

No. 21858

**UNION OF SOVIET SOCIALIST REPUBLICS
and
GERMAN DEMOCRATIC REPUBLIC**

Treaty concerning legal assistance in civil, family and criminal cases. Signed at Moscow on 19 September 1979

Authentic texts: Russian and German.

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

**UNION DES RÉPUBLIQUES SOCIALISTES
SOVIÉTIQUES
et
RÉPUBLIQUE DÉMOCRATIQUE ALLEMANDE**

Traité relatif à l'entraide judiciaire en matière civile, familiale et pénale. Signé à Moscou le 19 septembre 1979

Textes authentiques : russe et allemand.

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

[TRANSLATION — TRADUCTION]

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

The Union of Soviet Socialist Republics and the German Democratic Republic,
With a view to further developing fraternal relations on the basis of the Treaty of friendship, co-operation and mutual assistance of 7 October 1975,²

Desiring to improve the system of treaties and agreements between the two States in the area of legal assistance in civil, family and criminal cases,

Have decided to conclude this Treaty.

For that purpose they 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 Council of State of the German Democratic Republic: Hans-Joachim Heusinger,
Deputy Chairman of the Council of Ministers and Minister of Justice of the German Democratic Republic,

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

PART I. GENERAL PROVISIONS**1. PURPOSES OF CO-OPERATION**

Article 1. 1. The co-operation of the Contracting Parties in providing legal assistance in civil, family and criminal cases shall have the purpose of assisting:

The authorities of the Contracting Parties in their activities to ensure socialist legality;

Nationals of the Contracting Parties in exercising their rights and legitimate interests.

2. The central judicial authorities of the Contracting Parties shall exchange experience in the area of legislation and the practice of the judicial authorities and shall develop new forms of co-operation and co-ordination.

2. LEGAL PROTECTION

Article 2. SCOPE OF 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 other Contracting Party. To this end they shall have free access to the courts, organs of the

¹ Came into force on 3 August 1980, i.e., the thirtieth day after the exchange of the instruments of ratification, which took place at Berlin on 4 July 1980, in accordance with article 90 (1).

² United Nations, *Treaty Series*, vol. 1077, p. 75.

procurator's office and of the State notarial offices (hereinafter referred to as "judicial authorities") and other authorities of the other Contracting Party having jurisdiction in civil, family or criminal cases, and may appear, institute proceedings and present petitions before them, and perform other acts required in connection with proceedings, under the same conditions as nationals of the other Contracting Party.

2. A national of a Contracting Party is a person who under the law of that Contracting Party has that nationality.

3. The provisions of paragraph 1 shall apply to labour cases which are receivable in the courts.

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

Article 3. EXEMPTION FROM SECURITY FOR LEGAL COSTS. Nationals of one Contracting Party appearing before the courts of the other Contracting Party as plaintiffs or third parties, if they are present in the territory of either Party, shall not be required to deposit security for legal costs on the sole ground that they are aliens or have no domicile or residence in the territory of the Contracting Party before whose courts they are appearing.

EXEMPTION FROM THE PAYMENT OF LEGAL COSTS

Article 4. 1. Nationals of one Contracting Party shall be exempted by the courts of the other Contracting Party from the payment of costs in connection with legal proceedings and from the payment of State tax (hereinafter referred to as "legal costs") under the same conditions and to the same extent as the latter's own nationals.

2. The exemption from the payment of legal costs granted by the competent court of a Contracting Party in a specific case shall apply to all acts required in connection with the proceedings by courts of the other Contracting Party in the course of the case, including the enforcement of judgements.

Article 5. 1. The document relating to personal and property status required for exemption from the payment of legal costs in accordance with article 4 shall be issued by the competent authority of the Contracting Party in whose territory the applicant is domiciled or resident.

2. If the applicant is neither domiciled nor resident in the territory of a Contracting Party, a document issued by the diplomatic mission or consular authority of the Contracting Party of which he is a national shall be acceptable.

3. The court ruling on an application for exemption from payment of legal costs may request additional information from the authority which issued the document.

Article 6. 1. Applications for exemption from the payment of legal costs may be made through a competent court of the Contracting Party of which the applicant is a national. This court shall transmit the application, together with the document referred to in article 5 and other documents supplied by the applicant, to a court of the other Contracting Party in accordance with the procedure laid down in article 9.

2. An applicant for exemption from payment of legal costs may at the same time make an application for the institution of proceedings in the case to which

exemption from legal costs applies, as well as an application for the appointment of a lawyer or other applications that may be required.

3. LEGAL ASSISTANCE

Article 7. PROVISION OF 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.

2. The judicial authorities shall also provide legal assistance to other authorities having jurisdiction in civil, family or criminal cases.

