

No. 22905

**CZECHOSLOVAKIA
and
VIET NAM**

**Treaty concerning legal assistance in civil, family
and criminal matters. Signed at Prague on 12
October 1982**

Authentic texts: Czech and Vietnamese.

Registered by Czechoslovakia on 15 May 1984.

**TCHÉCOSLOVAQUIE
et
VIET NAM**

**Traité relatif à l'entraide judiciaire en matière civile
familiale et pénale. Signé à Prague le 12 octobre
1982**

Textes authentiques : tchèque et vietnamien.

Enregistré par la Tchécoslovaquie le 15 mai 1985.

[TRANSLATION—TRADUCTION]

TREATY¹ BETWEEN THE CZECHOSLOVAK SOCIALIST REPUBLIC AND THE SOCIALIST REPUBLIC OF VIET NAM CONCERNING LEGAL ASSISTANCE IN CIVIL, FAMILY AND CRIMINAL MATTERS

The Czechoslovak Socialist Republic and the Socialist Republic of Viet Nam, desiring to develop further the fraternal relations between the peoples of the two States in accordance with the Treaty of friendship and co-operation between the Czechoslovak Socialist Republic and the Socialist Republic of Viet Nam of 14 February 1980² and to facilitate legal relations between the two States in civil, family and criminal matters have decided to conclude this Treaty. For that purpose they have appointed as their plenipotentiaries:

The President of the Czechoslovak Socialist Republic: Antonín Kašpar,
Minister of Justice of the Czech Socialist Republic,

The President of the Council of State of the Socialist Republic of Viet Nam:
Phan 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 persons and property, the same rights as nationals of the said other Contracting Party.

2. For the purposes of the provisions of paragraph 1 of this article, nationals of either Contracting Party shall have free access to the other Contracting Party's courts and other authorities competent in civil and criminal matters and shall have the right to initiate proceedings before those authorities in order to protect their personal and property rights.

3. The references to civil cases in this Treaty shall be understood to apply to family and labour cases as well.

4. The provisions of this Treaty relating to nationals of the Contracting Parties shall also apply to bodies corporate of each of the Contracting Parties.

¹ Came into force on 16 April 1984, i.e., the thirtieth day following the date of the exchange of the instruments of ratification, which took place at Hanoi on 16 March 1984, in accordance with articles 80 and 81.

² United Nations, *Treaty Series*, vol. 1224, p. 333.

Article 2. LEGAL ASSISTANCE

1. The courts, procurator's offices and other authorities of the two Contracting Parties acting in civil and criminal matters (hereinafter referred to simply as "judicial authorities") shall provide one another with legal assistance under the conditions specified in this Treaty.

2. The judicial authorities shall provide one another with legal assistance through the performance of various acts, such as the interrogation of witnesses, parties, defendants or other persons, the provision of expert evidence and the preparation, transmittal and delivery of documents.

Article 3. METHOD OF COMMUNICATION

1. Save as otherwise provided in this Treaty, the judicial authorities of the Contracting Parties shall communicate through the central authorities.

2. For the purposes of this Treaty, the central authorities shall be the following:

- (a) For the Czechoslovak Socialist Republic:
 - The Office of the Procurator General of the Czechoslovak Socialist Republic;
 - The Ministry of Justice of the Czech Socialist Republic;
 - The Ministry of Justice of the Slovak Socialist Republic;
- (b) For the Socialist Republic of Viet Nam.
 - The Office of the Supreme People's Procurator;
 - The Ministry of Justice of the Socialist Republic of Viet Nam.

Article 4. LANGUAGE

Save as otherwise provided in this Treaty, the authorities of the Contracting Parties shall use their official languages or the Russian language in relations between them in the implementation of this Treaty.

Article 5. APPLICATIONS FOR LEGAL ASSISTANCE

1. Save as otherwise provided in this Treaty, legal assistance shall be provided on the basis of an application for legal assistance in accordance with the legal regulations of the State in which it is provided.

2. Applications for legal assistance and the documents accompanying them must be signed and sealed by the competent authority. If it is required that the document should be accompanied by a translation, the latter must be authenticated by a duly qualified translator, by the competent State authority or by the diplomatic mission or a consular post of one of the Contracting Parties.

3. In providing reciprocal legal assistance, the authorities of the Contracting Parties may use their own printed forms.

4. The application for legal assistance must include:

- (a) The designation of the applicant judicial authority;
- (b) The designation of the judicial authority applied to;
- (c) An exact specification of the case in respect of which legal assistance is applied for, together with a statement of the subject and purpose of the application for legal assistance and the necessary data for its execution;
- (d) The given names and family names, nationalities, domicile, civil status and profession or occupation of the parties and of the accused, indicted or convicted persons, the witnesses and the persons, if any, who have suffered damage;
- (e) The given names and family names and the addresses of the legal representatives if they have been designated.

5. Requests for the service of documents must include, in addition to the information referred to in paragraph 4 of this article, the exact address of the addressee and the designation of the documents to be served.

6. If the application includes a request to conduct an interrogation, the application must also contain the questions to be asked.

7. Applications in criminal cases must also include the legal designation and description of the offence committed and, where possible, the dates of birth of the accused persons and their parents.

Article 6. EXECUTION OF APPLICATIONS FOR LEGAL ASSISTANCE

1. Applications for legal assistance shall be executed in accordance with the provisions of article 5, paragraph 1, of this Treaty. At the request of the applicant authority, the application for legal assistance may be executed in the manner specified therein, in so far as such execution is not contrary to the legal regulations of the State applied to.

2. The judicial authority applied to shall notify in good time to the applicant judicial authority, if the latter so requests, the place and date of execution of the application.

3. If the authority applied to is not competent to execute the application, it shall transmit the application without delay to the competent authority.

4. If it has not been possible to execute the application, the authority applied to shall return the documents and state the reasons which made it impossible to execute the application.

