

No. 23040

**UNION OF SOVIET SOCIALIST REPUBLICS
and
ALGERIA**

**Treaty on mutual legal assistance. Signed at Algiers on
23 February 1982**

Authentic texts: Russian and Arabic.

Registered by the Union of Soviet Socialist Republics on 9 August 1984.

**UNION DES RÉPUBLIQUES
SOCIALISTES SOVIÉTIQUES
et
ALGÉRIE**

**Traité relatif à l'entraide judiciaire. Signé à Alger le
23 février 1982**

Textes authentiques : russe et arabe.

*Enregistré par l'Union des Républiques socialistes soviétiques le 9 août
1984.*

[TRANSLATION — TRADUCTION]

TREATY¹ BETWEEN THE UNION OF SOVIET SOCIALIST REPUBLICS AND THE PEOPLE'S DEMOCRATIC REPUBLIC OF ALGERIA ON MUTUAL LEGAL ASSISTANCE

The Union of Soviet Socialist Republics and the People's Democratic Republic of Algeria, desiring to strengthen the friendly ties between the peoples of the Union of Soviet Socialist Republics and the People's Democratic Republic of Algeria and attaching great importance to the development of co-operation in the sphere of legal relations, have decided to conclude a Treaty on mutual legal assistance. For that purpose they have appointed as their Plenipotentiaries:

The Presidium of the Supreme Soviet of the Union of Soviet Socialist Republics: Vladimir Ivanovich Terebilov, Minister of Justice of the Union of Soviet Socialist Republics;

The People's Democratic Republic of Algeria: Boualem Baki, Minister of Justice of the People's Democratic Republic of Algeria,

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

PART I. LEGAL PROTECTION AND LEGAL ASSISTANCE

Article 1. 1. 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 the other Party. They shall have access to authorities of the other Contracting Party having jurisdiction in civil and criminal cases under the same conditions as citizens of the other Party. They shall be exempt from legal costs and from the deposit of security (*cautio judicatum solvi*) under the same conditions and to the same extent as citizens of the other Party.

2. The provisions of paragraph 1 of this article shall also apply to bodies corporate.

Article 2. 1. Where a petition is filed for legal assistance and for exemption from legal costs, the competent authorities of the Contracting Party in whose territory the petitioner resides shall issue a document relating to his personal, family and property status.

2. If the petitioner does not reside in the territory of either Contracting Party, a document issued by a diplomatic mission or consular office of the Contracting Party of which he is a citizen shall suffice.

3. The document shall be issued in the language of the Contracting Party applied to.

¹ Came into force on 29 March 1984, i.e., 30 days after the exchange of the instruments of ratification, which took place at Moscow on 28 February 1984, in accordance with article 44.

PART II. LEGAL ASSISTANCE IN CIVIL CASES

Article 3. The justice authorities of the Contracting Parties shall provide each other with legal assistance in civil cases in accordance with the provisions of this Treaty.

Legal assistance shall include the service of documents and the execution of judicial applications relating to specific acts required in connection with judicial proceedings, such as the interrogation of witnesses, litigants and experts.

Article 4. In providing legal assistance, the competent authorities of the Contracting Parties shall communicate with one another through the diplomatic channel.

Article 5. The Contracting Parties undertake to process, in accordance with their domestic legal provisions, the legal documentation and the documents to be transmitted in connection with the provision of legal assistance under this Treaty; they shall attach to such documents a translation in the language of the other Contracting Party certified by the competent authorities.

Article 6. 1. An application for service of a document shall contain particulars concerning the person on whom the document is to be served, i.e. his full name, occupation, exact address and citizenship, and shall also indicate the nature of the document to be served.

The document to be served shall be drawn up in two copies, one of which shall be delivered to the recipient and the other returned upon being signed by the recipient or with confirmation of service or an indication that acceptance was refused.

2. The official who is authorized to effect service shall confirm service on the copy which is returned, indicating the date and manner of service or the reason why service did not take place.

3. If a document is not drawn up in the language of the Contracting Party applied to and is not accompanied by a certified translation in that language, the authority applied to shall deliver the document to the recipient if he is willing to accept it.