Article 8. SCOPE OF LEGAL ASSISTANCE. Legal assistance in civil, family and criminal cases shall include the service of documents and the performance of specific acts in connection with proceedings, in particular, the questioning of litigants, defendants, accused persons, witnesses and experts, the conduct of expert examinations and judicial inspections *in situ*, the transmittal and delivery of material evidence, search and the performance of other acts in connection with proceedings provided for under the legislation of the Contracting Party applied to.

The Contracting Parties undertake, in the cases and following the procedure envisaged by their own legislation, to determine the address of persons present in their territories against whom persons domiciled or resident in the territory of the other Contracting Party have instituted civil or family legal requests. In such instances, the basic particulars required in order to determine the domicile or residence of the respondent must be furnished.

Article 9. METHOD OF COMMUNICATION. In providing legal assistance, the judicial authorities of the Contracting Parties shall, save as otherwise provided in this Treaty, communicate with one another respectively through the Ministry of Justice or the procurator's office of the Union of Soviet Socialist Republics and the Ministry of Justice or the Procurator General of the German Democratic Republic.

Article 10. LANGUAGE. The authorities of the Contracting Parties, in communicating with one another concerning the provision of legal assistance, shall use either the Russian or the German language, unless otherwise established by this Treaty.

Article 11. CONTENT AND FORM OF APPLICATIONS FOR LEGAL ASSISTANCE.

1. Applications for legal assistance must indicate:

- 1) The title of the applicant authority;
- 2) The title of the judicial 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, suspected or accused persons and other persons involved in the case, their nationality, occupation and domicile or residence;
- 5) The full names and addresses of their representatives in the proceedings;
- 6) The content of the application.

2. Applications for the provision of documents must contain, together with the particulars referred to in paragraph 1, the exact address of the recipient and the title of the documents to be served.

3. Applications for the performance of specific acts required in connection with proceedings must also indicate the facts requiring clarification or the acts to be performed, and set forth the circumstances of the case where necessary and, in criminal cases, the actual circumstances and the legal definition of the offence.

4. Applications for the provision of legal assistance must be signed and officially sealed by the applicant authority.

5. In submitting applications for the provision of legal assistance, the judicial authorities of the Contracting Parties shall use bilingual forms; model forms shall be exchanged by the Contracting Parties.

EXECUTION OF APPLICATIONS FOR THE PROVISION OF LEGAL ASSISTANCE

Article 12. 1. In rendering legal assistance, the judicial authority applied to shall follow the laws of its own State.

At the request of the applicant authority, the judicial authority applied to may employ the judicial procedures of the applicant Contracting Party in respect of the method and form of execution, provided that they do not conflict with the laws of the Contracting Party applied to.

2. The judicial authorities shall, in rendering legal assistance, transmit by the most direct route documentation materials prepared by the authorities of one Contracting Party and required for the conduct of the examinations scheduled by the authorities of the other Contracting Party.

Article 13. 1. If the judicial authority applied to is not competent to execute an application for the provision of legal assistance, it shall transmit the application to the competent judicial authority.

2. At the request of the applicant judicial authority, the judicial authority applied to shall notify it in good time of the time and place of execution of the application for the provision of legal assistance.

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

4. If the judicial authority applied to cannot execute the application for the provision of legal assistance, it shall inform the applicant judicial authority to that effect, indicating the reasons.

IMMUNITY OF WITNESSES AND EXPERTS

Article 14. 1. No witness or expert who, in response to a summons served by the judicial authority applied to, appears before an applicant judicial 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. Such persons may not be prosecuted, taken into custody or punished in connection with their evidence given as witnesses or expert conclusions or in connection with criminal cases under investigation.

2. The witness or expert shall forfeit the protection referred to in paragraph 1 if, being at liberty to do so, he fails to quit the territory of the applicant Contracting Party within seven days of the date on which he was informed that his presence is no

longer required. This period shall be deemed not to include any period of time during which the witness or expert may be unable, owing to circumstances beyond his control, to quit the territory of the applicant Contracting Party.

Article 15. The persons referred to in paragraph 14 of this Treaty shall be entitled to reimbursement of the expenses involved in travel and subsistence abroad, and compensation for lost salary; experts, in addition, shall be entitled to remuneration for carrying out expert examinations. The summons must indicate what payments the persons summoned are entitled to receive; at their application the judicial authority of the Contracting Party issuing the summons shall pay an advance to cover the relevant expenses.

Article 16. If a person who is held in custody in the territory of the Contracting Party applied to is summoned as a witness, he may be temporarily handed over on condition that he is kept in custody and is returned, immediately after interrogation, to the Contracting Party applied to.

Article 17. SERVICE OF DOCUMENTS. 1. The service of documents to persons participating in the case, if they are present in the territory of the other Contracting Party, shall be effected as part of the provision of legal assistance.

2. The service of documents shall be effected in accordance with the laws of the Contracting Party applied to.

3. If the document to be served is drawn up in a language other than that of the Contracting Party applied to and is not accompanied by a certified translation, the judicial authority applied to shall serve the document on the addressee only if he is willing to accept it. In the event that such a document is not being accepted, it shall be considered not to have been served.

