No. 22938

ALGERIA and CZECHOSLOVAKIA

Convention concerning legal assistance in civil, family and criminal cases. Signed at Algiers on 4 February 1981

Authentic texts: Arabic, Czech and French. Registered by Algeria on 11 June 1984.

ALGÉRIE et TCHÉCOSLOVAQUIE

Convention relative à l'entraide judiciaire en matière civile, familiale et pénale. Signée à Alger le 4 février 1981

Textes authentiques : arabe, tchèque et français. Enregistrée par l'Algérie le 11 juin 1984.

[Translation — Traduction]

CONVENTION' BETWEEN THE PEOPLE'S DEMOCRATIC REPUBLIC OF ALGERIA AND THE CZECHOSLOVAK SOCIALIST REPUBLIC CONCERNING LEGAL ASSISTANCE IN CIVIL, FAMILY AND CRIMINAL CASES

The People's Democratic Republic of Algeria and the Czechoslovak Socialist Republic,

Desiring to promote friendly relations between their peoples and wishing to expand the mutual co-operation between the two States in the field of legal relations,

Have resolved to conclude this Convention.

For this purpose, the appointed plenipotentiaries:

For the People's Democratic Republic of Algeria: Mr. Baki Boualem, Minister of Justice;

For the Czechoslovak Socialist Republic: Mr. Bohuslav Chňoupek, Minister for Foreign Affairs,

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

CHAPTER I. GENERAL PROVISIONS

Article 1

- 1. The citizens of either Contracting Party shall enjoy in the territory of the other Contracting Party the same legal protection in respect of their personal and property rights as citizens of such other Party.
- 2. Citizens of either Contracting Party shall have free access to the courts and other competent bodies having jurisdiction in civil, family and criminal cases, referred to in this Convention as "judicial authorities", as well as the right to institute proceedings before such authorities for the purpose of protecting their personal and property rights.

Article 2

No security shall be imposed by reason of their status as aliens or their absence of domicile or residence in that territory, on citizens of either Contracting Party who appear before the judicial authorities of the other Contracting Party and are present in the territory of either Party.

Article 3

The provisions of articles 1 and 2 of this Convention shall extend to bodies corporate constituted in accordance with the law of the Contracting Party in whose territory their headquarters is located.

¹ Came into force on 23 November 1983, i.e., 30 days after the exchange of the instruments of ratification, which took place at Prague on 24 October 1983, in accordance with article 50 (1) and (2).

1. In communicating with each other, the authorities of the Contracting Parties shall use one of the languages of the Contracting Parties or the French language. If a document is drawn up in the language of the requesting Contracting Party, it must be accompanied by a translation into the language of the requested Contracting Party or in the French language.

Documents shall be signed and shall bear the official seal.

2. The translation shall be certified by an official translator of the authority issuing the document or by the diplomatic mission or the consular post of one of the Contracting Parties.

Article 5. LEGAL ASSISTANCE

- 1. The judicial authorities of the Contracting Parties shall provide each other with legal assistance in civil, family and criminal cases in accordance with the conditions provided for in this Convention.
- 2. The other authorities having jurisdiction in civil, family and criminal cases shall provide each other with assistance through the judicial authorities.
- 3. The Contracting Parties shall provide each other with assistance by the performance of various acts required in connection with judicial proceedings, in particular by drawing up, transmitting and serving documents, soliciting expert opinions, hearing the parties, accused persons, witnesses and experts, enforcing decisions, extraditing offenders and seizing and delivering material evidence.

Article 6. METHOD OF COMMUNICATION

- 1. When providing legal assistance, the judicial authorities shall communicate with each other through their central authorities.
- 2. For the purposes of this Convention, the following shall be deemed to be the central authorities:
- a) In the case of the People's Democratic Republic of Algeria, the Ministry of Justice:
- b) In the case of the Czechoslovak Socialist Republic, the Ministry of Justice of the Czech Socialist Republic, the Ministry of Justice of the Slovak Socialist Republic and, in criminal cases, also the offices of the General Procurator of the Czechoslovak Socialist Republic.