Article 7. Service effected in accordance with article 6 of this Treaty shall be regarded as an act performed in the territory of the State which applied for service.

Article 8. 1. Each Contracting Party shall have the right to serve documents on its own citizens resident or temporarily present in the territory of the other Contracting Party through its diplomatic missions or consular offices.

2. When such service is effected, no measures of a coercive nature may be taken.

Article 9. 1. In executing an application for the performance of specific acts required in connection with judicial proceedings, the authority applied to shall follow the law of its own State. At the request of the applicant authority, the application may, however, be executed in another manner if that does not conflict with the law of the Contracting Party applied to.

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

3. The applicant authority shall, at its request, be notified of the time and place of execution of the application in order to enable the party concerned to be present when the application is executed or to authorize someone to represent him for that purpose; this shall not apply in cases where the application is executed as a matter of urgency or where the executing authority considers that the circumstances are not appropriate for the persons concerned to be present.

4. The authority applied to shall return the documents to the applicant authority. If it has not been possible for legal assistance to be provided, the circumstances which prevented execution of the application shall be indicated at the time when the documents are returned.

Article 10. Acts required in connection with judicial proceedings which are performed pursuant to a judicial application under this Treaty shall have the same legal force as similar acts performed by the competent authorities of the applicant Contracting Party.

Article 11. Legal assistance shall not be provided if its provision might be prejudicial to the sovereignty or security of the Contracting Party applied to or conflict with its fundamental legal principles.

Article 12. 1. No person of whatsoever citizenship who, in response to a summons, has appeared voluntarily as a witness or expert before a justice authority of the other Contracting Party may be prosecuted or detained in the territory of that Contracting Party for a punishable offence committed before he crossed the frontier of the applicant Contracting Party or be punished in execution of a past sentence.

A witness or expert shall forfeit this protection if he fails to quit the territory of the applicant Contracting Party within 15 days after being informed that his presence is not necessary. Such a period of 15 days shall not be deemed to include any period of time during which the witness or expert is prevented by circumstances beyond his control from quitting the territory of the applicant Contracting Party.

In addition, such persons may not be prosecuted or detained in connection with their testimony as witnesses or findings as experts.

2. The applicant authority shall inform persons summoned as witnesses or experts that their travel and living expenses will be reimbursed, while experts will also be paid the fee due to them in corresponding cases under the law of the applicant Contracting State. At the request of such persons, the said authority shall pay them an advance to cover their travel and living expenses.

Article 13. Each Contracting Party shall assume all costs incurred in its territory in connection with legal assistance in civil cases.

Article 14. Judgements of Courts and other justice authorities in civil cases rendered, and final arbitral awards made, in the territory of one Contracting Party subsequent to the entry into force of this Treaty shall, if they have become final and enforceable, be recognized and enforced in the territory of the other Contracting Party. This shall also apply to final sentences in so far as relates to the payment of damages in criminal cases.

Article 15. The competent authority applied to shall not examine the judgement as to the merits. Recognition and enforcement of the judgement may be refused:

1. If the Court or other authority which rendered the judgement is not competent to hear the case under the domestic law of the Contracting Party in whose territory the judgement is to be recognized and enforced;
2. If the litigants were not present at the judicial proceedings and either they or their representatives were not advised in a timely and proper manner;
3. If recognition and enforcement of the judgement might, in the opinion of the Contracting Party applied to, be prejudicial to its sovereignty or security or conflict with its fundamental legal principles;
4. If a judgement has been rendered by a Court of the Contracting Party applied to for recognition and enforcement in an action between the same litigants, in relation to the same claim and on the same grounds, and such judgement has become final or if an action between the same litigants, in relation to the same claim and on the same grounds, was instituted in the Court of the Contracting Party applied to earlier than in the applicant Contracting Party and is being tried in such Court at the time when the application is being considered.