5. Where the exact address of the person referred to in the application for legal assistance is not known, the authority of the Party applied to shall take steps to ascertain his place of residence.

Article 7. SERVICE OF DOCUMENTS

1. Documents concerning civil law which are to be served on persons domiciled in the territory of the other Contracting Party shall be attached in duplicate to the request for service of documents.

2. If the document to be served is not drawn up in the language of the Contracting Party applied to, or if no translation into that language has been attached, the authority applied to shall serve the document on the addressee only if he is willing to accept it voluntarily.

3. The document attesting to service shall be prepared in conformity with the regulations of the Contracting Party applied to which relate to the service of documents. The said document must specify the place and date of service and the manner in which it was effected.

4. If service cannot be effected at the address indicated, the authority applied to shall take steps to ascertain the place of residence of the addressee. If the address cannot be ascertained, the said authority shall so inform the applicant authority and shall at the same time return the document.

5. At the request of the applicant authority, the authority applied to shall take steps, within the limits imposed by the regulations in force in the territory of the Contracting Party applied to, to have the document served personally on the person concerned.

Article 8. SERVICE OF DOCUMENTS ON OWN NATIONALS

A Contracting Party may also serve documents on its own nationals through its diplomatic missions or consular posts. In such case no coercive measures shall be applied.

Article 9. PROTECTION OF WITNESSES AND EXPERTS

1. A witness or expert who is domiciled in the territory of one of the Contracting Parties shall not be required to appear in response to a summons from an authority of the other Contracting Party. Accordingly, the summons shall not contain any threat of the adoption of coercive measures in the event of failure to appear.

2. A witness or expert who is domiciled in the territory of one of the Contracting Parties and who appears in response to a summons from a judicial authority of the other Contracting Party may not irrespective of his nationality, be prosecuted or subjected to any limitation of his personal freedom or to a previously imposed punishment for an offence committed by him before he crossed the frontier of the applicant Contracting Party and may not be prosecuted or subjected to any limitation of his personal freedom in connection with the subject of the proceeding.

3. A witness or expert shall forfeit the protection provided for in paragraph 2 of this article if he fails to quit the territory of the applicant Contracting Party within a period of 15 days counted from the date on which he was informed that his presence was no longer necessary. The said period shall not include the time during which the witness or expert has been unable for reasons beyond his control to leave the territory of the applicant Contracting Party.

4. Persons who have been summoned shall have the right to reimbursement for the cost of their travel and stay and for loss of earnings. Experts shall, in addition, be entitled to the payment of expert fees. The summons shall indicate the type of remuneration to which the said persons shall be entitled; an advance shall be paid to them, at their request, to cover the relevant costs.

5. If a person summoned to appear as a witness is in detention in the territory of the Contracting Party applied to, the authorities of that Contracting Party which are mentioned in article 3, paragraph 2, of this Treaty may arrange the transfer of the said person to the territory of the applicant Contracting Party, subject to the condition that he shall there continue to be detained and shall be returned without delay after being interrogated.

Article 10. COSTS OF LEGAL ASSISTANCE

1. Each Contracting Party shall bear the costs of legal assistance incurred in its territory.

2. At the request of the applicant authority, the authority applied to shall inform it of the amount of the costs incurred. If the said costs are reimbursed, the reimbursed amount shall become the property of the applicant Contracting Party.

Article 11. TRACING OF ADDRESSES

The competent authorities of the Contracting Parties shall help each other, in so far as possible, in tracing the addresses of persons resident in their territory if that is necessary for safeguarding the rights of their nationals.

Article 12. INFORMATION ON LEGAL QUESTIONS

The central authorities of the two Contracting Parties shall, on request, provide each other with information on the legal regulations previously or currently in force in the territory of their States and the text thereof, as well as information concerning legal questions and legal practice.

Article 13. VALIDITY OF DOCUMENTS

1. Documents issued or authenticated in the territory of one Contracting Party by competent authorities and in due form may be used in the territory of the other Contracting Party without any other authentication. The same shall apply to the signatures on any other documents which have been authenticated in accordance with the legal regulations in force in the territory of one of the Contracting Parties.

2. The provisions of paragraph 1 of this article shall also apply to copies and translations of documents which have been authenticated by the competent authority.

3. Documents which are considered official documents in the territory of one Contracting Party shall have the validity of official documents in the territory of the other Contracting Party as well.

Article 14. DENIAL OF LEGAL ASSISTANCE

The provision of legal assistance in accordance with this Treaty may be denied if in the view of the Contracting Party applied to the provision of the legal assistance would violate its sovereignty or security or if it would be inconsistent with the fundamental principles of its legal regulations.

PART II. CIVIL CASES

CHAPTER 1. CASES RELATING TO CIVIL STATUS

Article 15. LEGAL CAPACITY AND CAPACITY FOR LEGAL ACTION

1. The legal capacity and capacity for legal action of nationals of each Contracting Party shall be governed by the legal regulations of that Contracting Party.

2. The capacity of bodies corporate shall be governed by the legal regulations of the Contracting Party under whose legal regulations they were constituted.

Article 16. ANNULMENT AND LIMITATION OF CAPACITY FOR LEGAL ACTION

1. Save as otherwise provided in this Treaty, the authority competent for the annulment or limitation of capacity for legal action shall be the judicial authority of the Contracting Party of which the person whose capacity for legal action is to be decided is a national.

2. Where the judicial authority of one of the Contracting Parties finds that in the case of a national of the other Contracting Party who is domiciled in the territory of the first-named Party there are reasons for the annulment or limitation of capacity for legal action, it shall notify that fact to the competent judicial authority of the other Contracting Party. The same procedure shall be followed where the judicial authority takes temporary measures for the protection of that person or his property.

3. If the judicial authority of the other Contracting Party to which the facts referred to in paragraph 2 were notified does not initiate the necessary proceeding within a period of three months, or if it does not state its position within that period of time, the proceeding relating to the annulment or limitation of capacity for legal action shall be carried out by the judicial authority of the Contracting Party in whose territory the person whose capacity for legal action is to be decided is domiciled. The decision shall be communicated to the competent judicial authority of the other Contracting Party.