Article 18. 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 19. COMPETENCE OF DIPLOMATIC MISSIONS AND CONSULAR AUTHORITIES.

1. Each Contracting Party shall have the right to serve documents on its own nationals in the territory of the other Contracting Party through its diplomatic missions or consular authorities.

2. Each Contracting Party shall have the right to interrogate its own nationals in the territory of the other Contracting Party through its diplomatic missions or consular authorities.

Article 20. INFORMATION ON LEGAL QUESTIONS. The Ministry of Justice or the Procurator's Office of the Union of Soviet Socialist Republics, on the one hand, and the Ministry of Justice or the Procurator General of the German Democratic Republic, on the other, shall, upon request, provide one another with information concerning the laws in force or formerly in force in their States and on questions of their application by the judicial authorities.

Article 21. COSTS OF PROVIDING LEGAL ASSISTANCE. 1. The judicial authorities of the Contracting Party applied to shall make no claim for reimbursement of the

cost of providing legal assistance. Each Contracting Party shall bear all the costs of providing legal assistance in its own territory, including the expenses incurred in taking evidence.

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

PART II. APPLICABLE LEGISLATION AND COMPETENCE IN CIVIL AND FAMILY CASES

1. PERSONAL STATUS

Article 22. 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 purpose 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.

Article 23. LEGAL CAPACITY OF BODIES CORPORATE. The legal capacity of a body corporate shall be determined according to the law of the Contracting Party under whose laws it was established.

Article 24. DECLARATION OF PERSONS AS MISSING WITHOUT TRACE OR DEAD, AND ESTABLISHMENT OF THE FACT OF DEATH. 1. In proceedings to declare persons missing without trace or dead (pronounce them dead) or to establish the fact of death (establish the time 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 authorities of one Contracting Party may declare a national of the other Contracting Party missing without trace or dead (pronounce him dead), or establish the fact of his death (establish the time of death), upon the application of any person resident in its territory whose rights and interests are governed by the law of that Contracting Party.

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

2. FORM OF TRANSACTIONS

Article 25. 1. The form of a transaction shall be that prescribed by the law of the Contracting Party 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 a transaction relating to immovable property shall be determined by the law of the Contracting Party in whose territory such property is situated.

3. OBLIGATIONS ARISING FROM DAMAGE CAUSED OUTSIDE THE SCOPE OF THE TREATY

Article 26. 1. Responsibility for obligations arising as a result of damage caused outside the scope of the Treaty, including civil capacity and the amount of

compensation, shall be determined by the law of the Contracting Party in whose territory the action or other circumstance occurred which served as a basis for the request for compensation of damage.

2. If the person who caused the damage and the injured party are nationals of one Contracting Party or reside in the territory of one Contracting Party, the law of that Contracting Party shall apply.

4. FAMILY CASES

Article 27. CONTRACT OF MARRIAGE. 1. The conditions for the contract of marriage shall be determined for each of the persons contracting marriage by the laws of the Contracting Party of which he or she is a national. In addition, the requirements of the laws relating to obstacles to the contracting of marriage of the Contracting Party in whose territory the marriage is contracted must be complied with.

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 28. PERSONAL AND PROPERTY RELATIONS BETWEEN SPOUSES. 1. Personal and property relations between spouses shall be determined by the law of the Contracting Party in whose territory they have their common domicile.

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

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

4. If the spouses referred to in paragraph 3 have not had a common domicile, the law of the Contracting Party in whose court a case was instituted shall be applicable.

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

DISSOLUTION OF MARRIAGE

Article 29. 1. In cases of dissolution of marriage the law of the Contracting Party of which the spouses are nationals at the time the petition for dissolution of marriage is filed shall apply.

2. If one spouse is a national of one Contracting Party and the other is a national of the other Contracting Party, the law of the Contracting Party whose authority is conducting the proceedings for dissolution of marriage shall apply.

Article 30. 1. In cases of dissolution of marriage as envisaged in article 29, paragraph 1, the authorities of the Contracting Party of which the spouses are

nationals at the time the petition for dissolution of marriage is filed shall have jurisdiction.

If at the time the petition for dissolution of marriage is filed both spouses are resident in the territory of one Contracting Party, the authorities of that Contracting Party shall also have jurisdiction.

2. In cases of dissolution of marriage as envisaged in article 29, paragraph 2, the authorities of the Contracting Party in whose territory both spouses are resident shall have jurisdiction. If one spouse is resident in the territory of one Contracting Party and the other in the territory of the other Contracting Party, in cases of dissolution of marriage the authorities of both Contracting Parties shall have jurisdiction.

Article 31. ANNULMENT OF MARRIAGE. 1. In cases of annulment of marriage or declaration of nullity, the law of the Contracting Parties which in accordance with article 27 was applied at the time of concluding the marriage shall apply.

