM CONCERNING
LEGAL ASSISTANCE IN CIVIL, FAMILY AND CRIMINAL CASES

The Presidium of the Supreme Soviet of the Union of Soviet Socialist Republics and the State Council of the Socialist Republic of Viet Nam,

Desiring to develop the bonds of friendship in accordance with the Treaty of friendship and co-operation between the Union of Soviet Socialist Republics and the Socialist Republic of Viet Nam, of 3 November 1978,²

Attaching great importance to the development of co-operation in the sphere of legal assistance in civil, family and criminal cases,

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

The Presidium of the Supreme Soviet of the Union of Soviet Socialist Republics: Vladimir Ivanovich Terebilov, Minister of Justice of the Union of Soviet Socialist Republics,
The State Council of the Socialist Republic of Viet Nam: Fan Hien, Minister of Justice of the Socialist Republic of Viet Nam,

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 as nationals of the latter Contracting Party.

2. Nationals of either Contracting Party shall have free and unimpeded access to the courts, the procurator's office and notarial organs (hereinafter called "judicial authorities") and to other authorities of the other Contracting Party having jurisdiction in civil, family or criminal cases, and may appear, present petitions, bring actions and institute other proceedings before such authorities under the same conditions as nationals of the other Contracting Party.

3. The provisions of paragraphs 1 and 2 above shall apply to labour cases falling within the jurisdiction of the courts.

4. The provisions of this Treaty shall also apply, *mutatis mutandis*, to bodies corporate of the Contracting Parties.

Article 2. LEGAL ASSISTANCE

1. The judicial authorities of the Contracting Parties shall provide one another with legal assistance in civil (including labour), family and criminal cases in accordance with the provisions of this Treaty.

¹ Came into force on 11 October 1982, i.e., 30 days after the exchange of the instruments of ratification, which took place at Hanoi on 10 September 1982, in accordance with article 75 (2).

² United Nations, *Treaty Series*, vol. 1145, p. 185.

2. The judicial authorities shall also provide legal assistance to other authorities having jurisdiction in the cases referred to in paragraph 1 above.

Article 3. METHOD OF COMMUNICATION

1. In providing legal assistance, the judicial authorities of the Contracting Parties shall communicate with each other, as appropriate, through the Ministry of Justice or the Procurator's Office of the Union of Soviet Socialist Republics and the Ministry of Justice or the Supreme People's Procurator's Office of the Socialist Republic of Viet Nam, unless this Treaty provides otherwise.

2. Other authorities having jurisdiction in civil, family and criminal cases shall send requests for legal assistance through the judicial authorities, unless this Treaty provides otherwise.

Article 4. SCOPE OF LEGAL ASSISTANCE

The Contracting Parties shall provide one another with legal assistance by fulfilling requests for specific acts required in connection with judicial proceedings provided by the law of the Contracting Party applied to, for example, by serving documents, seeking, seizing and delivering material evidence, conducting expert examinations, interrogating accused persons, witnesses, experts, litigants and other persons, conducting judicial inspections *in situ*, and by implementing decisions, handing over persons who have committed crimes, instituting criminal proceedings, transmitting documents and providing information.

Article 5. FORM OF APPLICATIONS FOR LEGAL ASSISTANCE

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

- (1) The title of the applicant authority;
- (2) The title of the authority applied to;
- (3) The title of the case in respect of which legal assistance is applied for;
- (4) The full names of the litigants, or of the suspected or accused persons, and of other persons connected with the application, together with their nationality, occupation and domicile or residence;
- (5) The full names and addresses of their legal representatives;
- (6) The nature of the application and, in criminal cases, a description of the circumstances of the offence and the legal definition of the offence.

2. Applications for legal assistance must bear a signature and the official seal of the applicant authority.

3. In providing legal assistance, the Contracting Parties shall use forms in both the Russian and Vietnamese languages; model forms shall be exchanged.

Article 6. PROCEDURE FOR EXECUTING APPLICATIONS FOR LEGAL ASSISTANCE

1. In executing an application for legal assistance, the authority applied to shall follow the laws of its own State. However, at the request of the applicant authority, it may employ the judicial procedures of the applicant Contracting Party, provided that such procedures do not conflict with the laws of its own State.

2. If the authority applied to is not competent to execute the application, it shall transmit the application to the competent authority.

3. If an application cannot be executed at the address indicated therein, the authority applied to shall take the necessary steps, in accordance with the laws of its own State, to determine the correct address.

4. 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.

5. If it has not been possible to execute an application, the documents shall be returned to the applicant authority, which shall at the same time be advised of the circumstances preventing execution.