Article 7

- 1. The two Contracting Parties shall inform each other of judgments having the force of *res judicata* rendered in criminal proceedings by the courts of one Contracting Party against the citizens of the other Contracting Party.
- 2. At the request of either Contracting Party, the other Contracting Party shall inform it of judgments which have not yet acquired the force of *res judicata*, provided that such judgments have been rendered against citizens of the requesting Contracting Party.
- 3. Except in the case of prosecutions, where either Contracting Party wishes to obtain an extract from the judicial records kept by the other Contracting Party, it may do so in the cases and within the limits provided for by the legislation of the requested Contracting Party.

The central authorities of the two Contracting Parties shall transmit to each other on request information about laws and regulations currently or previously enforced in their territory and information about judicial precedents.

Article 9

The granting of legal assistance in civil, family and criminal cases may be refused by the requested Contracting Party if it impairs the sovereignty or security of that Contracting Party or if it is contrary to the fundamental principals of its legislation.

CHAPTER II. LETTERS ROGATORY AND THE TRANSMITTAL OF JUDICIAL AND EXTRA-JUDICIAL DOCUMENTS

I. Letters rogatory

Article 10

- 1. A letter rogatory shall include the identity of the requesting authority and of the requested authority, the case in connection with which the letter rogatory is requested, the identity of the parties, their nationality, occupation and domicile, the names of their representatives and the nature of the legal assistance requested.
- 2. A letter rogatory in a criminal matter shall also include a definition and particulars of the criminal offence, the place and date of birth of the accused person and, where possible, the names of his parents.
 - 3. A letter rogatory shall be signed and shall bear the official seal.

Article 11

- 1. For the purposes of the execution of a letter rogatory, the authority of the requested Contracting Party shall apply the provisions of its own Iaw. At the request of the requesting authority, it may apply the method of execution mentioned in the letter rogatory, provided that this does not conflict with the law of the requested Contracting State.
- 2. If the authority to which the letter rogatory has been transmitted is not competent, it shall forward it to the authority which has the necessary competence.
- 3. Where the exact address of the person named in the letter rogatory is not known, the authority of the requested Contracting Party shall take the necessary steps to locate him. If the intended recipient cannot be identified, the requesting authority shall be so informed and the letter rogatory shall be returned to it.
- 4. At the request of the authority of the requesting Contracting Party, the authority of the requested Contracting Party shall inform the requesting authority in due time of the place and date of the execution of the letter rogatory, in order that the party concerned may be able to be present or to be represented.
- 5. After the execution of the letter rogatory, the authority of the requested Contracting Party shall return the documents of the proceedings to the authority of the requesting Contracting Party.

If it was not possible to execute the letter rogatory, it shall return the documents with a statement of the reasons which prevented the execution of the letter rogatory.

The two Contracting Parties shall make no claim for repayment of the costs incurred in the execution of letters rogatory. Such costs shall be borne by the requested Contracting Party.

II. TRANSMITTAL OF JUDICIAL AND EXTRA-JUDICIAL DOCUMENTS

Article 13

- 1. The requested authority shall proceed to serve the documents in accordance with the provisions of its own laws if the documents are drawn up in the language of the requested Contracting Party or accompanied by a certified translation in that language or in the French language.
- 2. Documents transmitted under this Convention must bear the signature and official seal of the competent judicial authority and be authenticated, in the People's Democratic Republic of Algeria, by the Ministry of Justice and, in the Czechoslovak Socialist Republic, by the Ministry of Justice of the Czech Socialist Republic or by the Ministry of Justice of the Slovak Socialist Republic.
- 3. Service shall be confirmed either by a receipt signed by the recipient and bearing the official seal, the date and the signature of the authority which served the document or by a certificate issued by that authority indicating the method, place and date of service. If the document to be served is transmitted in duplicate, receipt and service may be indicated on the duplicate copy.

Article 14

The Contracting Parties shall also be authorized to deliver documents to their own citizens through their diplomatic missions or counsular posts. No compulsion may be used in such cases.

Article 15

- 1. The two Contracting Parties shall transmit to each other extracts from the civil register concerning their citizens. These documents shall be transmitted free of charge through the diplomatic channel.
- 2. The Contracting Parties shall provide each other, for official use at the request of the competent authorities, extracts from the civil register and other documents concerning citizens of the other Contracting Party. The documents in question shall be exchanged free of charge through the diplomatic channel.
- 3. Requests by citizens of the two Contracting Parties for the transmission of extracts from the civil register or other documents may be addressed directly to the competent authority of the other Contracting Party. Documents so requested shall be transmitted to the applicant through the diplomatic mission or consular post of the Contracting Party whose authority drew up the requested document. The diplomatic mission or consular post shall levy the respective dues at the time when the document is delivered.