4. If the proceeding is conducted before the judicial authority which is competent in accordance with the preceding paragraph, the annulment or limitation of capacity for legal action may be declared only on the basis of the grounds established by the legal regulations of both Contracting Parties.

5. The provisions of this article shall also apply in the event of restoration or modification of capacity for legal action.

Article 17

1. In proceeding to declare a person dead, the competent authorities shall be the judicial authorities of the Contracting Party of which the person 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 dead and may establish the date of his death upon the application of persons living in the territory of the first-mentioned Contracting Party if the persons concerned prove that, under the legal regulations of the first-mentioned Contracting Party, they have a legal interest in the matter.

3. In the cases referred to in paragraphs 1 and 2 of this article, the authorities of each Contracting Party shall apply the legal regulations of their own State.

4. Decisions taken in accordance with paragraph 2 of this article shall have legal effects solely in the territory of the Contracting Party whose judicial authority took them.

CHAPTER 2. FAMILY CASES

Article 18. MARRIAGE

1. Where a marriage is contracted by persons of whom one is a national of one Contracting Party and the other is a national of the other Contracting Party, the conditions for marriage shall be governed, in the case of each of them, by the legal regulations of the Contracting Party of which he or she is a national. In respect of circumstances which preclude marriage, the requirements prescribed by the legal regulations of the Contracting Party in whose territory the marriage is solemnized must also be complied with.

2. The form of solemnization of a marriage shall be governed by the legal regulations of the Contracting Party in whose territory the marriage is solemnized.

3. Where the marriage is solemnized before a representative of a diplomatic mission or consular post who has been duly authorized thereto by one of the Contracting States, the form of solemnization of the marriage shall be governed by the legal regulations of that State.

4. Observance of civil forms shall be required in all cases for the validity of a marriage between nationals of the Contracting Parties.

Article 19. PERSONAL AND PROPERTY RELATIONS OF SPOUSES

1. Where both spouses are nationals of one Contracting Party and are domiciled in the territory of the other contracting Party, their personal and

property relations shall be governed by the legal regulations of the Contracting Party of which they are nationals.

2. Where one spouse is domiciled in the territory of one Contracting Party and the other in the territory of the other Contracting Party, and both are nationals of one Contracting Party, their personal and property relations shall be governed by the legal regulations 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, their personal and property relations shall be governed by the legal regulations of the Contracting Party in whose territory they have or last had their joint domicile.

4. If the spouses to whom the provisions of paragraph 3 apply have not had a joint domicile in the territory of either Contracting Party, their personal and property relations shall be governed by the legal regulations of the Contracting Party to whose court the application has been submitted.

5. The judicial authorities of the Contracting Party of which both spouses are nationals shall be competent to decide their personal and property relations. If, at the time of the initiation of proceedings, the spouses are domiciled in the territory of the other Contracting Party, the authorities of the latter Party shall also have competence.

6. Where one of the spouses is a national of one Contracting Party and the other is a national of the other Contracting Party, the competent judicial authorities of the Contracting Party in whose territory they have or last had their joint domicile shall be competent to decide the personal and property relations of the spouses. Where the spouses have not had a joint domicile, the authorities of both Contracting Parties shall have competence.

Article 20. DIVORCE

1. Divorce shall be governed by the legal regulations of the Contracting Party of which the two spouses are nationals at the time when the application for the initiation of proceedings is submitted.

2. If one of the spouses is a national of one Contracting Party and the other is a national of the other Contracting Party, the judicial authority before which the divorce proceedings are conducted shall decide in accordance with the legal regulations of its own State.

3. In divorce proceedings in accordance with paragraph 1 of this article the competent authority shall be the judicial authority of the Contracting Party of which both spouses are nationals at the time when the application is submitted. If, at the time when the application for divorce is submitted, both spouses are domiciled in the territory of the other Contracting Party, the latter Contracting Party's judicial authority shall also have competence.

4. In the case referred to in paragraph 2 of this article the competent authority shall be the judicial authority of the Contracting Party in whose

territory the spouses have or last had their joint domicile. Where one of the spouses is domiciled in the territory of one Contracting Party and the other in the territory of the other Contracting Party, the judicial authorities of both Contracting Parties shall have competence.

Article 21. NULLITY OF MARRIAGE

1. The determination of the existence or non-existence of marriage and the declaration of nullity of marriage shall be governed by the legal regulations of the Contracting Party whose legal regulations, in accordance with article 18 of this Treaty, were applied to the solemnization of the marriage.

2. The competence of an authority shall be governed by the provisions of article 20 of this Treaty.

Article 22. LEGAL RELATIONS BETWEEN PARENTS AND CHILDREN

1. The acknowledgement, denial or investigation of paternity shall be governed by the legal regulations of the Contracting Party of which the child was a national at birth.

2. With regard to the form of acknowledgement of paternity, compliance with the legal regulations of the Contracting Party in whose territory the paternity is acknowledged shall suffice.

3. Legal relations between parents and children shall be governed by the legal regulations of the Contracting Party of which the child is a national.

4. Both the judicial authorities of the Contracting Party of which the child is a national and the judicial authorities of the Contracting Party in whose territory he is domiciled shall be competent to decide on the relations referred to in the preceding paragraphs of this article.

MAINTENANCE OBLIGATIONS

Article 23

1. Maintenance obligations between parents and children shall be governed by the legal regulations of the Contracting Party of which the person entitled to maintenance is a national.

2. In proceedings concerning the matters referred to in paragraph 1 of this article the competent authority shall be that of the Contracting Party in whose territory the person entitled to maintenance is domiciled.

Article 24

The Contracting Parties shall do everything necessary to ensure compliance with the maintenance obligation and with the execution of the sentence or any other decision taken by the judicial authority with regard to mainten-

ance. The Contracting Parties shall take steps to ensure that the transfers of payments for the maintenance of minor children are processed as a matter of priority and without any restrictions.