Article 7. CALLING OF WITNESSES OR EXPERTS

1. No witness or expert of any nationality who, in response to a summons served on him by the judicial authority applied to, appears before an applicant authority may be prosecuted, taken into custody or punished in the territory of the applicant Contracting Party for an offence committed before he crossed the State frontier. Nor may such persons be prosecuted, taken into custody or punished in connection with their evidence or their conclusions as experts, or in connection with the criminal case which is the subject of the proceedings.

2. The witness or expert shall forfeit the protection provided in paragraph 1 above if, being at liberty to do so, he fails to quit the territory of the applicant Contracting Party within 15 days from the date on which he is informed that his presence is no longer required. Such period of 15 days shall be deemed not to include any period during which the witness or expert may be unable, owing to circumstances beyond his control, to quit the territory of the applicant Contracting Party.

3. Witnesses and experts summoned to the territory of the other Contracting Party are entitled to payment of expenses connected with their travel and stay abroad, and to compensation for any salary or wages they may have lost; in addition, experts are entitled to remuneration for their expert services. The summons must indicate the payments which the persons called are entitled to receive; at their request, the authority of the Contracting Party issuing the summons shall make an advance payment against appropriate expenses.

Article 8. VALIDITY OF DOCUMENTS

1. Documents drawn up or attested in due form in the territory of either Contracting Party by a competent authority shall be accepted in the territory of the other Party without authentication. The same shall be true of documents of nationals which have been signed and witnessed in accordance with the regulations in force in the territory of the Contracting Party concerned.

2. Documents which are considered official documents in the territory of either Contracting Party shall have the evidential value of official documents in the territory of the other Party.

Article 9. TRANSMITTAL OF DOCUMENTS CONCERNING THE PERSONAL RIGHTS AND INTERESTS OF NATIONALS

1. Each Contracting Party shall transmit to the other Contracting Party, in response to requests received through the diplomatic channel, certificates of civil registration, certificates of periods of work and of education, and other documents concerning the personal rights and interests of nationals of the other Contracting Party.

2. Such certificates and documents shall be transmitted to the other Contracting Party through the diplomatic channel untranslated and free of charge.

Article 10. SERVICE OF DOCUMENTS

1. The judicial authority applied to shall serve documents in accordance with the regulations governing such service in force in its own State, provided that the documents to be served are drawn up in the language of that State or are accompanied by a certified translation. In other cases, the judicial authority shall deliver documents to the addressee if he is willing to accept them.

2. Applications for the service of documents must indicate the exact address of the addressee and the title of the document to be served.

3. If the document cannot be served at the address indicated in the application, the authority applied to shall take the necessary steps, in accordance with its laws, to determine the exact address; if the address cannot be determined, the authority applied to shall so inform the applicant authority and shall return to it the documents in question.

Article 11. 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 and place of service and the name of the person on whom the document has been served.

Article 12. SERVICE OF DOCUMENTS ON, AND INTERROGATION OF, OWN NATIONALS

Each Contracting Party shall have the right to serve documents on and to interrogate its own nationals through the intermediary of its diplomatic missions or consular authorities.

Article 13. INFORMATION ON LEGAL QUESTIONS

The Ministry of Justice and the Procurator's Office of the Union of Soviet Socialist Republics, on the one hand, and the Ministry of Justice and the Supreme People's Prosecutor's Office of the Socialist Republic of Viet Nam, on the other hand, shall, on request, provide each other with information concerning the laws in force or formerly in force in their respective States and concerning questions of their application by the judicial authorities.

Article 14. LANGUAGES

In providing legal assistance, the judicial authorities of the Contracting Parties shall use either the Russian or the Vietnamese language, unless this Treaty provides otherwise.

Article 15. COSTS OF LEGAL ASSISTANCE

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

2. The judicial authority applied to shall inform the applicant judicial authority of the amount of the costs incurred. If the applicant authority recovers these costs from the person liable therefor, the sums recovered shall accrue to the Contracting Party whose authority recovered them.

PART II. LEGAL ASSISTANCE AND LEGAL RELATIONS IN CIVIL AND FAMILY CASES

Article 16. EXEMPTION FROM SECURITY FOR LEGAL COSTS

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

Privileges granted in connection with legal proceedings

Article 17

1. Nationals of one Contracting Party shall in the territory of the other Contracting Party be exempted from the payment of stamp tax and legal costs in connection with legal proceedings and shall be entitled to free legal assistance under the same conditions and to the same extent as citizens of the latter Contracting Party.

2. The privileges provided by paragraph 1 above shall extend to all proceedings in connection with the case in question, including enforcement of the judgement.

Article 18

1. The privileges provided by article 17 shall be granted on the basis of the document relating to the personal, family and property status of the applicant. Such document shall be issued by the competent authorities 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 one of the Contracting Parties, a document issued by a diplomatic mission or consular authority of the Contracting Party of which he is a national shall suffice.