2. The jurisdiction of authorities in cases of annulment of marriage or declaration of nullity shall be determined *mutatis mutandis* on the basis of article 30.

LEGAL RELATIONS BETWEEN PARENTS AND CHILDREN

Article 32. 1. In actions to establish or contest paternity, the law of the Contracting Party of which the child is a national by birth shall apply.

2. As to the form of recognition of paternity, it shall be deemed sufficient if the law of the Contracting Party in whose territory paternity is recognized is complied with.

Article 33. 1. Legal relations between parents and children shall be determined by the law of the Contracting Party in whose territory they have a common domicile.

2. 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 of which the child is a national.

Article 34. For the purpose of executing decisions concerning the legal relations referred to in articles 32 and 33, the authorities of the Contracting Party in whose territory the child is domiciled shall have jurisdiction.

ADOPTION

Article 35. 1. Adoption or termination of adoption shall be governed by the law of the Contracting Party of which the adopter is a national at the time of the adoption or termination of adoption.

2. If the child is a national of the other Party, the adoption or termination of adoption shall be subject to the consent of a legal representative and the competent State body, and also the consent of the child if that is required under the law of the Contracting Party of which he is a national.

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 adoption or the termination of adoption must comply with the law of both Contracting Parties.

Article 36. 1. In matters of adoption or the termination of adoption, the authorities of the Contracting Party of which the adopter is a national at the time of the adoption or termination of adoption shall have jurisdiction. If the adopter and the child being adopted are domiciled in the territory of the other Contracting Party, then the authorities of that Contracting Party shall also have jurisdiction.

2. In the case specified in article 35, paragraph 3, the authority of the Contracting Party in whose territory the married couple have, or last had, their common domicile or residence shall have jurisdiction.

GUARDIANSHIP AND CURATORSHIP

Article 37. 1. Guardianship and curatorship shall be established and terminated under the law of the Contracting Party of which the ward is a national.

2. 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.

3. The obligation to accept the office of guardian or curator shall be determined by the law of the Contracting Party of which the guardian or curator is a national.

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

Article 38. Save as otherwise provided in this Treaty, decisions in cases relating to the establishment or termination of guardianship or curatorship shall be made by an authority of the Contracting Party of which the ward is a national.

Article 39. 1. Where the need arises to establish guardianship or curatorship in the territory of one Contracting Party for a national of the other Contracting Party whose domicile, residence or property is in the territory of the first Contracting Party, the competent authority of that Contracting Party shall immediately notify the diplomatic mission or consular authorities of the other Contracting Party.

2. In urgent cases, the competent authority shall take the necessary provisional measures under its own law, but it must immediately notify the diplomatic mission or consular authorities in accordance with paragraph 1. Such provisional measures shall remain in effect until such time as the competent authorities of the other Contracting Party decide otherwise. The authority which took the provisional measures must be notified of the decision.

Article 40. 1. The authorities having jurisdiction under the terms of article 38 may transfer guardianship or curatorship to the authorities of the other Contracting Party if the ward's domicile or residence is in the territory of that Contracting Party. The transfer of guardianship or curatorship shall become effective when the authority applied to assumes the guardianship or curatorship and notifies the applicant authority accordingly.

2. The authority assuming the guardianship or curatorship under the terms of paragraph 1 shall exercise guardianship or curatorship in accordance with the law of its own State. It shall have no authority, however, to decide on questions relating to the ward's personal status.

5. MATTERS OF SUCCESSION

Article 41. PRINCIPLE OF EQUALITY IN MATTERS OF SUCCESSION. Nationals of either Contracting Party shall be afforded the same treatment as nationals of the other Contracting Party in respect of the 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 that territory, and also in respect of the capacity to succeed to such property or rights. The property or rights shall descend to them under the same conditions as those applying to nationals of the other Contracting Party.

LAW APPLICABLE TO SUCCESSION

Article 42. 1. Succession to movable property shall be governed by the law of the Contracting Party in whose territory the testator had his last permanent residence.

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

Article 43. The decision as to which inherited property shall be considered movable and which immovable shall be made in accordance with the law of the Contracting Party in whose territory the property is situated.

Article 44. ESCHEAT. Where, under the law of the Contracting Party applicable to succession, the inheritor is the State, movables shall revert to the Contracting Party of which the testator was a national at the time of his death and immovables shall revert to the Contracting Party in whose territory they are situated.

Article 45. WILLS. 1. The capacity to make or revoke a will and also to dispute it and the admissible types of wills shall be governed by the law of the Contracting Party of which the testator was a national at the time of making or revoking a will.

2. The form in which a will is made or revoked shall be governed by the law of the Contracting Party of which the testator was a national at the time of making or revoking the will, or by the law of the State in whose territory the will was made or revoked.

Article 46. JURISDICTION IN MATTERS OF SUCCESSION. 1. Proceedings in matters of succession to movable property shall be conducted by the judicial authorities of the Contracting Party in whose territory the testator had his last permanent domicile.