Article 25

If there are submitted to the judicial authority of one Contracting Party applications relating to maintenance payments for which a person resident in the territory of the other Contracting Party is liable, the judicial authority of the last-mentioned Contracting Party shall, upon request, provide assistance in determining the source and the amount of that person's income.

ADOPTION AND TERMINATION OF ADOPTION

Article 26

1. Adoption and termination of adoption shall be governed by the legal regulations of the Contracting Party of which the adopter is a national at the time when the application for the initiation of proceedings is submitted. In the case referred to in article 27, paragraph 2, of this Treaty, when the spouses are nationals of different Contracting Parties, the conditions established by the legal regulations of both Contracting Parties must be complied with.

2. The consent of the minor who is to be adopted or of other persons and authorities shall be governed by the legal regulations of the Contracting Party of which the minor is a national.

Article 27

1. In proceedings relating to adoption and the termination of adoption the competent authority shall be that of the Contracting Party of which the adopter is a national at the time when the proceedings are initiated.

2. If the persons making the adoption are spouses one of whom is a national of one Contracting Party and the other a national of the other Contracting Party, the authority having competence in proceedings concerning adoption and the termination of adoption shall be the judicial authority of the Contracting Party in whose territory they have or last had their joint domicile.

GUARDIANSHIP AND CURATORSHIP

Article 28

1. The establishment and termination of guardianship and curatorship shall be governed by the legal regulations of the Contracting Party of which the ward is a national.

2. The legal relations between a guardian or curator and his ward shall be governed by the legal regulations of the Contracting Party whose authority appointed the guardian or curator.

3. Acceptance of the office of guardian or curator and the obligation to serve as guardian or curator shall be governed by the legal regulations of the Contracting Party of which the guardian or curator is a national.

4. Save as otherwise provided by this Treaty, the authority of the Contracting Party of which the ward is a national shall decide on the establishment and termination of guardianship or curatorship.

5. Decisions relating to the establishment and termination of guardianship and curatorship which are taken by the authorities of one Contracting Party and relate to nationals of that Party shall also have effect in the territory of the other Contracting Party.

Article 29

1. Where need arises to appoint a guardian or curator in order to protect the interests of a national of one Contracting Party who has his domicile, residence or property in the territory of the other Contracting Party, the judicial authority of the last-mentioned Contracting Party shall notify the fact without delay to the diplomatic mission or a consular post of the first-mentioned Contracting Party.

2. In urgent cases the competent judicial authority shall take the necessary provisional measures in accordance with the legal regulations of its own State, notifying the fact without delay to the diplomatic mission or consular post in accordance with paragraph 1 of this article. The said measures shall remain in effect until the judicial authority of the other Contracting Party takes other measures and the judicial authority which took the provisional measures is duly notified thereof.

Article 30

1. The judicial authority which is competent in accordance with article 28, paragraph 4, of this Treaty may transfer guardianship or curatorship to the competent authority of the other Contracting Party if the ward is domiciled in the latter's territory. The transfer of guardianship or curatorship shall take effect as soon as the authority of the last-mentioned Contracting Party accepts it. The last-mentioned authority shall immediately notify the applicant authority of the acceptance of guardianship or curatorship.

2. The competent authority of the Contracting Party which, in accordance with paragraph 1 of this article, has accepted guardianship or curatorship shall apply the legal regulations of its own State. The said authority shall not be entitled to decide the civil status of the ward.

Article 31. EFFECTS OF THE INITIATION OF PROCEEDINGS

The initiation of proceedings relating to the personal and property relations of spouses, to divorce and to legal relations between parents and children before the judicial authority of one Contracting Party shall preclude the initiation of proceedings in the same matter between the same parties before a judicial authority of the other Contracting Party. The judicial authority before which the same claim was last asserted shall *ex officio* declare that it has no competence.

CHAPTER 3

Article 32. FORM OF LEGAL TRANSACTIONS

1. The form of legal transactions shall be governed by the legal regulations which are applicable to the legal transaction itself. It shall, however, be deemed sufficient if the legal regulations of the place where the legal transaction is concluded are complied with.

2. The form of legal transactions relating to immovable property and the real rights relating thereto shall be governed by the legal regulations of the Contracting Party in whose territory the immovable property is situated.

Article 33. LIABILITY FOR DAMAGE

Obligations arising out of unlawful actions or omissions which constitute grounds for compensation shall be governed by the legal regulations of the Contracting Party in whose territory such actions or omissions took place. The authority competent in such matters shall be the judicial authority of the said Contracting Party.

CHAPTER 4. SUCCESSION CASES

Article 34. PRINCIPLE OF EQUALITY

1. Nationals of one Contracting Party may acquire property and rights in the territory of the other Contracting Party by statutory or testamentary succession under the same conditions and to the same extent as nationals of the latter Contracting Party.

2. Nationals of one Contracting Party may make a testamentary disposition in respect of their property situated in the territory of the other Contracting Party.

Article 35

1. Succession to movable property shall be governed by the legal regulations 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 legal regulations of the Contracting Party in whose territory the immovable property is situated.

3. The determination whether the property to which the succession relates is deemed to be movable or immovable shall be governed by the legal regulations of the Contracting Party in whose territory the property is situated.

Article 36. TESTAMENTARY DISPOSITIONS

1. The capacity to make or revoke a testamentary disposition, as well as proceedings for challenging a testamentary disposition which are based on lack

of consent of the testator or on failure to express such consent, or on other defects of the testamentary disposition, shall be governed by the legal regulations of the Contracting Party of which the testator was a national at the time of making or revoking the testamentary disposition.

2. The form of making or revoking a testamentary disposition shall be governed by the legal regulations of the Contracting Party of which the testator was a national at the time of making or revoking the testamentary disposition. The testamentary disposition shall be valid if the provisions of the legal regulations of the Contracting Party in whose territory the said actions took place have been complied with.