Article 19

1. A national of one Contracting Party who wishes to apply in the territory of the other Contracting Party for privileges under article 17 may submit such application through the competent authority of his own State. The said authority shall transmit the application, together with documents issued under article 18 and any other documents submitted by the applicant, to the competent authority of the other Contracting Party.

2. An applicant for privileges under article 17 may at the same time request the institution of proceedings and make an application for appointment of a representative or any other relevant applications.

3. The authority on the application for privileges may require additional data or clarification to be furnished by the authority which issued the document.

Article 20. TERMINATION OF PROCEEDINGS

If proceedings are instituted in the same case between the same litigants and in the same legal dispute in the courts of both Contracting Parties, which have jurisdiction under this Treaty, or in cases not covered by this Treaty, which have jurisdiction under the law of their own State, the court which instituted the proceedings later shall terminate the proceedings and inform the litigants accordingly.

*Personal status and family law**Article 21. LEGAL CAPACITY*

1. Legal capacity shall be determined according to the law of the Contracting Party of which the person concerned is a national.

2. For the purposes of concluding minor everyday transactions, legal capacity shall be determined according to the law of the Contracting Party in whose territory the transaction is concluded.

3. The legal capacity of a body corporate shall be determined in accordance with the law of the Contracting Party under whose law it was incorporated.

*Article 22. DECLARATION OF PERSONS AS MISSING OR DEAD,
AND ESTABLISHMENT OF THE FACT OF DEATH*

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

2. The judicial authorities of one Contracting Party may declare a national of the other Contracting Party missing or dead, or establish the fact of his death, on application by any person resident in its territory whose rights and interests are governed by its law.

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

Article 23. CONTRACT OF MARRIAGE

1. When a marriage is contracted between persons, one of whom is a citizen of one Contracting Party and the other a citizen of the other Contracting Party, the conditions for the contract of marriage shall be determined for each of them by the laws of the Contracting Party of which each is a national. In addition, the legal requirements of the Contracting Party in whose territory the marriage is contracted must be observed with respect to impediments to the contract of marriage.

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

Article 24. PERSONAL AND PROPERTY RELATIONS BETWEEN SPOUSES

1. Personal and property relations between cohabiting spouses shall be determined by the law of the Contracting Party in whose territory they are domiciled.

2. If one spouse is domiciled in the territory of one Contracting Party and the other in the territory of the other Contracting Party, and both have the same nationality, their personal and property relations shall be determined by the law of the Contracting Party of which they are both nationals.

3. If one spouse is domiciled in the territory of one Contracting Party and the other in the territory of the other Contracting Party, and one spouse is a national of one Contracting Party and the other a national of the other Contracting Party, their personal and property relations shall be determined by the law of the Contracting Party in whose territory they had their last common domicile.

4. If the spouses referred to in paragraph 3 above have never had a common domicile, the applicable law shall be that of the Contracting Party in whose court the proceedings are instituted.

5. In matters involving personal and property relations between spouses, the competent authorities shall be the authorities of the Contracting Party whose law is applicable in accordance with paragraphs 1, 2 and 3 above. In the case referred to in paragraph 4 above, the courts of both Contracting Parties shall have jurisdiction.

Article 25. DISSOLUTION OF MARRIAGE

1. In cases of dissolution of marriage, the applicable law shall be that of the Contracting Party of which the spouses are nationals at the time of submission of the petition for dissolution.

2. If one spouse is a national of one Contracting Party and the other a national of the other Contracting Party, the applicable law shall be that of the Contracting Party to whose judicial authority the petition for dissolution is submitted.

3. In the case referred to in paragraph 1 above, the competent authorities shall be the authorities of the Contracting Party of which the spouses are nationals at the time of submission of the petition for dissolution. If at the time of submission of the petition both spouses are domiciled in the territory of the other Contracting Party, the authorities of the latter Contracting Party shall also have jurisdiction.

4. In the case referred to in paragraph 2 above, the competent authorities shall be the authorities of the Contracting Party in whose territory both spouses are domiciled. If one spouse 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 jurisdiction.

Article 26. ANNULMENT OF MARRIAGE

1. In actions to annul a marriage, the applicable law shall be determined in accordance with article 23.

2. The competent authorities in actions to annul a marriage shall be determined in accordance with article 25, paragraphs 3 and 4.

Article 27. LEGAL RELATIONS BETWEEN PARENTS AND CHILDREN

1. In actions to establish or contest paternity, the applicable law shall be that of the Contracting Party of which the child is a national by birth.

2. Legal relations between parents and children shall be determined by the law of the Contracting Party in whose territory they have a common domicile.

3. If the domicile of one or both of the parents is in the territory of one Contracting Party and the domicile of the child is in the territory of the other Contracting Party, the legal relations between them shall be determined by the law of the Contracting Party in whose territory the child is domiciled.