Article 16

The central authorities of the two Contracting Parties shall provide each other, on request, with reciprocal assistance in finding the addresses of persons present in their territory should that prove necessary for the enforcement of the rights of their citizens.

- 1. Documents drawn up or certified by the competent authority of either Contracting Party and signed and bearing the official seal shall be exempted from authentication in the territory of the other Contracting Party. The same provision shall apply to copies and translations of documents which have been certified by a competent authority.
- 2. Documents which are deemed to be public documents in the territory of either Contracting Party shall acquire the conclusive force of public documents in the territory of the other Contracting Party.

CHAPTER III. PROTECTION OF WITNESSES AND EXPERTS

Article 18

No witness or expert, of whatever nationality, residing in the territory of the requested Contracting Party who appears in a civil, family or criminal case before the judicial authorities of the requesting Contracting Party, following a summons served on him by a judicial authority of the requesting Contracting Party, shall be subjected to judicial prosecution or arrested for an offence committed before he crossed the State frontier of the requesting Contracting Party or be forced to serve a sentence pursuant to a previous judicial decision.

Similarly, no witness or expert may be prosecuted for acts performed in connection with the deposition of his testimony or his expert opinion or for the offence which is the subject of the proceedings.

Article 19

- 1. A witness or expert shall forfeit the protection accorded to him under article 18 if, being at liberty to do so, he fails to leave the territory of the requesting Contracting Party within 15 days after being notified that his presence was no longer necessary.
- 2. The period mentioned in paragraph 1 shall be deemed to exclude any period of time during which the witness or expert is unable through no fault of his own to leave the territory of that Party.

CHAPTER IV. GRANTING OF LEGAL AID

Article 20

The citizens of either Contracting Party shall be entitled before the legal authorities of the other Contracting Party to free legal aid and exemption from charges and costs relating to proceedings to the same extent and on the same conditions as citizens of this last-mentioned Contracting Party, regard being had to their material situation.

Article 21

1. If a citizen of either Contracting Party domiciled or having his residence in the territory of the other Contracting Party, wishes to avail himself before a judicial authority of the first-mentioned Contracting Party of the benefits provided for in article 20, he may apply for this in writing to the judicial authority within whose area of competence his domicile or residence falls, in accordance with the laws of that State.

The judicial authority which transmits the application must have the certificate provided for in article 22 and any annexes thereto translated into the language of the requested Contracting Party or, if that is not possible, into the French language.

2. The judicial authority which, in accordance with paragraph 1, has been seized of the application, shall transmit it, together with the certificate provided for in article 22 and any annexes thereto, to the competent judicial authority of the other Contracting Party.

Article 22

- 1. The certificate of material situation required for obtaining the entitlements provided for in article 20 shall be issued by the competent authority of the Contracting Party in whose territory the applicant has his domicile or residence.
- 2. A certificate issued by the diplomatic mission or consular post having territorial jurisdiction of the Contracting Party of which the applicant is a citizen shall be deemed sufficient if the domicile or residence of the applicant is located in the territory of a third State.

Article 23

The judicial authority applied to for the free legal aid and other benefits provided for in article 20 shall take a decision in accordance with the laws of its State and may, where necessary, contact the competent judicial authorities of the other Party in order to obtain supplementary information.

CHAPTER V. RECOGNITION AND ENFORCEMENT OF DECISIONS

Article 24

- 1. On the conditions laid down in this Convention, the two Contracting Parties shall recognize and enforce in their territories the following decisions rendered in the territory of the other Contracting Party:
- (a) Judicial decisions rendered in civil and family cases;
- (b) Judicial decisions rendered in criminal cases relating to claims for damages and restitution of objects.
- 2. Decisions in succession cases rendered by the judicial authorities of the Contracting Parties which, under their internal laws, have jurisdiction in succession cases, shall also be regarded as judicial decisions within the meaning of paragraph 1.