Article 37. DEATH WITHOUT HEIRS

Where, in accordance with the legal regulations of the Contracting Party which govern legal relations in respect of succession, there are no heirs, the inheritance of movable property shall descend to the Contracting Party of which the decedent was a national at the time of his death, and the inheritance of immovable property shall descend to the Contracting Party in whose territory the property is situated.

Article 38. COMPETENCE IN MATTERS OF SUCCESSION

1. Except in the cases referred to in paragraph 2 of this article, the authority competent in proceedings relating to succession to movable property, shall be the judicial authority of the Contracting Party of which the decedent was a national at the time of his death.

2. If the entire movable estate of a decedent who was a national of one Contracting Party is situated in the territory of the other Contracting Party, then, upon application by an heir, proceedings concerning the said estate shall be conducted before the judicial authority of the last-mentioned Contracting Party if all known heirs agree.

3. In proceedings relating to succession to immovable property the competent authority shall always be the judicial authority of the Contracting Party in whose territory the property is situated.

4. The provisions of paragraphs 1 and 3 of this article shall also apply to proceedings relating to disputes arising in connection with the succession.

Article 39. PROTECTION OF THE ESTATE

1. The authority of the Contracting Party in whose territory an estate has been left by a national of the other Contracting Party shall, in accordance with the legal regulations of its own State, take such measures as are necessary to ensure the protection and administration of the estate. This provision shall also apply in cases in which the estate may be acquired by a national of the other Contracting Party.

2. Measures taken under paragraph 1 of this article shall be reported without delay by the competent authorities to the diplomatic mission or

a consular post of the other Contracting Party, which may participate, either directly or through a representative, in carrying out the measures for protection of the estate. At the request of the diplomatic mission or consular post, the measures taken may be delayed, modified or rescinded.

3. Measures taken under paragraph 1 of this article must be delayed, modified or rescinded at the request of the judicial authority which is competent to conduct the succession proceedings.

Article 40. PUBLICATION OF THE WILL

The authority competent for the opening and publication of the will and for the probate of its status and content, as well as for procedures relating to its validity, shall be the judicial authority of the Contracting Party in whose territory the will is found. If the testator was a national of the other Contracting Party at the time of his death, an authenticated copy of the will and a document describing the status and content thereof shall be sent to the judicial authority of the said other Contracting Party. The original of the will shall be sent upon request.

Article 41. DELIVERY OF THE ESTATE

1. Where the movable estate is situated in the territory of one Contracting Party, the said estate shall, with a view to the conduct of proceedings, be delivered to the judicial authority or the diplomatic mission or a consular post of the Contracting Party of which the decedent was a national at the time of his death, on condition that the provisions of paragraph 4 (b) of this article are complied with.

2. Succession duties on immovable property shall be collected by the Contracting Party in whose territory the immovable property is situated. Save as otherwise provided in this Treaty, succession duties on movable property shall be collected by the Contracting Party of which the decedent was a national at the time of his death.

3. If, according to the results of the succession proceedings, the estate descends to heirs who are domiciled in the territory of the other Contracting Party and it is not possible to deliver the estate to the said heirs or their representatives, the estate shall be delivered to the diplomatic mission or a consular post of the said other Contracting Party.

4. The estate shall be delivered provided that:

- (a) All taxes and charges related to the estate have been paid or secured;
- (b) The competent authority has granted the permission necessary for the export of the components of the estate or for the transfer of sums of money; and
- (c) All claims of the decedent's creditors asserted within the time-limit specified by the legal regulations of the Contracting Party in whose territory the estate is situated have been paid or secured.

CHAPTER 5. LEGAL COSTS

Article 42. EXEMPTION FROM DEPOSIT OF SECURITY FOR LEGAL COSTS

1. Nationals of one Contracting Party who appear before authorities of the other Contracting Party shall not be required to deposit security for legal costs if they are domiciled in the territory of a Contracting Party.

2. A judicial authority of one Contracting Party may require nationals of the other Contracting Party to deposit security for costs relating to the submission of evidence under the same conditions and to the same extent as its own nationals.

EXEMPTION FROM PAYMENT OF LEGAL DUES AND COSTS

Article 43

Nationals of one Contracting Party shall, in the territory of the other Contracting Party, be entitled to exemption from the payment of legal and notarial dues and to free legal representation under the same conditions as nationals of the said other Party.

Article 44

1. An application for the exemption referred to in article 43 of this Treaty may also be submitted by the applicant to the judicial authority of the Contracting Party of which he is a national. An application for the initiation of proceedings in the matter for which the exemption is to be granted may be annexed to the said application.

2. The application submitted in accordance with paragraph 1 of this article and, where appropriate, the application for the initiation of proceedings shall be sent to the judicial authority of the other Contracting Party in the manner specified in article 3 of this Treaty.

Article 45

1. An application for exemption in accordance with article 43 of this Treaty must be accompanied by a document attesting to the applicant's personal, family and property situation and issued by the competent authority of the Contracting Party in whose territory the applicant is domiciled.

2. If the applicant is not domiciled in the territory of either Contracting Party, the said document may be issued by the diplomatic mission or a consular post of the Contracting Party of which the applicant is a national.

3. The judicial authority ruling on the application for exemption may require the authority which issued the attesting document to supplement the information or to furnish the necessary explanations.

CHAPTER 6. RECOGNITION AND ENFORCEMENT OF JUDGEMENTS

Article 46

1. Each Contracting Party shall, under the conditions established by this Treaty, recognize and enforce in its territory the following decisions of the judicial authorities of the other Contracting Party:

- (a) Judgements relating to property claims and rendered in civil cases, as well as settlements approved by a court in such cases;
- (b) Judgements relating to compensation for damage which have been established in criminal cases.