4. In actions to recover maintenance payments from parents in support of children and from children of full legal age in support of parents, the applicable law shall be that of the Contracting Party in whose territory the person claiming the maintenance payments is domiciled.

5. For the purpose of executing decisions concerning the legal relations referred to in paragraph 1 above, jurisdiction shall be exercised by the authorities of the Contracting Party of which the child is a national or in whose territory he is domiciled. In the cases referred to in paragraphs 2, 3 and 4 above, jurisdiction shall be exercised by the authorities of the Contracting Party in whose territory the petitioner is domiciled.

Article 28. ADOPTION

1. With regard to adoption, the applicable law shall be that of the Contracting Party of which the adopter is a national at the time of adoption.

2. If, under the law of the Contracting Party of which the child being adopted is a national, the consent of the child or his legal representatives or the permission of the competent authority is required, adoption shall be subject to such consent or permission.

3. If the child is adopted by a married couple of whom one spouse is a national of one Contracting Party and the other spouse a national of the other Contracting Party, the law of both Contracting Parties shall apply.

4. In adoption proceedings, jurisdiction shall be exercised by the authorities of the Contracting Party of which the adopter is a national. In the case specified in paragraph 3 above, jurisdiction shall be exercised by the authorities of the Contracting Party in whose territory the married couple have or have had a common domicile or residence.

5. The provisions of paragraphs 1, 2, 3 and 4 above shall also apply, *mutatis mutandis*, to termination of adoption.

Guardianship and curatorship

Article 29

1. Save as otherwise provided in this Treaty, guardianship and curatorship over nationals of the Contracting Parties shall be established by the authorities of the Contracting Party of which the prospective ward is a national.

2. The conditions for establishing or terminating guardianship or curatorship shall be determined by the law of the Contracting Party of which the prospective ward is a national.

3. With regard to the legal relations between a guardian or curator and his ward, the applicable law shall be that of the Contracting Party whose authority appointed the guardian or curator.

4. With regard to the obligation to accept the office of guardian or curator, the applicable law shall be that of the Contracting Party of which the person appointed guardian or curator is a national.

5. A national of one Contracting Party may be appointed guardian or curator of a national of the other Contracting Party if the former is domiciled in the territory of the Party in which guardianship or curatorship is to be exercised.

Article 30

1. Where the need arises to appoint a guardian or curator for a national of one Contracting Party whose domicile, residence or property is in the territory of the other Contracting Party, the authority of the latter Contracting Party shall immediately notify the authority having jurisdiction under article 29, paragraph 1.

2. In urgent cases, the authorities of the other Contracting Party may take any necessary provisional measures under their own law, provided that they immediately notify the authorities having jurisdiction under the terms of article 29, paragraph 1. Such measures shall remain in effect until such time as the latter authorities decide otherwise.

Article 31

1. The authorities of the Contracting Party of which a prospective ward is a national may request the authorities of the other Contracting Party to establish guardianship or curatorship or to take provisional measures if the prospective ward is domiciled or resident in the territory of the latter Contracting Party. The authority applied to shall inform the applicant authority of the establishment of guardianship or curatorship, or of the adoption of provisional measures.

2. Where guardianship or curatorship has been established over a national of one Contracting Party who later becomes domiciled in the territory of the other Contracting Party, the authority which established guardianship or curatorship may request an authority of the other Contracting Party to assume the guardianship or curatorship of that national. The transfer shall become effective when the authority applied to assumes the guardianship or curatorship and notifies the applicant authority accordingly.

3. The authority assuming the guardianship or curatorship shall apply the law of its own State. However, it may not decide questions relating to the ward's personal status.

Article 32. FORM OF TRANSACTIONS

1. The form of a transaction shall be that prescribed by the law 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 transactions relating to immovable property shall be determined by the law of the Contracting Party in whose territory such property is situated.

Article 33. LIABILITY FOR DAMAGE

1. Liability of damage shall be determined in accordance with the laws of the Contracting Party in whose territory the act or other circumstance serving as the basis for the claim for damages took place.

2. If the perpetrator of the damage and the injured party are nationals of the same Contracting Party, the law of that Party shall apply.

3. The judicial authorities of the Contracting Party whose law is applicable shall be competent to rule in the cases specified in paragraphs 1 and 2 above.

*Succession**Article 34. PRINCIPLE OF EQUALITY*

Citizens of either Contracting Party shall enjoy the same rights as citizens of the other Contracting Party as regards capacity to make or revoke wills disposing of property situated in the territory of the other Contracting Party or of rights to be exercised in the territory of the other Contracting Party, and as regards the capacity to succeed to the property or rights. The property or rights shall descend to them under the same conditions as those applying to citizens of the Contracting Party in question.

