

No. 26755

**MONGOLIA
and
DEMOCRATIC PEOPLE'S
REPUBLIC OF KOREA**

Treaty concerning legal assistance in civil, family and criminal cases. Signed at Ulan Bator on 29 October 1988

Authentic texts: Mongolian and Korean.

Registered by Mongolia on 4 August 1989.

**MONGOLIE
et
RÉPUBLIQUE POPULAIRE
DÉMOCRATIQUE DE CORÉE**

Traité d'assistance juridique en matière civile, familiale et pénale. Signé à Oulan-Bator le 29 octobre 1988

Textes authentiques : mongol et coréen.

Enregistré par la Mongolie le 4 août 1989.

[TRADUCTION — TRANSLATION]

**TREATY¹ BETWEEN THE MONGOLIAN PEOPLE'S REPUBLIC
AND THE DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA
CONCERNING LEGAL ASSISTANCE IN CIVIL, FAMILY AND
CRIMINAL CASES**

The Mongolian People's Republic and the Democratic People's Republic of Korea, in order to further develop the friendly relationship between the two countries and to strengthen the co-operation in the sphere of legal relations, have decided to conclude this Treaty and have agreed as follows:

PART I. GENERAL PROVISIONS*Article 1. LEGAL PROTECTION*

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 State in which they are residents.
2. The article shall apply to the judicial authorities of the other Party under the same conditions.

Article 2. PROVISION OF LEGAL ASSISTANCE

The Contracting Parties shall provide legal assistance through courts, procurator's offices and State notarial authorities and other competent central organizations.

Article 3. SCOPE OF LEGAL ASSISTANCE

The Contracting Parties shall provide legal assistance in matters related to the performance of specific legal actions such as searches, seizures and attachment of property, the dispatch and transfer of physical evidence, the interrogation of the accused person, witnesses and experts, suspects, litigants and tried and convicted persons, the carrying out of judicial inspections, the service of papers, the execution of mandates, the transmittal of materials and transfer of cases, the preparation, translation and dispatch of documents, the arrest of criminals and the delivery thereof.

Article 4. FORM OF APPLICATIONS FOR LEGAL ASSISTANCE AND METHOD

1. Applications for legal assistance must contain the following particulars:
 - a) The designation of the authority making the application;
 - b) The designation of the authority to which the application is made;
 - c) The title of the case in respect of which legal assistance is applied for;
 - d) The full names of the litigants, the accused, tried or convicted persons and criminals, their permanent or temporary residence, nationality and occupation and,

¹ Came into force on 7 May 1989, i.e., 30 days after the exchange of the instruments of ratification, which took place at P'yongyang on 8 April 1989, in accordance with article 34.

where possible, the dates and places of birth of the accused, tried or convicted persons and criminals;

e) The names and addresses of the legal representatives;

f) The contents of the application and information necessary for its execution, and information describing the offence.

2. The application documents should be signed and sealed.

Article 5. PROCEDURE FOR EXECUTING APPLICATIONS

1. The authority to which the application is made for legal assistance shall apply the law of its own State. However, at the request of the applicant authority, it may employ judicial procedures in effect in the territory of the applicant, provided that this does not conflict with the law of the State of the authority to which application was made for legal assistance.

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

3. After executing the application, the authority applied to shall return the documents to the applicant authority. If the authority applied to cannot provide legal assistance, it shall return the related documents and shall advise the applicant authority of the circumstances which prevented the execution of the application.

Article 6. PROCEDURES FOR THE SERVICE OF DOCUMENTS

1. In effecting the service of documents, the authority applied to shall employ the procedure for service of documents in effect in its own State, provided that the documents to be served are drawn up in accordance with the provisions of Article 12.

2. If the documents cannot be served at the address indicated in the application, the authority applied to shall take the necessary steps to determine the address. If the authority applied to cannot determine the address, it shall notify the applicant authority accordingly and return to it the document to be served.

Article 7. CONFIRMATION OF SERVICE OF DOCUMENTS

Service of documents shall be confirmed in accordance with the regulations in effect in the territory of the Contracting Party applied to, and such confirmation must indicate the date and place of service.

Article 8. ATTESTATION OF DOCUMENTS

1. Documents drawn up or attested in the form designated by a competent authority or public official in the territory of either Contracting Party shall have the evidentiary value of official documents in the territory of the other Contracting Party without authentication.

2. Official documents issued in the territory of either Contracting Party shall have the evidentiary value of official documents in the territory of the other Contracting Party.

Article 9. IMMUNITY OF WITNESSES AND EXPERTS

1. No citizens, witnesses or experts of one Contracting Party who appear before the State authority of the other Contracting Party may be prosecuted criminally or detained in connection with their testimony or evaluation.

2. The entire costs incurred for witnesses and experts in connection with legal assistance shall be borne by the Party who issued the summons.