2. The Contracting Parties shall, on the conditions established in this Treaty, recognize and enforce in their territory the decisions of arbitral authorities, provided that:

- (a) The decision is based on a written agreement concerning the competence of the arbitral authority and has been rendered by the arbitral authority specified by the agreement within the limits of its powers as established in the agreement; and
- (b) The agreement concerning the competence of the arbitral authority is valid in accordance with the legal regulations chosen by the parties or, if no legal regulations have been chosen by the parties, in accordance with the legal regulations of the Contracting Party in whose territory the decision is to be recognized or enforced.

Article 47

1. The judgements referred to in article 46 of this Treaty shall be recognized and enforced provided that:

- (a) The judgement has become final and enforceable in accordance with the legal regulations of the Contracting Party in whose territory it was rendered;
- (b) The authority which rendered the judgement was competent according to the provisions of this Treaty or according to the legal regulations of the Contracting Party in whose territory recognition or enforcement is sought;
- (c) No final judgement in the same case and between the same parties has been previously rendered by an authority of the Contracting Party in whose territory the judgement is to be enforced and no final judgement of an authority of a third State has been recognized in the territory of the said Contracting Party;
- (d) The judgement was rendered on the basis of the legal regulations specified by this Treaty;
- (e) The party against whom the judgement was rendered was not deprived of the opportunity to take part in the proceedings or, in the event of his incapacity for legal action, deprived of the opportunity to appoint a representative and the summons or the application for the initiation of proceedings was served upon him personally;

(f) The Contracting Party in whose territory the judgement is to be recognized or enforced considers that the recognition or enforcement would not violate its sovereignty or security and would not be contrary to the fundamental principles of its legal regulations.

2. Provisionally enforceable judgements and provisional measures adopted in respect of maintenance obligations may be enforced in the territory of the Contracting Party applied to even if they are subject to appeal.

Article 48

1. Judgements rendered by the judicial authorities of one Contracting Party in connection with the civil status of nationals of the other Contracting Party shall be recognized in the territory of the latter Contracting Party under the conditions specified in article 47 of this Treaty.

2. Recognition of the judgements referred to in paragraph 1 of this article may be applied for by anyone who has a legal interest therein.

Article 49

Final judgements of the judicial authorities of one Contracting Party in connection with the civil status of its own nationals shall be considered valid in the territory of the other Contracting Party without examination.

Article 50

The authority competent to recognize a judgement and to order its enforcement shall be the judicial authority of the Contracting Party in whose territory the judgement is to be recognized or enforced.

Article 51

1. An application for recognition or enforcement of a judgement may be submitted direct to the judicial authority of the Contracting Party in whose territory the judgement is to be recognized or enforced or to the authority which decided the matter at first instance. In such case the application shall be transmitted to the judicial authority of the other Contracting Party in the manner specified in article 3 of this Treaty.

2. The application must be accompanied by the following:

- (a) An authenticated copy of the judgement and, annexed thereto, a certification that the judgement has become final and enforceable or provisionally enforceable if its final nature, enforceability or provisional enforceability is not evident from the judgement itself;
- (b) An authenticated certificate to the effect that the party against whom the judgement was rendered had been summoned to the proceedings properly and in good time or, in the event of his incapacity for legal action, that he was properly represented;

- (c) An authenticated translation of the accompanying documents referred to in subparagraphs (a) and (b) of this paragraph into the official language of the Contracting Party in whose territory the judgement is to be recognized or enforced.

Article 52

1. The authority ruling on the recognition and enforcement of a judgement shall confine itself to verifying whether the conditions specified in articles 47 and 51 of this Treaty have been fulfilled. Upon verifying that the conditions have been fulfilled, it shall recognize the judgement or order its enforcement.

2. Save where another procedure is specified by this Treaty, the judicial authority which rules on the recognition and enforcement of the judgement shall proceed in accordance with the legal regulations of its own State.

Article 53

1. If the party exempted in accordance with article 42 of this Treaty from the deposit of security has been required to pay legal costs by a judgement which has become final, the judicial authority of the Contracting Party shall, at the request of the entitled person, order enforcement of the judgement free of charge.

2. The provisions of article 51 of this Treaty shall also apply in the case referred to in paragraph 1 of this article.

3. The authority competent to order enforcement of a judgement in accordance with paragraph 1 of this article shall confine itself to verifying whether the judgement relating to legal costs has become final and enforceable.

Article 54

The authority of the Contracting Party in whose territory the legal costs were advanced by the State shall request the judicial authority of the other Contracting Party to collect those costs. It shall deliver the amount collected to the diplomatic mission or a consular post of the other Contracting Party.

Article 55

The provisions of this Treaty concerning the enforcement of judgements shall not affect the legal regulations of the Contracting Parties which relate to the transfer of money or the export of articles obtained through the enforcement of judgements.

CHAPTER 7. TRANSMITTAL OF DOCUMENTS RELATING TO CIVIL STATUS

Article 56

1. Each Contracting Party shall transmit to the other Contracting Party extracts from the civil register relating to nationals of the said

other Contracting Party. The extracts shall be transmitted free of charge through the diplomatic missions or consular posts.

2. The Contracting Parties shall, upon request, transmit to each other extracts from the civil register for official use by the competent authorities, free of charge and in the manner indicated in paragraph 1 of this article.

3. Applications by nationals of either Contracting Party for the transmittal of extracts from the civil register or of other documents relating to civil status may be sent direct to the competent authority of the other Contracting Party. The documents applied for shall be sent to the applicant through the diplomatic mission or a consular post of the Contracting Party whose authority prepared the document. The diplomatic mission or consular post shall, on handing over the document, collect the prescribed fees.

Article 57

1. Where the competent authority of one of the Contracting Parties makes an additional entry or a correction in the civil register relating to the civil status of a national of the other Contracting Party, it shall transmit to the said other Contracting Party an extract from the civil register containing the said additional entry or correction.

2. Each Contracting Party shall transmit to the other Contracting Party copies of final judgements relating to the civil status of nationals of the said other Contracting Party.