Article 25

The decisions referred to in article 24 of this Convention shall be recognized and enforced on the following conditions:

- (a) If the decision has acquired the force of *res judicata* and has become enforceable under the laws of the Contracting Party in whose territory it was rendered;
- (b) If the party against which the decision was rendered did not take part in the proceedings, was summoned at the appropriate time in good and due form, under the laws of the Contracting Party in whose territory the decision was rendered and was duly represented in the event of incapacity to be a party to legal proceedings;
- (c) If, in the same case, a final decision has not previously been rendered between the same parties, in the same matter and on the same basis by the competent

- judicial authority of the Contracting Party in whose territory the decision is to be recognized and enforced;
- (d) If recognition or enforcement of the decision is not contrary to the fundamental principles of the laws and public policy of the Contracting Party in whose territory the decision is to be recognized and enforced.

- 1. A request for grant of execution of a decision rendered may be submitted directly to the competent judicial authority of the Contracting Party in whose territory the decision is to be enforced or to the court which rendered judgement in the case, the request being transmitted to the court of the other Contracting Party in accordance with the provisions of article 6 of this Convention.
 - 2. The request must be accompanied by:
- (a) A copy or a certified copy of the decision to which is attached a certificate stating that the decision has acquired the force of *res judicata* and is enforceable, where that is not evident from the decision itself;
- (b) Where the party against which the decision was rendered was not present at the proceedings a certificate stating that such party was summoned at the appropriate time in good and due form and, in the case of lack of legal capacity to be a party to legal proceedings, was validly represented;
- (c) A certified translation into the language of the requested Contracting Party or, where that is not possible, into the French language of the documents mentioned under letters (a) and (b).
- 3. The request for enforcement may be made at the same time as the request for recognition.

Article 27

- 1. The judicial authority of the Contracting Party in whose territory the decision is to be recognized shall recognize and enforce it in accordance with the laws of its State.
- 2. The judicial authority which rules on the request for recognition and enforcement shall merely establish that the conditions laid down in articles 25 and 26 of this Convention are fulfilled.

Article 28

The provisions of this Convention on the enforcement of decisions shall not affect the legal provisions of the Contracting Parties relating to the transfer of money, or the exportation of goods, acquired as the result of the enforcement of a decision.

Article 29

- 1. If a party which, in accordance with article 2 of this Convention, has been exempted from depositing security for legal costs is required to reimburse the cost of proceedings relating to a judicial decision having the force of *res judicata* and rendered by a court of either of the Contracting Parties, the decision shall, upon the application of the party concerned, be enforced free of charges in the territory of the other Contracting Party.
- 2. The court adjudicating on the enforcement of a decision in accordance with paragraph 1 shall confine itself to establishing whether the decision relating to the payment of legal costs has become enforceable.

3. The provisions of article 26 of this Convention shall apply to requests for enforcement and the documents to be annexed thereto.

CHAPTER VI. EXTRADITION

Article 30

The two Contracting Parties undertake to extradite to each other, in accordance with the provisions of this Convention, persons in the territory of either State who are the subject of criminal proceedings or on whom sentence has been passed.

Article 31

- 1. Extradition for the purpose of criminal prosecution shall be permitted only in respect of criminal offences which, under the law of both Contracting Parties, are punishable by more than two years' deprivation of liberty.
- 2. Extradition for the purpose of execution of a sentence shall be permitted only in respect of criminal offences which are punishable under the law of both Contracting Parties and for which the person concerned has been sentenced to more than one year's deprivation of liberty.

Article 32

The following may not be extradited:

- (a) Persons who, on the date of receipt of the request for extradition, are citizens of the requested Contracting Party;
- (b) Persons without citizenship who are normally domiciled in the territory of the requested Contracting Party;
- (c) Persons who have obtained the right of asylum in the territory of the requested Contracting Party.

Article 33

Extradition shall not be permitted if:

- (a) The act was committed in the territory of the requested Contracting Party;
- (b) The offence on account of which extradition is requested was committed outside the territory of the requesting Contracting Party, where the laws of the requested Contracting Party do not provide for prosecution in the case of such an offence committed outside its territory;
- (c) The laws of either Contracting Party do not permit it;
- (d) Under the laws of the two Contracting Parties, criminal proceedings may be instituted only after a prior action has been brought by the injured party;
- (e) The act for which extradition is requested is, under the laws of either Contracting Party, time-barred or amnestied or if there is another legal cause which prevents the institution of criminal proceedings or the execution of sentence;
- (f) A final decision has been rendered against the person whose extradition is requested or the judicial authorities of the requested Contracting Party have decided to initiate criminal prosecution for the same act.