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

3. The provisions of paragraphs 1 and 2 shall apply *mutatis mutandis* to disputes arising in connection with matters of succession.

MEASURES FOR THE PROTECTION OF THE ESTATE

Article 47. 1. If the estate of a national of one Contracting Party is situated in the territory of the other Contracting Party, the judicial authorities of that

Contracting Party shall, on the basis of their laws, take such measures as are necessary to ensure the protection and administration of the estate.

2. The diplomatic mission or consular authority shall be informed immediately of any measures taken under paragraph 1; they may participate in carrying out such measures. At the request of the diplomatic mission or consular authority the measures taken under paragraph 1 may be modified or rescinded.

3. On the application of the judicial authorities which are competent to conduct the succession proceedings, the measures taken under paragraph 1 may be modified or rescinded.

Article 48. If a national of one Contracting Party dies during a temporary stay in the territory of the other Contracting Party, his personal effects shall be inventoried and delivered without any formal proceedings directly to the diplomatic mission or consular authority of the Contracting Party of which the deceased was a national.

Article 49. OPENING OF WILLS. Wills shall be opened and published by the judicial authorities of the Contracting Party in whose territory the will is to be found. If the judicial authorities of the other Contracting Party are competent to conduct proceedings on a matter of inheritance, they shall be furnished with a certified copy of the will and a minute of its opening and publication. The original will shall also be sent upon request.

Article 50. DELIVERY OF THE ESTATE. 1. If, after the completion of succession proceedings, the movable estate or the proceeds of the sale of the movable or immovable estate are to be delivered to heirs resident or domiciled in the territory of the other Contracting Party, and they or their representatives cannot accept such estate or proceeds in person, such estate or proceeds shall be delivered to the diplomatic mission or consular authority of that Contracting Party.

2. The procedure envisaged in paragraph 1 shall apply if:

- 1) All claims of the deceased's creditors presented within the time-limit prescribed by the law of the Contracting Party in whose territory the estate is situated have been paid or secured;
- 2) All estate duties and taxes have been paid or secured;
- 3) The competent authorities have approved, where necessary, the export of the estate or the transfer of moneys.

6. DISCONTINUATION OF PROCEEDINGS IN A CASE

Article 51. If proceedings are instituted in the courts of both Contracting Parties in a case between the same parties in respect of the same legal dispute, the court which was later in instituting proceedings shall refrain from continuing the proceedings.

In the event that the court which first instituted the proceedings is declared incompetent, the court of the other Contracting Party may resume the proceedings.

PART III. RECOGNITION AND ENFORCEMENT OF JUDGEMENTS

Article 52. JUDGEMENTS SUBJECT TO RECOGNITION AND ENFORCEMENT.

1. Final court judgements, and also decisions of the authorities responsible for

guardianship or curatorship, state notarial offices and registration of civil acts of one Contracting Party shall be recognized, and in matters related to property shall be recognized and enforced, in the territory of the other Contracting Party under the conditions established by this Treaty.

2. Judgements within the meaning of paragraph 1 shall be:

- 1) Judgements in civil and family cases;
- 2) Amicable agreements concluded in court;
- 3) Judgements relating to damages in criminal cases;
- 4) Documents recognizing paternity and alimony obligations;
- 5) Enforceable documents;
- 6) Judgements on the payment of legal costs.

CONDITIONS FOR THE RECOGNITION AND ENFORCEMENT OF JUDGEMENTS

Article 53. The judgements referred to in article 52 shall be recognized and enforced subject to the following conditions:

- 1) The judgement has become final and enforceable in accordance with the law of the Contracting Party in whose territory it was rendered;
- 2) The Party against which the judgement was rendered has, under the law of the Contracting Party in whose territory the judgement was rendered, been duly notified and, in the case of persons lacking capacity to sue, could have been represented;
- 3) Final judgement has not previously been rendered in the same matter and between the same parties in the territory of the Contracting Party where the judgement was to be recognized or enforced, or proceedings have not previously been initiated in the same matter before a court of that Contracting Party;
- 4) The authority of the Contracting Party in whose territory recognition and enforcement are sought does not have exclusive jurisdiction under the provisions of this Treaty to render judgement in the case.

Article 54. Judgements in matters relating to property shall be recognized and enforced if they were rendered after the entry into force of the Treaty concerning legal assistance in civil, family and criminal cases of 28 November 1957,¹ with the exception of judgements rendered on legal relations between parents and children born out of wedlock. Such judgements shall be subject to recognition and enforcement if the legal relations in respect of which the judgement was rendered came into being after the entry into force of the Treaty referred to in this article.

Judgements in matters not relating to property shall be recognized even if they were rendered before the entry into force of the Treaty referred to in this article.

PROCEDURE FOR THE RECOGNITION AND ENFORCEMENT OF JUDGEMENTS

Article 55. 1. Judgements referred to in article 52 in matters not relating to property shall be recognized in the territories of the Contracting Parties without further proceedings.