3. The documents referred to in paragraphs 1 and 2 of this article shall be transmitted free of charge in the manner indicated in article 56, paragraph 1, of this Treaty.

PART III. CRIMINAL CASES

CHAPTER I

Article 58. PROVISION OF LEGAL ASSISTANCE

Save as otherwise provided in this part, the provision of legal assistance in criminal cases shall be governed by the provisions of Part I of this Treaty.

Article 59. TRANSFER OF PROSECUTION

1. Each Contracting Party shall, in accordance with its legal regulations and at the request of the other Contracting Party, prosecute its own nationals for having committed in the territory of the other Contracting Party acts which are subject to punishment by the courts.

2. The undertaking to prosecute shall also apply to those violations of legal regulations which are subject to punishment by the courts under the legal regulations of the applicant Contracting Party, while under the legal regulations of the Contracting Party applied to they are considered merely violations which, under the legal regulations of the Contracting Party applied to, are subject to action by authorities other than courts.

3. In a proceeding whose prosecution is transferred, complaints submitted by persons who have suffered damage and are applying for compensation shall form part of the proceeding. The competent authorities of the Contracting Party which has undertaken the prosecution shall endeavour, in accordance with their legal regulations, to ensure that a decision on the claims for compensation is taken in the criminal proceeding.

Article 60. CONTENTS OF THE APPLICATION FOR TRANSFER OF PROSECUTION

1. The application for transfer of prosecution, or the annexes thereto, must contain:

- (a) Personal data, including nationality;
- (b) Description of the facts of the case;
- (c) Items of evidence;
- (d) An authenticated copy of the relevant documents where necessary, and in other cases the results of the investigations;
- (e) A copy of the text of the provisions applicable to the offence in accordance with the legal regulations in force at the place at which the offence was committed (including provisions relating to prescription);
- (f) The application for compensation.

2. The applicant Contracting Party shall, at the request of the Contracting Party applied to, supply additional items of evidence.

3. If, at the time of submission of the application for transfer of prosecution, the accused person is in prison or in preventive detention, arrangements shall be made for his transfer to the territory of the Contracting Party applied to.

4. The Contracting Party applied to shall communicate the final decision to the applicant Contracting Party. At the request of the applicant Contracting Party, one copy of the decision shall be sent to it.

CHAPTER 2. EXTRADITION

Article 61. OBLIGATION TO EXTRADITE

The Contracting Parties shall, on request and subject to the conditions specified in this Treaty, extradite individuals situated in their territories to each other for the purpose of a criminal prosecution or the execution of a sentence.

Article 62. CONDITIONS FOR EXTRADITION

1. Extradition for the purpose of a criminal prosecution shall be permitted solely in the case of those offences for which, under the legal regulations of both Contracting Parties, a sentence of more than one year of deprivation of freedom may be imposed.

2. Extradition for the purpose of execution of a sentence shall be permitted solely in the case of those offences which are punishable under the

legal regulations of both Contracting Parties and for which the convicted person has been sentenced to more than one year of deprivation of freedom.

Article 63. REFUSAL OF EXTRADITION

1. Extradition shall not take place:

- (a) If the person claimed is a national of the Contracting Party applied to;
- (b) If the offence was committed in the territory of the Contracting Party applied to;
- (c) If under the legal regulations of the Contracting Party applied to the prosecution cannot be undertaken or the sentence cannot be executed owing to lapse of time or for other statutory reasons;
- (d) If extradition is not permitted under the legal regulations of one of the Contracting Parties;
- (e) If the person claimed has been sentenced for the same offence in the territory of the Contracting Party applied to, or if the case has been dismissed and the dismissal has become final.

2. In cases in which extradition is not granted, the Contracting Party applied to shall communicate that fact to the applicant Contracting Party, explaining the reasons why extradition has not taken place.

Article 64. REQUISITION FOR EXTRADITION

1. A requisition for extradition for the purpose of a criminal prosecution must be accompanied by the warrant for arrest, a description of the offence, a statement of the elements of evidence which have given rise to the suspicion of criminal activity, and a copy of the text of the provisions of the legal regulations applicable to the offence (including provisions relating to prescription). Where the offence has caused damage, information concerning the extent and amount of such damage must be communicated.

2. A requisition for extradition for the purpose of execution of a sentence must be accompanied by one copy of the sentence which has become final and by the text of the legal regulations applied. If the convicted person has already completed part of his sentence, information relating to the duration of that part must also be communicated.

3. In so far as possible, a requisition for extradition shall be accompanied by a description, information concerning the situation and a photograph of the person claimed, as well as information relating to his nationality and to his whereabouts, if such information is not evident from the warrant for arrest or from the sentence.

Article 65. INFORMATION SUPPLEMENTARY TO THE REQUISITION FOR EXTRADITION

If the requisition for extradition does not contain all the essential data, the Contracting Party applied to may request the submission of supplementary information, fixing a time-limit of up to two months for the purpose. The said

time-limit may be extended at the request of the applicant Contracting Party, but not longer than by an additional two months.

Article 66. DETENTION PENDING EXTRADITION

Upon receiving the requisition for extradition, the Contracting Party applied to shall, without delay, take steps for the detention of the person claimed. Such steps shall not be required if it is evident that in accordance with this Treaty the extradition cannot be carried out.

Article 67. PREVENTIVE DETENTION

1. A person may be detained before receipt of the requisition for extradition, if the competent authority of the applicant Contracting Party makes reference to a warrant for arrest or a final judgement and at the same time gives notice of the requisition for extradition. The requisition may be sent by mail, teletype, radio, telephone or any other similar method.

2. The competent authorities of one Contracting Party may, even in the absence of an application in accordance with paragraph 1 of this article, detain a person who is in its territory provided that the said person has committed in the territory of the other Contracting Party an offence which is extraditable under this Treaty.

3. Where a person has been detained in accordance with paragraphs 1 and 2 of this article, the other Contracting Party shall be notified immediately.