Article 34

1. The request for extradition shall be sent through the diplomatic channel. It must include the name of the person to be extradited, the date and place of his birth,

his nationality, particulars of his domicile or residence and particulars of the offence and of any damage caused by it.

- 2. A request for extradition for the purpose of instituting criminal proceedings shall be accompanied by a certified copy of the warrant of arrest with a description of the offence committed, a description of the evidence and the text of the statute applying to the offence; if the offence resulted in material damage, the amount thereof shall be indicated.
- 3. A request for extradition for the purpose of execution of a sentence shall be accompanied by a certified copy of the judicial decision having the force of *res judicata* and the text of the statute applicable to the offence. If the convicted person has already served a part of his sentence, that should be indicated.
- 4. The requesting Contracting Party shall not be obliged to attach to the request for extradition the evidence of the guilt of the person to be extradited.
- 5. If the request for extradition does not provide all the information required, the requested Contracting Party may request supplementary information and set a 45-day time-limit within which supplementary information shall be transmitted. Such time-limit may be extended by not more than one month if the requesting Contracting Party so requests, stating the reasons.

Article 35

When the formal conditions for extradition are met, the requested Contracting Party shall, after receiving the request for extradition, proceed without delay to arrest the person named in the request for extradition, except in those cases where, in accordance with this Convention, extradition may not take place.

Article 36

Upon express demand, a person may be arrested provisionally before the request for extradition is received if the competent judicial authority of the requesting Contracting Party invokes a warrant of arrest or a decision having the force of *res judicata* and gives advance notice of the request for extradition. Such express request may be transmitted by mail, telegram or any other means of written communication.

An arrest under the provisions of this article must be brought to the knowledge of the requesting Contracting Party without delay.

Article 37

- 1. If the supplementary information requested is not transmitted within the time-limit specified in article 34 of this Convention, the requested Contracting Party may release the arrested person.
- 2. A person arrested under the provisions of article 36 of this Convention may be released if the request is not delivered within a time-limit of 45 days, beginning on the date when the provisional arrest was notified to the requesting Contracting Party.

Article 38

If a person whose extradition is requested is the subject of criminal proceedings in the territory of the requested Contracting Party or if he has been sentenced in that same territory for another offence committed, extradition may be deferred until the end of the criminal proceedings and if he has been sentenced, until the sentence has been carried out.

- 1. If the postponement of extradition results in exemption from prosecution being required by lapse of time or seriously hinders the criminal proceedings instituted against the person whose extradition is requested, the duly substantiated request of the requesting Contracting Party for temporary extradition for the purpose of carrying out certain acts of criminal investigation may be complied with.
- 2. The temporarily extradited person shall be returned upon the conclusion of the proceedings for which he has been temporarily extradited or, at the latest, three months from the date of the temporary extradition.

Article 40

If several States request the extradition of the same person, the requested Contracting Party shall decide which of the requests shall be complied with. In so doing, it shall take account of the citizenship of the person whose extradition is requested and the place and gravity of the offence committed.

Article 41

- 1. The requested Contracting Party shall notify the requesting Contracting Party of its decision concerning extradition.
- 2. The requested Contracting Party which consents to extradition shall inform the requesting Contracting Party of the place and date of the extradiction of the person in question.
- 3. A person whose extradition has been granted shall be released if the requesting Contracting Party has not taken him over within a period of 15 days from the date set for extradition. In such a case, if the request for extradition is repeated, it may be rejected.

Article 42

If an extradited person in any way evades the proceedings instituted against him or the execution of a sentence in the territory of the requesting Contracting Party which has obtained his extradition and stays in the territory of the requested party, he shall be extradited upon a reiterated request for extradition without transmittal of the documents mentioned in the provisions of article 34 of this Convention.