Article 10. COSTS OF LEGAL ASSISTANCE

The Contracting Party to which the application was addressed shall bear all costs incurred in providing legal assistance in its territory.

Article 11. INFORMATION ON LEGAL QUESTIONS

The Contracting Parties shall exchange, at the request of either Party, information on fundamental legislation and new legislation in force in their respective States and questions relating to its application.

Article 12. LANGUAGES

Documents transmitted from one Contracting Party to the other in connection with the implementation of this Treaty shall be prepared in the language of the former Party, and shall be accompanied by a translation either into Russian or into the language of the latter Party.

PART II. SPECIAL PROVISIONS

CHAPTER 1. LEGAL ASSISTANCE IN CIVIL AND FAMILY CASES

Article 13. EXEMPTION FROM LEGAL COSTS

Citizens of one of the Contracting Parties who file a claim in the court of the other Contracting Party shall be exempt from legal costs.

Article 14. ISSUANCE AND TRANSMITTAL OF DOCUMENTS

1. Each of the Contracting Parties shall transmit to the other Contracting Party, upon request, the documents relating to civil registration certificates and other documents of citizens of the other Party.

2. Documents concerning the personal matters, family situation, wages and property of the individual concerned shall be issued by the competent authority of the Contracting Party in which the applicant has his permanent or temporary residence.

Article 15. RIGHTS AND LEGAL CAPACITIES

1. The rights and legal capacities of physical persons shall be prescribed pursuant to the constitution of the State of which they are citizens.

2. The rights and legal capacities of juridical persons shall be prescribed in accordance with the constitution of the State in which they are domiciled.

*Article 16. DECLARATION OF PERSONS AS MISSING OR DEAD
AND ESTABLISHMENT OF THE FACT OF DEATH*

1. The declaration of persons as missing or dead and the establishment of the fact of death shall be within the jurisdiction of the judicial authority specified in the

State Constitution of the Contracting Party of which the person concerned was a citizen at the time he was last known to be alive.

2. The judicial authority of either Contracting Party shall declare a citizen of the other Contracting Party missing or dead, or establish the fact of his death.

Article 17. MARRIAGE AND DISSOLUTION OF MARRIAGE

1. Marriage and dissolution of marriage and the couple's personal and property relations deriving therefrom shall be under the jurisdiction of the authority of the Contracting Party of which the couple are citizens.

2. If each one of the couple is of different nationality, the authority of each Contracting Party shall have jurisdiction over the marriage and its dissolution or annulment in accordance with the law of its own State.

Article 18. LEGAL RELATIONS BETWEEN PARENTS AND CHILDREN

In actions to determine paternity, disputes arising therefrom, and the legal relation between the parents and children, the judicial authorities of each Contracting Party shall apply the law of the State of which the children are citizens.

Article 19. ADOPTION AND TERMINATION OF ADOPTION

1. Matters concerning adoption shall be dealt with in accordance with the law of the Contracting Party of which the parents are citizens.

2. If the child is adopted by a husband and wife of different nationalities, the laws recognized in both Contracting Parties shall be applied.

3. If the child adopted is a citizen of one Contracting Party and the parents are citizens of the other Contracting Party, the adoption shall be subject to the consent of the child and his legal representative and to the authority of the latter Contracting Party if so specified in the law of the Contracting Party of which the child is citizen.

4. Paragraphs 1, 2 and 3 above shall also apply to the termination of adoption.

Article 20. GUARDIANSHIP AND CURATORSHIP

1. In proceedings relating to determination of guardianship and curatorship, the laws of the Contracting Party of which the ward is a citizen shall apply, save as otherwise provided in this Treaty.

2. With respect to the obligation to accept the office of guardian or curator, the laws of the Contracting Party of which the prospective guardian or curator is a citizen shall apply.

Article 21. SUCCESSION AND WILLS

1. Citizens of either Contracting Party shall enjoy, as regards the capacity to succeed by law or by will to property in the territory of the other Contracting Party, as well as the capacity to make or revoke wills in respect of such property, the same rights as citizens of the latter Party.

2. Succession to movable property shall be determined by the law of the Contracting Party of which the testator was a citizen at the time of his death.

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

4. The form of a will, and the capacity to make or revoke wills, shall be determined by the law of the Contracting Party of which the testator was a citizen at the time of his making or revoking the will.

Article 22. RECOGNITION AND ENFORCEMENT OF JUDGEMENT

1. The following judgements rendered in the territory of each Contracting Party shall be recognized and enforced in the territory of the other Contracting Party:

- a) Judgements in civil and family cases;
- b) Judgements on damage claims in criminal cases.

2. The courts of the Contracting Parties shall apply the legislation of their own State when enforcing judgements rendered by the other Party.