Article 16. Subject to compliance with the provisions of articles 14 and 15 of this Treaty, the competent authority applied to for enforcement of an arbitral award in the territory of the other Contracting Party shall not examine the award as to the merits. Enforcement of an arbitral award may be refused:

1. If, under the law of the Contracting Party in which the award is to be enforced, such a case cannot be submitted to arbitration;
2. If the arbitral award was made in a dispute which is not provided for by, or covered by the conditions of, an arbitration agreement or an arbitration clause in a contract;
3. If the composition of the arbitral body was not in conformity with the agreement between the litigants or with an arbitration clause in a contract or was not in conformity with the law of the State in which the arbitration took place;
4. If the litigants were not duly informed of the appointment of the arbitrator or of the arbitration proceedings;
5. If a recognition and enforcement of the award might, in the opinion of the Contracting Party applied to, be prejudicial to its sovereignty or security or conflicts with its fundamental legal principles.
6. If the arbitral award has not become final in the State in which it was made.

Article 17. An application for enforcement of a judgement shall be accompanied by:

1. An official copy, certified by the competent authorities, of the judgement to be enforced; an application for enforcement of an arbitral award must also be accompanied by a certified copy of the agreement under which the litigants undertook to submit the dispute to arbitration;
2. The original document confirming service of the judgement which is to be enforced or an official certificate showing that the judgement was duly brought to the attention of the litigants;

3. Confirmation by the competent authority that the judgement has become final and enforceable; such confirmation shall be certified by the Ministry of Justice;
4. Where the judgement or arbitral award which is to be enforced was rendered in the absence of the litigants, confirmation that the latter were duly advised of the judicial or arbitral proceedings;
5. A certified translation, in the language of the Contracting Party to which application for enforcement is made, of the application and other documents referred to in the preceding paragraphs.

Article 18. Judgements of the authorities of one Contracting Party accepted for enforcement by the authorities of the other Contracting Party shall have the same effect with respect to enforcement as the judgements of authorities of that other Contracting Party.

Article 19. Each Contracting Party shall inform the other Contracting Party of the authorities competent to hear applications for recognition and enforcement of judgements and of the procedure for appeals against decisions taken upon such applications.

Article 20. The articles of this Treaty concerning the enforcement of judgements shall not affect the legislative provisions of the Contracting Parties on the transfer of sums of money and the export of articles received as the result of enforcement of a judgement.

PART III. LEGAL ASSISTANCE IN CRIMINAL CASES

Article 21. The Contracting Parties undertake to provide legal assistance to each other in criminal cases, and in particular:

1. To effect service of documents, including summonses to appear before courts and investigative authorities,
2. To execute applications for the interrogation of witnesses, experts, accused persons and injured parties, for inspection and search and for other acts required in connection with judicial proceedings.

Article 22. The provisions of articles 3 to 12 of this Treaty shall also apply to assistance in criminal cases.

Legal assistance in criminal cases shall not be provided:

1. If legal assistance is requested in connection with an offence which is not extraditable under this Treaty;
2. If the Contracting Party applied to considers that execution of the application might be prejudicial to its sovereignty or security or conflicts with its fundamental legal principles.

Article 23. Each Contracting Party undertakes to prosecute under its own law, at the request of the other Contracting Party and of its citizens who are suspected of having committed in the territory of the other Contracting Party an offence which is extraditable under article 26 of this Treaty.

The request shall be accompanied by a certificate containing particulars of the offence and all available evidence.

The Contracting Party applied to shall inform the applicant Contracting Party of the results of the prosecution and, if a sentence was pronounced, shall transmit a copy thereof.

Article 24. Each Contracting Party shall notify the other Contracting Party of every final sentence pronounced by its Courts in respect of citizens of the other Contracting Party; that is to say, it shall provide particulars concerning the convicted person, the Court by which the sentence was pronounced, the date of sentencing, the nature of the offence and the penalty imposed by the Court.

Article 25. Each Contracting Party undertakes to extradite to the other on request, in accordance with the provisions of this Treaty, persons in its territory whose presence is required for the purpose of criminal prosecution or for the execution of a sentence.

Article 26. 1. Extradition shall take place in respect of acts which, under the law of both Contracting Parties, constitute offences and are punishable with deprivation of liberty for a term of more than one year or with a heavier penalty. Extradition with a view to the execution of a sentence shall take place on condition that the sentence has become final and that the person claimed has been sentenced to deprivation of liberty for a term of not less than one year or to a heavier penalty.