¹ United Nations, *Treaty Series*, vol. 305, p. 113.

2. In order to enforce the judgements in matters relating to property referred to in article 52, the courts of the Contracting Party in whose territory the judgement is to be enforced shall take a decision concerning authorization of enforcement.

The applicant authority shall be informed of the decision taken.

3. In issuing authorization for enforcement, the court shall confine itself to establishing that the conditions specified in articles 53 and 54 have been fulfilled.

4. The procedure for authorizing enforcement and the enforcement procedure shall be determined by the law of the Contracting Party in whose territory the enforcement is to take place.

Article 56. 1. Applications for the granting of authorization of enforcement of a judgement and for its enforcement shall be instituted in the judicial authorities at the place the judgement was rendered. These authorities shall refer the application to the competent court of the other Contracting Party.

2. If a person engaged in proceedings for the authorization of enforcement is resident or domiciled in the territory of the Contracting Party where the judgement is to be enforced, the proceedings may be referred directly to the competent court of that Contracting Party.

Article 57. 1. An application referred to in article 56 must be accompanied by the following:

- 1) The original or a certified copy of the judgement and, if such text does not show that the judgement has become final and enforceable, a certificate to that effect;
- 2) A document showing that the party against which the judgement was rendered was served in due time and proper form with notification of the initiation of proceedings, and that in the case of persons lacking capacity to sue could have been represented;
- 3) A certified translation of the documents referred to in subparagraphs 1 and 2.

2. In orders for the payment of legal costs the application must be accompanied by a certified copy of the order determining costs with a note to the effect that it has become final, and also by a certified translation.

Article 58. OBJECTIONS BY THE DEBTOR. The debtor may raise, in the court which is competent to authorize the enforcement of judgements, objections to enforcement and to the claims made in the judgement in so far as such objections are permissible under the law of the Contracting Party whose authorities rendered the judgement.

Article 59. COSTS OF ENFORCEMENT OF JUDGEMENTS. The court which is competent to resolve the question of enforcement shall calculate and recover the costs of enforcement of a judgement on the basis of the forum State.

Article 60. EXPORT OF ARTICLES AND TRANSFER OF FUNDS. Where articles are to be exported or funds transferred in accordance with this Treaty from the territory of one Contracting Party to the territory of the other Contracting Party, the law of the State from whose territory the articles are to be exported or the funds transferred shall apply.

PART IV. EXTRADITION AND CRIMINAL PROSECUTION

1. EXTRADITION

Article 61. OBLIGATION TO EXTRADITE. Each Contracting Party undertakes to extradite to the other on request, in accordance with the terms of this Treaty, persons in its territory whose presence is required for the purpose of criminal prosecution or for the execution of a sentence.

Article 62. CRIMES SUBJECT TO EXTRADITION. 1. Extradition for the purposes of criminal prosecution shall take place in respect of actions which are punishable under the law of both Contracting Parties with deprivation of liberty for a period of not less than one year or a heavier penalty.

2. Extradition for the execution of a sentence shall take place if the person has been sentenced to deprivation of liberty for a period of six months or to a heavier penalty.

REFUSAL OF EXTRADITION

Article 63. 1. Extradition shall not take place if:

- 1) The person claimed is a national of the Contracting Party applied to;
- 2) At the time of receipt of the request, exemption from prosecution or punishment has been acquired by lapse of time or for other legal reasons under the law of the Contracting Party applied to;
- 3) A final sentence or other final judgement has already been rendered against the offender in respect of the same offence by a court or other authority of the Contracting Party applied to;
- 4) Proceedings in respect of the offence are initiated under the law of both Contracting Parties by way of private complaint (at the request of the injured party).

2. Extradition may be refused if the crime in respect of which extradition is sought was committed in the territory of the Contracting Party applied to.

Article 64. If extradition does not take place, the applicant Contracting Party must be notified of the reasons for refusal.

Article 65. REQUISITION FOR EXTRADITION. 1. A requisition for extradition must indicate:

- 1) The title of the applicant authority;
- 2) The text of the laws of the applicant Contracting Party on which qualification of the act as an offence is based;
- 3) The full name and nationality of the person claimed, his domicile or residence, and, if possible, a description and other particulars regarding his character.

2. Requisitions for extradition for the purpose of criminal prosecution must be accompanied by a certified copy of the warrant of arrest together with a description of the circumstances of the case.

A requisition for extradition for the purpose of execution of a sentence must be accompanied by a certified copy of the sentence confirming that it has become final and the text of the criminal statute on the basis of which the person was convicted. If

the offender has already served part of his sentence, the particulars in that regard must also be transmitted.

3. The requisition and the accompanying documents shall be drawn up in the language of the applicant Contracting Party.

Article 66. SUPPLEMENTARY INFORMATION. If the requisition for extradition does not contain the necessary information, the Contracting Party applied to may request supplementary information and may set a time-limit during which the additional facts must be supplied. Such time-limit may be extended on request.