Article 35. LAW OF SUCCESSION

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

2. Succession to immovable property shall be governed by the law of the Contracting Party in whose territory the property is situated.

3. The question of which property is to be deemed movable and which immovable shall be determined in accordance with the laws of the Contracting Party in whose territory the property is situated.

Article 36. "ESCHEAT"

Where, under the law of the Contracting Parties, an estate reverts to the State, the movable property shall revert to the Contracting Party of which the decedent was a national at the time of his death and the immovable property shall revert to the Contracting Party in whose territory it is situated.

Article 37. WILLS

1. The capacity to make or revoke a will and the legal effects of defective testamentary dispositions shall be determined by the law of the Contracting Party of which the testator was a national at the time when he made or revoked the will.

2. The form of the will shall be determined by the law of the Contracting Party of which the testator was a national at the time when he made or revoked the will. It shall, however, be deemed sufficient, if the law of the Contracting Party in whose territory the will was made or revoked is complied with.

Article 38. JURISDICTION IN MATTERS OF SUCCESSION

1. Proceedings in matters of succession to movable property shall be conducted by the judicial authority of the Contracting Party of which the testator was a national at the time of death.

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

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

Article 39. MEASURES FOR THE PROTECTION OF THE ESTATE

1. The authorities of the Contracting Parties shall, in accordance with their laws, take such measures as are necessary to ensure the protection or the administration of estates left in their territory by deceased citizens of the other Party.

2. The measures taken under paragraph 1 above shall be immediately reported to a diplomatic mission or consular authority of the other Contracting Party, which may participate in carrying out such measures. At the request of the diplomatic mission or consular authority, the measures taken under paragraph 1 above may be modified, rescinded or postponed.

3. At the request of the judicial authority which has jurisdiction in matters of succession, the measures taken under paragraph 1 above may be modified, rescinded or postponed.

Article 40. TRANSMITTAL OF WILLS

If the will is in the territory of one Contracting Party, but the succession proceedings are conducted by a judicial authority of the other Contracting Party, a certified copy of the will or, at its request, the original of the will, shall be transmitted to the latter authority.

*Recognition and enforcement of judgements**Article 41. RECOGNITION OF JUDGEMENTS IN CASES NOT RELATING TO PROPERTY*

Final judgements rendered by the judicial authorities or authorities responsible for civil registration, guardianship or curatorship of one Contracting Party in civil (including labor) and family cases not relating to property shall be recognized in the territory of the other Contracting Party without further proceedings, provided that there are no grounds for refusal of recognition under article 46. Such judgements shall also be recognized even if they were rendered before the entry into force of this Treaty.

Article 42. RECOGNITION AND ENFORCEMENT OF JUDGEMENTS IN CASES RELATING TO PROPERTY

Each Contracting Party shall recognize and enforce, under the conditions specified in this Treaty, the following final judgements rendered in the territory of the other Contracting Party after the entry into force of this Treaty:

- (1) Judgements of judicial authorities in civil (including labour) and family cases relating to property;
- (2) Peaceful agreements confirmed by the courts;
- (3) Judgements relating to damages in criminal cases.

Article 43. APPLICATIONS FOR AUTHORIZATION OF ENFORCEMENT

1. Applications for authorization of enforcement shall be made to the judicial authority which rendered the judgement. The said judicial authority shall transmit such applications to the court competent to rule under article 45. If the person applying for authorization of enforcement is domiciled or resident in the territory of the Contracting Party where the judgement is enforceable, the application may also be submitted directly to the competent court of the latter Contracting Party.

2. The formal requirements for the application shall be determined by the law of the Party in whose territory the judgement is to be enforced.

Article 44. DOCUMENTS ACCOMPANYING APPLICATIONS

Applications for authorization of enforcement must be accompanied by the following:

- (1) A copy of the judgement, certified by the judicial authority, and, if such text does not show that the judgement has become final and enforceable, a certificate to that effect;
- (2) If the respondent did not participate in the proceedings, a document showing that he or his representative was served, in due time and proper form, with a summons to appear in court;
- (3) Certified translations of the documents referred to in this article and of the application.

Article 45. AUTHORIZATION OF ENFORCEMENT OF JUDGEMENTS

1. Applications for authorization of enforcement of judgements shall be considered by the court of the Contracting Party in whose territory the judgement is enforceable.

2. The court considering the application for authorization of enforcement shall confine itself to determining that the conditions specified in this Treaty have been complied with. If such conditions have been complied with, the court shall authorize enforcement.

3. If the court has any doubts as to authorizing enforcement, it may require the applicant to furnish clarification, it may interrogate the debtor concerning the application, and if necessary, it may request the judicial authority which rendered the judgement to furnish additional information.