2. Where more than one offence has been committed, the requisition for extradition shall be deemed to be justified if at least one of the said offences is an extraditable offence.

Article 27. Extradition shall not take place:

1. If the person claimed is a citizen of the Contracting Party applied to or has been granted asylum in that State;
2. If the offence was committed in the territory of the Contracting Party applied to;
3. If, under the law of the Contracting Party applied to, exemption from prosecution or punishment has been acquired by lapse of time or on other legal grounds;
4. If extradition is not permitted under the law of the State applied to;
5. If, at the time when the requisition for extradition is received, the person claimed is, in the State applied to, under investigation or on trial in the same case or the said person has been convicted, acquitted or discharged in respect of the same offence or a sentence imposed on him in respect of the said offence has been served or remitted.

Article 28. If extradition does not take place, the Contracting Party applied to shall so notify the other Contracting Party, informing it of the grounds for refusal of extradition.

Article 29. 1. If the person claimed is being prosecuted for another offence in the territory of the Contracting Party applied to, extradition may take place upon the termination of the proceedings or the execution or remission of the sentence.

2. If postponement of extradition will result in exemption from prosecution being acquired by lapse of time or may prejudice the prosecution of the person claimed, the applicant Contracting Party may submit a request containing a state-

ment of grounds for temporary extradition for the purpose of criminal prosecution. If this request is complied with, the applicant Contracting Party shall return the temporarily extradited person immediately upon the termination of the preliminary investigation or judicial proceedings without executing the sentence, and in any case no later than three months from the date of extradition.

Article 30. A requisition for extradition shall be accompanied by the following:

1. If the requisition concerns a person who is under investigation, a certified copy of the warrant of arrest, particulars as to the circumstances of the offence and its legal definition, and the text of the statute under which the act in question is recognized as an offence, and, if the offence resulted in material damage, particulars as to the extent of the damage which the offender caused or intended to cause.
2. If extradition is sought for the purpose of execution of a sentence, an official copy of the final sentence or other relevant judicial decision and the text of the statute under which the act in question is recognized as an offence. If the convicted person has already served a part of his sentence, that fact shall be indicated.
3. Detailed information concerning the person claimed, particulars as to his citizenship, residence and physical appearance and, if possible, a photograph, unless such particulars are contained in the warrant of arrest or the sentence.
4. The documents referred to in paragraphs 1 to 3 of this article shall be certified by the competent authorities and authenticated on behalf of the Union of Soviet Socialist Republics by the Ministry of Justice of the USSR or the Procurator's Office of the USSR and on behalf of the People's Democratic Republic of Algeria by the Ministry of Justice; the documents in question shall be translated into the language of the Contracting Party applied to.

Article 31. 1. Where extradition takes place, the Contracting Party applied to shall, at the request of the other Contracting Party, deliver to it any articles acquired through the commission of an offence, implements used in the commission of the offence and any other articles which may be used as evidence in connection with the offence. Such articles shall be delivered even in cases in which the offender cannot be extradited by reason of his death or flight or for other reasons.

2. The Contracting Party applied to may temporarily retain the articles referred to in paragraph 1 above if they are required for criminal proceedings being conducted in its territory in another case.

3. The rights of third parties to articles so delivered shall remain unaffected. Upon the conclusion of the judicial proceedings in the case, the articles shall be returned to the extraditing Contracting Party for transmittal to the persons entitled to them if the identity of such persons is established.

Article 32. If the requisition for extradition does not contain the information required for its execution, the Contracting Party applied to may request such information and set a time-limit for the submission of the supplementary information. Such time-limit may be extended on request.

Article 33. After the receipt of a requisition for extradition, the Contracting Party applied to shall, except in cases where extradition is not permitted, take

immediate steps under its law to find the person claimed and, if necessary, arrest him.

Article 34. 1. The Contracting Party applied to shall, if it consents to extradition, inform the applicant Contracting Party of the place and date of surrender of the person to be extradited.

2. The person in respect of whom consent to extradition has been given shall be released if the Contracting Party does not take over such person within 15 days from the date set for the extradition.