CHAPTER 2. LEGAL ASSISTANCE IN CRIMINAL CASES

Article 23. OBLIGATION TO EXTRADITE

Each Contracting Party undertakes to extradite to the other Party, upon request and under the conditions specified in this Treaty, persons in its territory whose presence is required for the purpose of criminal prosecution or for the execution of a sentence.

Article 24. REFUSAL TO EXTRADITE

Extradition shall not take place if the person claimed is a citizen of the Contracting Party applied to.

Article 25. REQUISITION FOR EXTRADITION

1. A requisition for extradition for the purpose of criminal prosecution shall be accompanied by a certified copy of the warrant of arrest, particulars of the nature of the offence, a legal definition of the law to be applied, and if the offence resulted in material damage, an indication of the extent of such damage.

2. A requisition for extradition for the purpose of execution of a sentence shall be accompanied by a certified copy of the final sentence and the text of the statute defining the criminal offence. If the convicted person has already served part of his sentence, it should be clearly identified.

3. The requisition for extradition shall be accompanied by such personal particulars as are available concerning the person to be extradited, including information on his identity, facial description, overall type and individual characteristics, photographs and fingerprints.

4. If the applicant fails to furnish the information necessary for the requisition of extradition, the Contracting Party applied to shall request supplementary information and may set a specific time limit for reply.

Article 26. OBLIGATION TO PROSECUTE

1. Each Contracting Party shall be obliged to prosecute under its own law, at the request of the other Party, any of its citizens who has committed an offence in the territory of the other Party.

2. The Contracting Party applied to shall notify the other Party of the result of the prosecution and, if sentence has been passed and has become final, shall transmit a copy of the sentence.

Article 27. DETENTION AND EXTRADITION

1. Upon receipt of a requisition for extradition and detention, each Contracting Party shall take immediate steps to locate and detain the person to be extradited.

2. A citizen of a Contracting Party may be detained in the absence of an application if the other Contracting Party believes that he has committed an offence in its own territory.

3. Each Contracting Party shall immediately notify the other Contracting Party where a person has been detained under paragraphs 1 and 2 of this article.

4. If the requesting Contracting Party does not send the requisition for extradition within 30 days after receiving notification of detention, the person who has been detained shall be released and such release shall be notified to that Contracting Party.

Article 28. EXTRADITION PROCEDURE

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

2. If the person to be extradited is being criminally prosecuted or is serving a sentence in the territory of the Contracting Party applied to, the extradition may be postponed until such criminal prosecution or sentence has been completed.

Article 29. REQUISITIONS FOR EXTRADITION BY MORE THAN ONE STATE

If the Contracting Party applied to receives requisitions for extradition from more than one State, the Party shall give priority attention for execution to the requisition sent by the other Contracting Party, taking into consideration such factors as the nationality of the person claimed, the severity or non-severity of the offence and the place where the offence was committed.

Article 30. DELIVERY OF ARTICLES

1. Each Contracting Party undertakes to deliver to the other Contracting Party, together with the offender, the articles used in the commission of the offence and the money and articles acquired through the commission of the offence.

2. The Contracting Party to whom money and articles were delivered under paragraph 1 of this article should return them to the Party applied to in order that they may be returned to the person who has a right to take possession of them after the trial of the case has been completed.

3. Money and articles delivered under paragraphs 1 and 2 of this article shall not be subject to any tariff or tax.

Article 31. COST OF DELIVERY

The cost incurred up to the time the criminal has been delivered shall be borne by the Party who made such delivery and the rest shall be borne by the Party who demanded it.

Article 32. NOTIFICATION OF THE RESULTS OF PROSECUTION

1. The Contracting Parties shall inform each other of the results of proceedings taken against persons extradited. If the person extradited was convicted, a copy of the judgement shall be transmitted after it has become final.

2. If either Contracting Party convicts a citizen of the other Contracting Party, it shall so inform the other Contracting Party.

PART III. FINAL PROVISION

Article 33. CONSULTATION AND COOPERATION

For purposes of the successful application of this Treaty, the Contracting Parties shall step up their consultation and cooperation through their pertinent central judicial authorities and diplomatic channels in order to strengthen cooperation in their efforts to combat crime.

Article 34. RATIFICATION AND ENTRY INTO FORCE

This Treaty shall be subject to ratification, and shall enter into force 30 days after the exchange of the instruments of ratification, which shall take place at P'yongyang.

This Treaty is concluded for a period of five years. If neither Contracting Party denounces it, in writing, six months before the expiry of that period, it shall be extended for successive periods of five years.

DONE at Ulan Bator on 29 October 1988, in duplicate in the Mongolian and Korean languages, both texts being equally authentic.

For the Mongolian People's
Republic:

[OSORYN AMARKHUU]

For the Democratic People's
Republic of Korea:

[CHOE RYONG SONG]