Article 46. REFUSAL OF RECOGNITION AND ENFORCEMENT OF JUDGEMENTS

Recognition and enforcement of a judgement may be refused:

- (1) If the respondent did not participate in the proceedings because neither he nor his representative was served in due time and proper form with notification of a summons to appear in court;
- (2) If a final judgement was rendered and enforced previously in an action between the same litigants in relation to the same claim and on the same grounds by a judicial authority of the Contracting Party in whose territory the judgement is to be recognized and enforced, or if proceedings in the case in question were instituted previously by a judicial authority of the latter Contracting Party;
- (3) If in accordance with this Treaty or, in cases not covered by this Treaty, in accordance with the law of the Contracting Party in whose territory the judgement is to be recognized and enforced, the judicial authorities of the latter Contracting Party have exclusive jurisdiction to render judgement in the case.

Article 47. ENFORCEMENT OF JUDGEMENTS

1. The enforcement procedure shall be determined by the law of the Contracting Party in whose territory the judgement is enforceable.

2. The debtor may object to enforcement of the judgement, provided that this is admissible under the law of the Contracting Party whose judicial authority rendered the judgement.

3. With respect to the legal costs of enforcement, the applicable law shall be that of the Contracting Party in whose territory the judgement is enforceable.

Enforcement of awards of legal costs

Article 48

1. If a national of one Contracting Party exempted from the deposit of security for legal costs under article 16 is required in the territory of the other Contracting Party to pay legal costs, the competent court in the territory of the former Contracting Party shall, on application, authorize without charge the recovery of such costs.

2. In addition to legal costs, the costs of translation and certification of the documents referred to in article 44 may also be recovered.

Article 49

1. Applications for authorization of enforcement of awards of legal costs must be accompanied by a copy of the award of costs certified by the court, and a certificate to the effect that the award has become final and enforceable.

2. The documents in question must be accompanied by a translation in the language of the Contracting Party in whose territory enforcement is sought.

3. In authorizing enforcement of an award of legal costs, the court shall consider only:
 - 1) Whether the award has become final and enforceable;
 - 2) Whether the documents referred to in paragraph 1 above are accompanied by a certified translation.
4. An order of enforcement may be contested in accordance with the law of the Contracting Party whose court made the order.

Article 50

Applications for authorization of enforcement of an award of legal costs in the territory of the other Contracting Party shall be submitted to the court of the said party which is competent to authorize enforcement, or to the court which made the award. In the latter case, the court shall transmit the application to the competent court of the other Contracting Party together with the documents referred to in article 49.

Article 51

1. The court shall authorize enforcement of an award without hearing the litigants.
2. Enforcement of awards may not be refused on the ground that the applicant has not paid in advance the costs of enforcement.

Article 52. EXPORT OF ARTICLES AND TRANSFER OF FUNDS

In the export of articles and transfer of funds under this Treaty from the territory of one Contracting Party to the territory of the other Contracting Party, the applicable law shall be that of the State from whose territory the articles are to be exported or the funds transferred.

PART III. LEGAL ASSISTANCE IN CRIMINAL CASES

Extradition

Article 53. OBLIGATION TO EXTRADITE

1. Each Contracting Party undertakes, under the conditions specified in this Treaty, to extradite to the other on request persons in its territory whose presence is required for the purpose of criminal prosecution or for the execution of a sentence.
2. Extradition shall be admissible in respect of actions which under the law of both Contracting Parties are offences punishable by deprivation of liberty for a period of more than one year or by a heavier penalty. Extradition for the purpose of enforcement of sentences which have become final shall be admissible in respect of sentences for such offences involving deprivation of liberty for a period of not less than six months or a heavier penalty.

Article 54. REFUSAL OF EXTRADITION

1. Extradition shall not be admissible if:
 - 1) The offence was committed by a national of the Contracting Party applied to;
 - 2) At the time of receipt of the requisition, under the law of the Contracting Party applied to, exemption from prosecution or punishment has been acquired by lapse of time or for other legal reasons;

- 3) The person claimed has already been prosecuted in the territory of the Contracting Party applied to for the same offence and has been sentenced, and such sentence has become final, or has been discharged;
 - 4) Proceedings in respect of the offence are initiated under the law of both Contracting Parties by way of private complaint.
2. Extradition may be refused if the offence in respect of which extradition is requested was committed in the territory of the Contracting Party applied to.
3. If extradition is refused, the applicant Contracting Party must be notified of the reasons for refusal.