Article 35. 1. Where necessary, a person against whom criminal proceedings have been initiated may be arrested even before receipt of the requisition for extradition if the competent authority makes application for such arrest, specifying that there exists a warrant of arrest or a final sentence, and if notice is given at the same time that the requisition for extradition is being transmitted. The application for arrest may be made by telegraph or any other means transmitting the substance of the application in writing. The applicant Contracting Party shall submit at the earliest possible time all documents required for extradition to which reference is made in article 30 of this Treaty.

2. The competent authorities of either Contracting Party may arrest a person present in their territory in the absence of the application provided for in paragraph 1 of this article if there is sufficient reason to believe that he has committed an offence subject to extradition under article 26 of this Treaty in the territory of the other Contracting Party.

3. The other Contracting Party shall be notified forthwith of arrests made under paragraphs 1 and 2 of this article or of the reasons why an application made under paragraph 1 of this article has not been complied with.

Article 36. 1. A person arrested in connection with a requisition for extradition shall be released if the supplementary information requested in accordance with article 32 of this Treaty is not received within the prescribed time-limit.

2. A person arrested in accordance with article 35 of this Treaty shall be released if the requisition for extradition is not received within two months of the date on which the applicant Contracting Party was notified of his arrest.

3. Where the applicant Contracting Party gives written notification that the requisition for extradition is withdrawn, the Contracting Party applied to shall immediately release the arrested person.

Article 37. 1. An extradited person may not, without the consent of the Contracting Party which extradited him, be prosecuted or punished in the applicant State for an offence committed before his extradition other than that for which he was extradited. An extradited person may not, without the consent of the Contracting Party which extradited him, be surrendered to a third State.

2. However, if an extradited person is afforded an opportunity to quit the territory of the State to which he was extradited and fails to avail himself of such opportunity within 15 days after the conclusion of the criminal proceedings or, in the event of his conviction, within 15 days after the completion or remission of the sentence, the said person may be prosecuted or punished for another offence. Such period of 15 days shall not be deemed to include any period of time

during which the extradited person is unable through no fault of his own to quit the territory of the Contracting Party to which he was extradited.

Article 38. Where requisitions for extradition are received from more than one State in respect of the same person, who has committed one or more offences, the Contracting Party applied to shall decide which request will be complied with and shall inform the other Contracting Party of the decision taken.

Article 39. Each Contracting Party shall assume all costs incurred in its territory in connection with legal assistance in criminal cases, except for the cost of conveying and escorting offenders, which shall be borne by the Contracting Party applying for extradition.

Article 40. Communication in matters relating to the initiation of criminal proceedings or the extradition of offenders shall take place through the diplomatic channel between the Ministry of Justice of the USSR or the Procurator's Office of the USSR and the Ministry of Justice of the People's Democratic Republic of Algeria.

PART IV. GENERAL PROVISIONS

Article 41. Documents duly drawn up or attested by a competent authority in the territory of either Contracting Party shall be accepted in the territory of the other Contracting Party without legalization. Official documents of either Contracting Party shall also have the evidential value of official documents in the territory of the other Contracting Party in accordance with the latter's law.

Article 42. The Ministries of Justice of the Contracting Parties shall, on request, provide each other in accordance with the procedure prescribed in article 4 of this Treaty with information of legislation in force or formerly in force in their respective States and exchange experience in connection with legal matters.

PART V. FINAL PROVISIONS

Article 43. This Treaty is subject to ratification by the competent authorities of the Contracting Parties in accordance with their constitutional provisions. The exchange of the instruments of ratification shall take place at Moscow.

Article 44. This Treaty shall enter into force 30 days after the exchange of the instruments of ratification. It is concluded for a term of five years and shall be automatically renewed each time for successive five-year terms unless one of the Contracting Parties gives notice in writing at least six months before the expiry of the current term, of its intention to revise or terminate the Treaty.

DONE at Algiers on 23 February 1982, in duplicate in the Russian and Arabic languages, both texts being equally authentic.

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

For the Union of Soviet
Socialist Republics:

[V. TEREILOV]

For the People's Democratic
Republic of Algeria:

[B. BAKI]