Article 68. RELEASE OF DETAINED PERSONS

1. The Contracting Party applied to may release the detained person if the supplementary information has not been sent within the time-limit specified in article 65 of this Treaty.

2. A person detained in accordance with article 67 of this Treaty may be released if the requisition for extradition does not arrive within two months after the date on which the preventive detention was notified to the other Contracting Party.

Article 69. POSTPONEMENT OF EXTRADITION

If the person whose extradition is applied for is being prosecuted or has been sentenced for another offence in the territory of the Contracting Party applied to, extradition may be postponed until the termination of the criminal proceeding or the completion of the sentence.

Article 70. TEMPORARY EXTRADITION

1. If postponement of extradition might result in acquisition of exemption from prosecution by reason of lapse of time or might seriously prejudice the investigation of the offence committed by the person whose extradition is applied for, he may, on receipt of a requisition with statement of grounds from

the applicant Contracting Party, be extradited temporarily for the purpose of carrying out certain proceedings.

2. A temporarily extradited person shall be returned immediately after the completion of the proceedings for the purpose of which he was extradited, not later than three months after the date of the temporary extradition.

Article 71. REQUISITIONS FROM SEVERAL STATES FOR EXTRADITION

Where the extradition of a person has been applied for by more than one State, the Contracting Party applied to shall decide which of the requisitions it will comply with. In doing so, it shall take account of the nationality of the person whose extradition has been applied for and of the place and severity of the offence.

Article 72. LIMITS TO PROSECUTION

1. An extradited person may not, without the consent of the Contracting Party applied to, be prosecuted or punished for other offences which he committed before extradition and which are not referred to in the requisition for extradition, nor may he be handed over to a third State.

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

- (a) The extradited person, not being a national of the applicant Contracting Party, fails to quit the territory of the said Contracting Party within one month after the termination of the criminal proceeding or completion of the sentence even though he had the opportunity to do so. Such period of time shall not include any period during which the extradited person is unable, through no fault of his own, to quit the territory of the applicant Contracting Party;
- (b) The extradited person quits the territory of the applicant Contracting Party but subsequently returns thereto voluntarily.

Article 73. NOTIFICATION OF THE RESULTS OF PROSECUTION

The Contracting Parties shall inform each other of the results of the prosecution of extradited persons. If a sentence has been pronounced upon such persons and has become final, a copy thereof shall be transmitted.

Article 74. SURRENDER

The Contracting Party applied to shall notify the applicant Contracting Party of the place and date of surrender of the person claimed. If the applicant Contracting Party fails to accept the extradited person within 15 days after the date fixed for his surrender, such person may be released from custody. The said time-limit may be extended by agreement between the Contracting Parties, but not longer than by an additional 15 days.

Article 75. RE-EXTRADITION

If an extradited person in some manner evades the prosecution or punishment for which he was extradited and returns to or remains in the

territory of the Contracting Party applied to, he shall be re-extradited upon receipt of a new requisition from the applicant Contracting Party, without any need to produce the documents referred to in article 64 of this Treaty.

Article 76. CONVEYANCE IN TRANSIT

1. Each Contracting Party shall, at the request of the other Contracting Party, authorize the conveyance in transit through its territory of persons who have been extradited by a third State to the said other Contracting Party. The Contracting Party applied to shall not be obliged to authorize such conveyance in cases in which extradition is inadmissible under the provisions of this Treaty.

2. An application for authorization of conveyance in transit shall be submitted and considered in the same manner as a requisition for extradition.

3. The authorities of the Contracting Party applied to shall effect conveyance in transit in whatever manner they find most convenient.

Article 77. COSTS OF EXTRADITION AND CONVEYANCE IN TRANSIT

1. The costs of extradition shall be borne by the Contracting Party in whose territory they were incurred, with the exception of transport costs, which shall be borne by the applicant Contracting Party.

2. The costs of conveyance in transit shall be borne by the applicant Contracting Party.

Article 78. DELIVERY OF ARTICLES

1. There shall be delivered to the applicant Contracting Party the articles used in the commission of an offence for which extradition is possible under the provisions of this Treaty and also the articles acquired by the offender through the commission of the offence, or, where necessary, the monetary equivalent thereof, and any other article of the offender which can be used as evidence in the criminal proceeding; such articles shall be delivered even in cases in which the offender cannot be extradited by reason of his death or other circumstances.

2. The Contracting Party applied to may temporarily retain the articles whose delivery is claimed if it has need of them for other criminal proceedings.

3. The rights of third parties to the articles delivered shall remain unaffected. After the termination of the criminal proceeding the applicant Contracting Party shall return the articles to the Contracting Party applied to, with a view to their delivery to the persons entitled to them. Where the entitled persons are in the territory of the applicant Contracting Party, the articles may, with the consent of the Contracting Party applied to, be delivered to them direct.

Article 79. NOTIFICATION OF SENTENCES

1. Each Contracting Party shall notify the other Contracting Party each year of final sentences pronounced in criminal cases in respect of nationals of the said other Contracting Party.

2. The competent authorities of each Contracting Party shall transmit free of charge to the authorities of the other Contracting Party, at the request of the latter authorities, extracts from the list of sentences imposed.

PART IV. FINAL PROVISIONS

Article 80

This Treaty shall be ratified. The exchange of the instruments of ratification shall take place at Hanoi.

Article 81

This Treaty shall enter into force on the thirtieth day after the date of the exchange of the instruments of ratification and shall remain in force for five years.

Its validity shall be extended for successive periods of five years, provided that neither of the Contracting Parties denounces it in writing six months before the expiry of the current term of its validity.

DONE at Prague on 12 October 1982, in duplicate in the Czech and Vietnamese languages, both texts being equally authentic.

IN WITNESS WHEREOF the plenipotentiaries have signed this Treaty and have thereto affixed the proper seals.

For the President
of the Czechoslovak
Socialist Republic:

[Signed]

ANTONÍN KAŠPAR

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

[Signed]

PHAN HIEN