Article 55. REQUISITION FOR EXTRADITION

1. A requisition for extradition must contain the following particulars:
- 1) The title of the applicant authority;
 - 2) The text of the law of the applicant Contracting Party defining the act as an offence;
 - 3) The full name of the person claimed, information about his nationality, domicile or residence and, where possible, a description of the person and other particulars of his identity;
 - 4) Information about the extent of the damage, if the offence caused damage.
2. A requisition for extradition for the purpose of criminal prosecution must be accompanied by a certified copy of the warrant of arrest with a description of the circumstances of the case.
3. A requisition for extradition for the purpose of enforcement of a sentence must be accompanied by a certified copy of the sentence with confirmation that it has become final, and by the text of the criminal law on which the sentence was based. If the convicted person has already served a part of his sentence, information about this shall also be communicated.

Article 56. DETENTION PENDING EXTRADITION

Upon receipt of a requisition, the Contracting Party applied to shall immediately take steps to detain the person claimed, except where extradition is inadmissible under this Treaty.

Article 57. SUPPLEMENTARY INFORMATION

1. If all information required is not provided in the requisition for extradition, the Contracting Party applied to may request supplementary information and may for that purpose fix a time-limit not exceeding two months. Such time-limit may be extended for valid reasons, but not by more than two months.
2. If the information requested is not received within the specified or extended time-limit, the competent authority of the Contracting Party applied to may discontinue the extradition proceedings and release the person detained.

Article 58. DETENTION PENDING RECEIPT OF REQUISITION FOR EXTRADITION

1. In urgent cases, the Contracting Party applied to may, at the request of the applicant Contracting Party, detain a person before receipt of a requisition for his extradition in accordance with article 55. Such requests shall specify that there exists a warrant of arrest or a final sentence in respect of the said person, and shall indicate that a requisition for

extradition will be submitted forthwith. Such requests may be made by post, telegraph, telephone or other means.

2. The competent authorities of either Contracting Party may, even in the absence of the request referred to in paragraph 1 above, temporarily detain a person found in their territory if there is reason to suspect that he has committed an extraditable offence in the territory of the other Contracting Party.

3. Notification of detention under paragraphs 1 and 2 above shall be sent immediately to the other Contracting Party.

Article 59. RELEASE OF TEMPORARILY DETAINED PERSONS

A person detained under article 58 shall be released if the requisition for his extradition is not received from the other Contracting Party within 30 days from the date on which notification of his detention was sent. The release of the said person shall be notified to the other Contracting Party.

Article 60. POSTPONEMENT OF EXTRADITION

If the person claimed is being prosecuted or is serving a sentence for another offence committed in the territory of the Contracting Party applied to, his extradition may be postponed until the termination of criminal proceedings or the completion or remission of the sentence.

Article 61. TEMPORARY EXTRADITION

1. If postponement of extradition under article 60 may result in exemption from prosecution being acquired by lapse of time or may seriously prejudice the investigation of the offence, the person claimed may be extradited temporarily on receipt of a request with statement of grounds.

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

Article 62. CONFLICTING REQUISITIONS FOR EXTRADITION

If requisitions for a person's extradition are received from more than one State, the Contracting Party applied to shall decide which of the requisitions shall be complied with.

Article 63. LIMITS TO THE PROSECUTION OF EXTRADITION PERSONS

1. An extradited person may not, without the consent of the Contracting Party applied to, be prosecuted or punished for an offence which was committed before his extradition and which is not the offence for which he was extradited.

2. The said person may not be surrendered to a third State without the consent of the Contracting Party applied to.

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

- 1) The extradited person, being at liberty to do so, fails to quit the territory of the applicant Contracting Party within one month after the termination of the criminal proceedings or the completion or the remission of his sentence. Such period of one month shall not be deemed to include any period during which the extradited person is unable, owing to circumstances beyond his control, to quit the territory of the applicant Contracting Party;

- 2) The extradited person quits the territory of the applicant Contracting Party but voluntarily returns thereto.

Article 64. EXTRADITION PROCEDURE

1. The Contracting Party applied to shall notify the applicant Contracting Party of the time and place of extradition.

2. The applicant Contracting Party fails to accept the person claimed within 15 days from the date fixed for his extradition, the said person must be released from custody. This period may be extended by no more than 15 days by agreement between the Contracting Parties.

Article 65. RE-EXTRADITION

If the extradited person evades prosecution or punishment and returns to the territory of the Contracting Party applied to, he shall be re-extradited upon receipt of a new requisition from the applicant Contracting Party even without production of the information and documents specified in article 55.

Article 66. NOTIFICATION OF RESULTS OF PROSECUTION

The Contracting Party receiving an extradited person shall notify the Contracting Party applied to of the results of the criminal proceedings. On request, it shall transmit a copy of the final judgement.

Article 67. CONVEYANCE IN TRANSIT

1. Each Contracting Party shall, at the request of the other Contracting Party, authorize the conveyance through its territory of any person extradited by a third State to the other Contracting Party. The Contracting Parties shall not be bound to authorize the conveyance of persons who are not extraditable under this Treaty.

2. Applications for authorization of conveyance in transit shall be made and considered in the same manner as requisitions for extradition.