DETENTION PENDING EXTRADITION

Article 67. Upon receipt of a requisition for extradition, the Contracting Party applied to shall immediately take steps to detain the person claimed.

Article 68. 1. A person liable to extradition may by request be detained even before receipt of a requisition for extradition if the competent authorities of the applicant Contracting Party specify that there is a warrant of arrest or final sentence and indicate that a requisition for extradition will be submitted forthwith. Such request may be made by post, telegraph, telephone or other methods.

2. The competent authorities of one Contracting Party may, even in the absence of such a request, detain a person found in their territory if he is known to have committed an extraditable offence in accordance with article 62.

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

Article 69. 1. The Contracting Party applied to shall discontinue the extradition proceedings and release the detained person if, within the period laid down in article 66, the necessary supplementary information has not been furnished.

2. A person detained under article 68 shall be released if the requisition is not received within two months from the date on which notification of his detention was sent to the other Contracting Party.

Article 70. POSTPONEMENT OF EXTRADITION. 1. If a person claimed is under trial in the territory of the Contracting Party applied to or if the person has been convicted of another offence in the territory of the Contracting Party applied to, his extradition may be postponed until the termination of criminal proceedings or the completion of the sentence.

2. If postponement of extradition may result in exemption from prosecution being acquired by lapse of time or may prejudice the institution of criminal proceedings against the person claimed, such person may on receipt of a request with statement of grounds be extradited temporarily for the institution of criminal proceedings. The applicant Contracting Party must return the person extradited no later than three months after the date of extradition. In justified cases, the time-limit may be extended.

Article 71. REQUISITIONS FROM SEVERAL STATES. In the event that requisitions are received from more than one State for the extradition of a person in respect of one or more offences, the Contracting Party applied to shall decide which of the requisitions shall be complied with.

Article 72. LIMITS TO PROSECUTION. 1. An extradited person may not, without the consent of the Contracting Party applied to, be prosecuted, punished or extradited to a third State for the purposes of criminal prosecution or the enforcement of a sentence for another offence, committed before his extradition, which was not taken into account when consent was given to the extradition.

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

- 1) An extradited person who is not a national of the applicant Contracting Party fails to quit its territory within one month after the conclusion of the criminal proceedings or completion of the 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 Contracting Party to which he was extradited but subsequently returns thereto of his own will.

Article 73. PROCESS OF EXTRADITION. 1. The Contracting Party applied to shall, once it has approved the extradition, notify the other Contracting Party of the place and time of extradition.

2. The person whose extradition has been approved shall be released if the applicant Contracting Party fails to accept him within 15 days of the date fixed for his extradition.

Article 74. NOTIFICATION OF RESULTS OF CRIMINAL PROCEEDINGS. The Contracting Party which has accepted an extradited person shall inform the Contracting Party applied to of the results of the criminal proceedings. Upon request, a copy of the final verdict shall also be transmitted.

Article 75. RE-EXTRADITION. If an 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 without production of the documents specified in article 65.

Article 76. DELIVERY OF ARTICLES. 1. The Contracting Party which has been requested to extradite shall deliver to the applicant Contracting Party articles which were used to commit an extraditable offence in accordance with article 62, and also articles bearing traces of the offence or acquired as a result thereof. These articles may be delivered on request even if the offender cannot be extradited by reason of death or any other circumstances.

2. The Contracting Party applied to may temporarily delay the delivery of the articles referred to in paragraph 1 if they are needed for proceedings in another criminal case.

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 to the Contracting Party which delivered them. In individual cases these articles may be returned to their owners even before the conclusion of the proceedings if this is possible without detriment to the proceedings. If the persons entitled to the articles are in the territory of the applicant Contracting Party, that Contracting Party shall, with the consent of the Contracting Party applied to, be entitled to return the articles directly to those persons.

Article 77. CONVEYANCE IN TRANSIT. 1. Each Contracting Party shall, upon request, authorize the conveyance through its territory of any person extradited by a third State to the other Contracting Party.

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

3. The Contracting Parties shall not be bound to authorize the conveyance of persons who are not extraditable under this Treaty.

4. The Contracting Party applied to shall authorize conveyance in transit in the manner it considers most appropriate.

Article 78. 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.

2. CRIMINAL PROSECUTION

Article 79. APPLICATIONS FOR THE INSTITUTION OF CRIMINAL PROCEEDINGS.

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

2. The obligation to prosecute shall also extend to offences which under the laws of the applicant Contracting Party are regarded as crimes, but under the laws of the Contracting Party applied to are regarded only as administrative misdemeanours (misdemeanours or administrative violations).

3. Applications for criminal prosecution submitted by victims in accordance with the laws of one Contracting Party to its competent authorities within the requisite time-limit shall be valid also in the territory of the other Contracting Party.