Article 43

An extradited person may not be prosecuted or judged for an offence other than that for which the extradition was obtained, he may not be subjected to the execution of any other sentence than that for which the extradition is obtained and may not be surrendered to a third State, unless:

- (a) The prior agreement of the requested Contracting Party has been given;
- (b) An extradited person who is not a citizen of the requesting Contracting Party fails to leave the territory of the requesting Party within one month after the conclusion of criminal proceedings or the completion of the execution of a sentence; such period shall not be deemed to include any period of time during which the extradited person was unable, through no fault of his own, to leave the territory of the requesting Contracting Party;
- (c) The extradited party left the territory of the requesting Contracting Party and voluntarily returned thereto.

The Contracting Party requesting extradition shall inform the requested Contracting Party of the results of the criminal proceedings instituted against the extradited person. If the extradited person is convicted, it shall attach to this information a copy of the judicial decision having the force of *res judicata*.

Article 45

- 1. The two Contracting Parties shall, at the request, of either, of them, authorize the conveyance through their territory of any person extradited by a third State to one of the Contracting Parties. The requested Contracting Party shall not be bound to authorize conveyance in cases where extradition is not provided for under this Convention.
- 2. A request for conveyance shall be submitted and considered in the same manner as a request for extradition.
- 3. The requested Contracting Party shall authorize conveyance through its territory in such manner as it deems most appropriate.

Article 46

The costs of extradition and conveyance in transit shall be borne by the Contracting Party in whose territory they were incurred, except for costs pertaining to transportation of the offender, which shall be borne by the requesting Contracting Party.

Article 47

- 1. At the request of the requesting Contracting Party, the requested Contracting Party shall transmit:
- (a) Articles which may serve as evidence in the criminal proceedings; these articles shall also be transmitted in cases where extradition cannot take place for reason of death, evasion or other circumstances;
- (b) Articles found as a result of the offence or used in the commission thereof. The articles shall be delivered against receipts.
- 2. If the articles requested are necessary to the requested Contracting Party in a criminal proceeding, they may be kept provisionally or delivered on condition of being returned to the requested Contracting Party as soon as possible.
- 3. The rights of the requested Contracting Party or of third parties to such articles are reserved. Articles subject to such rights shall be returned as soon as possible without charge to the requested Contracting Party for the purpose of eventual restoration to the rightful owners. If the rightful owners are in the territory of the requesting Contracting Party, that Party may return the articles to them directly, provided that the requested Contracting Party gives its consent.
- 4. The transfer of sums of money or the delivery of property shall take place in accordance with the laws of the requested Contracting Party.

Article 48

1. The Contracting Parties undertake to institute, in accordance with their laws and at the request of the other Contracting Party criminal proceedings against their own citizens who have committed an offence in the territory of the requesting Contracting Party for which extradition is possible under the provisions of this Convention.

- 2. A request for criminal prosecution shall be accompanied by a document including particulars of the offence and the evidence in the possession of the requesting Contracting Party.
- 3. A request for the initiation of criminal prosecution shall be transmitted, prior to service of the charge, by the General Procurator of either Contracting Party to the General Procurator of the other Contracting Party. After service of the charge, the request shall be transmitted through the central authorities specified in article 6 of this Convention.
- 4. The requested Contracting Party shall notify the other Contracting Party of the result of the criminal prosecution and, if a judgement having the force of *res judicata* is rendered, shall transmit to it a copy thereof.

In addition to the grounds stated in the provisions of article 9 of this Convention, legal assistance may be refused if:

- (a) The act by reason of which it is requested is not deemed to be an offence under the laws of the requested Contracting Party;
- (b) The offence by reason of which it is requested does not constitute grounds for extradition under this Convention.

CHAPTER VII. FINAL PROVISIONS

Article 50

- 1. This Convention shall be ratified. The instruments of ratification shall be exchanged at Prague.
- 2. This Convention shall enter into force 30 days after the exchange of the instruments of ratification.
- 3. This Convention shall remain in force for an indefinite period. Either of the Contracting Parties may denounce it by giving at least six months' notice through the diplomatic channel to the other Contracting Party.

Done at Algiers on 4 February 1981, in two original copies, each in the Arabic, Czech and French languages, the three texts being equally authentic. In the event of conflicting interpretations, the French text shall prevail.

In witness whereof the Plenipotentiaries have signed this Convention and have thereto affixed their seals.

For the People's Democratic Republic of Algeria:

[Signed]

BAKI BOUALEM

For the Czechoslovak Socialist Republic:

[Signed]

BOHUSLAV CHŇOUPEK