Article 68. COSTS OF EXTRADITION AND CONVEYANCE IN TRANSIT

The costs of extradition shall be borne by the Contracting Party in whose territory they were incurred, and the costs of conveyance in transit shall be borne by the applicant Contracting Party.

Prosecution

Article 69. OBLIGATION TO PROSECUTE

1. Each Contracting Party undertakes to prosecute under its own law, at the request of the other Contracting Party, any of its citizens suspected of having committed an offence in the territory of the applicant Contracting Party.

2. The obligation shall also extend to offences which are crimes under the law of the applicant Contracting Party but merely administrative misdemeanours under the law of the Contracting Party applied to.

3. Applications for the institution of criminal proceedings submitted by injured parties in good time under the law of one Contracting Party to its competent authorities shall also be valid in the territory of the other Contracting Party.

4. Persons who have suffered damage as the result of an offence in connection with which an application for institution of criminal proceedings has been submitted shall be called to participate in the proceedings if they are claiming damages.

Article 70. APPLICATION FOR PROSECUTION

1. Applications for prosecution must contain the following particulars:

- 1) The title of the applicant authority;
- 2) A description of the act in respect of which the application for prosecution is made;
- 3) The precisest possible indication of the time and place of commission of the act;
- 4) The text of the law of the applicant Contracting Party on which qualification of the act as an offence is based, and the texts of other legal provisions of substantial importance for the proceedings;
- 5) The full name of the suspect, information about his nationality, domicile or residence, and any other information about his identity;
- 6) The applications of the injured parties in criminal proceedings instituted by application of an injured party, and their claims for damages;
- 7) Information about the extent of the damage, if damage was caused by the offence.

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

2. If the accused is in custody in the territory of the applicant Contracting Party at the time of submission of the application for prosecution, he shall be delivered to the territory of the Contracting Party applied to.

3. The Contracting Party applied to shall inform the applicant Contracting Party of the final judgement. A copy of the final judgement shall be transmitted to the applicant Contracting Party, at its request.

Article 71. EFFECTS OF PROSECUTION

If an application for prosecution has been submitted to a Contracting Party in accordance with article 69, criminal proceedings may not be instituted by the applicant Contracting Party after the sentence has become final or some other final judgement has been rendered by the judicial authorities of the Contracting Party applied to, any proceedings which have been instituted shall be discontinued.

Other matters of legal assistance in criminal cases

Article 72. DELIVERY OF ARTICLES CONNECTED WITH AN OFFENCE

1. Each Contracting Party undertakes to deliver to the other, on request:

- 1) Articles acquired through the commission of an offence, or the value of such articles;
- 2) Articles which may be important as evidence in criminal proceedings; such articles shall be delivered even if the offender cannot be extradited by reason of death, escape or other circumstances.

2. If the Contracting Party applied to has need of the claimed articles as evidence in criminal proceedings, it may postpone the delivery of the articles until such proceedings have been concluded.

3. The rights of third parties to articles delivered to the applicant Contracting Party shall remain unaffected. After the conclusion of the proceedings, such articles shall be returned free of charge to the Contracting Party which delivered them. In individual cases, such articles may be returned to their owners even before the conclusion of the proceedings, if this is possible without prejudice to the proceedings. If persons having entitlement to such articles are in the territory of the applicant Contracting Party, the said Contracting Party has the right, with the consent of the Contracting Party applied to, to return the articles directly to such persons.

Article 73. NOTIFICATION OF SENTENCES AND CONVICTIONS

1. Each Contracting Party shall notify the other Contracting Party annually of final sentences pronounced by its courts in respect of nationals of the other Contracting Party.

2. Each Contracting Party shall, on request, transmit to the other Contracting Party information concerning previous convictions in their courts of persons facing prosecution in the territory of the applicant Contracting Party.

Article 74. METHOD OF COMMUNICATION

Communication in respect of extradition, prosecution and other matters of legal assistance in criminal cases shall take place, as appropriate, through the Prosecutor's Office or the Ministry of Justice of the Union of Soviet Socialist Republics and the Supreme People's Prosecutor's Office or the Ministry of Justice of the Socialist Republic of Viet Nam.

PART IV. FINAL PROVISIONS

Article 75

1. This Treaty shall be subject to ratification.

2. This Treaty shall enter into force 30 days after the exchange of the instruments of ratification, which shall take place at Hanoi.

3. The Treaty shall remain in force until one year after either Contracting Party has notified the other Contracting Party of its desire to terminate the Treaty.

DONE at Moscow on 10 December 1981, in duplicate in the Russian and Vietnamese languages, both texts being equally authentic.

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

[V. TEREBILOV]

For the State Council
of the Socialist Republic of Viet Nam:

[FAN HIEN]