4. Persons who have suffered damage from a crime in respect of which an application has been submitted for prosecution shall be invited to participate in the case if they have made claims for the restitution of damage.

Article 80. PROCEDURE IN RESPECT OF APPLICATIONS FOR THE INSTITUTION OF CRIMINAL PROCEEDINGS. 1. Applications for the institution of criminal proceedings must indicate:

- 1) The title of the applicant authority;
- 2) A description of the act in respect of which application for the institution of proceedings has been made;
- 3) The most precise 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 also other legal provisions of significance for the proceedings;
- 5) The full name of the suspect, his nationality, domicile or residence, and other particulars regarding his character;
- 6) The applications by the injured parties regarding criminal cases instituted upon application by an injured party, and for compensation for damage;
- 7) The extent of the damage caused by the offence.

Documents pertaining to the pre-trial and preliminary investigation, as well as evidence, at the disposal of the applicant Contracting Party shall be attached to the application. In transmitting articles which were used to commit the offence or were acquired by the perpetrator as a result thereof, the provisions of article 76, paragraph 3, shall be taken into account.

2. The application and the documents attached to it shall be drawn up in the language of the applicant Contracting Party.

3. If, at the time of transmittal of the application for the institution of proceedings, the accused is under custody in the territory of the applicant Contracting Party, he shall be delivered to the territory of the Contracting Party applied to.

4. The Contracting Party applied to shall inform the applicant Contracting Party of the final decision. At the request of the applicant Contracting Party, a copy of the final decision shall be transmitted.

Article 81. CONSEQUENCES OF THE INSTITUTION OF CRIMINAL PROCEEDINGS. If application has been made to a Contracting Party, in accordance with article 79, for the institution of proceedings, then following the passing of the final sentence or the adoption of another final decision by the authorities of the Contracting Party applied to no criminal proceedings may be instituted by the authorities of the applicant Contracting Party, and instituted proceedings shall be terminated.

3. METHOD OF COMMUNICATION

Article 82. In matters relating to extradition and criminal prosecution, the channel of communication shall be between the Procurator's Office or the Ministry of Justice of the Union of Soviet Socialist Republics and the Procurator General's Office or the Ministry of Justice of the German Democratic Republic, respectively.

PART V. OFFICIAL DOCUMENTS

Article 83. 1. Documents which have, in the territory of either Contracting Party, been drawn up or attested in due form and within the limits of their competence by the judicial or other authorities, or by a person specially authorized for the purpose in accordance with the legislation of that Contracting Party, and which have been signed and officially sealed, shall be accepted by the authorities of the other Contracting Party without authentication.

2. Paragraph 1 shall also apply to signatures which have been witnessed.

Article 84. Documents which are considered official documents in the territory of one Contracting Party shall have the evidential value of official documents in the territory of the other Party.

TRANSMITTAL OF DOCUMENTS ON CIVIL STATUS AND OTHER DOCUMENTS

Article 85. The competent authorities of the Contracting Parties shall transmit to each other upon request information on the registration of civil registration documents and other documents relating to the personal rights and interests of nationals of the other Contracting Party (documents on employment experience and others).

Article 86. 1. The civil registration authorities of either Contracting Party shall, at the request of the authorities of the other Contracting Party, transmit extracts from the civil register, untranslated and free of charge, for official purposes.

2. In transmitting and executing requests on the basis of this article, the Contracting Parties shall communicate in the manner specified in article 9.

Article 87. INFORMATION ON COURT SENTENCES. The Contracting Parties shall inform each other at the beginning of each year of the guilty verdicts which have been rendered in the past year by their courts, and which have entered into force, in respect of nationals of the other Contracting Party.

Article 88. INFORMATION ON PREVIOUS CONVICTIONS. The Contracting Parties shall provide each other on request, and free of charge, with information on the previous convictions of persons already sentenced by the courts of the Contracting Party applied to if these persons are prosecuted in the territory of the applicant Contracting Party.

PART VI. FINAL PROVISIONS

Article 89. This Treaty is subject to ratification.

The exchange of instruments of ratification shall take place at Berlin.

Article 90. 1. This Treaty shall enter into force on the thirtieth day of the exchange of the instruments of ratification.

2. Either Contracting Party may denounce this Treaty in writing. The denunciation shall enter into force one year after the date of receipt of notification by the other Contracting Party.

Article 91. On the date of the entry into force of this Treaty, the Treaty between the Union of Soviet Socialist Republics and the German Democratic Republic concerning legal assistance in civil, family and criminal cases, of 25 November 1957, shall cease to have effect.

DONE at Moscow on 19 September 1979, in two original copies in the Russian and German languages, both texts being equally authentic.

IN WITNESS WHEREOF the plenipotentiaries of the Contracting Parties have signed this Treaty and have thereto affixed their seals.

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

[VLADIMIR IVANOVICH TEREILOV]

For the Council of State
of the German Democratic
Republic:

[HANS-JOACHIM HEUSINGER]