

No. 4632

**POLAND
and
GERMAN DEMOCRATIC REPUBLIC**

**Treaty (with Final Protocol) concerning legal relations in
civil, family and criminal cases. Signed at Warsaw,
on 1 February 1957**

Official texts: Polish and German.

Registered by Poland on 5 January 1959.

**POLOGNE
et
RÉPUBLIQUE DÉMOCRATIQUE ALLEMANDE**

**Traité (avec Protocole final) concernant les relations juri-
diques en matière civile, familiale et pénale. Signé à
Varsovie, le 1^{er} février 1957**

Textes officiels polonais et allemand.

Enregistré par la Pologne le 5 janvier 1959.

[TRANSLATION — TRADUCTION]

No. 4632. TREATY¹ BETWEEN THE POLISH PEOPLE'S
REPUBLIC AND THE GERMAN DEMOCRATIC REPUBLIC
CONCERNING LEGAL RELATIONS IN CIVIL,
FAMILY AND CRIMINAL CASES. SIGNED AT WARSAW,
ON 1 FEBRUARY 1957

The State Council of the Polish People's Republic and the President of the German Democratic Republic, sincerely desiring that the friendly relations and co-operation prevailing between the two countries and their peoples should find expression in the sphere of legal relations as in others,

Have agreed to conclude a treaty on legal relations in civil, family and criminal cases.

For this purpose they have appointed as their plenipotentiaries :

The State Council of the Polish People's Republic :

Mr. Tadeusz Rek, Under-Secretary of State in the Ministry of Justice;

The President of the German Democratic Republic :

Dr. Heinrich Toeplitz, Secretary of State in the Ministry of Justice,

who, having exchanged their full powers, found in good and due form, have agreed on the following provisions :

PART I

GENERAL PROVISIONS

Article 1

LEGAL PROTECTION

1. Citizens of either Contracting Party shall enjoy in the territory of the other Party, in respect of their personal and property rights, the same legal protection as citizens of the other Party. The same shall also apply to corporations constituted in accordance with the legislation of either Contracting Party.

¹ Came into force on 11 October 1957, thirty days after the exchange of the instruments of ratification which took place at Berlin on 11 September 1957, in accordance with article 86.

At the time of the exchange of the instruments of ratification, an exchange of notes took place between the Ministers of Justice of the Polish People's Republic and the German Democratic Republic in the following terms :

During the negotiations preceding the conclusion of the aforementioned Treaty, the two Parties agreed that the provisions of article 43 of the Treaty shall not be regarded as establishing a legal principle applicable to cases other than those in which the testator's death and the opening of the will occurred after the entry into force of the Treaty.

2. They shall have free and unimpeded access to the authorities of the other Contracting Party having jurisdiction in civil, family or criminal cases; they may appear and present petitions before such authorities under the same conditions as citizens of the other Party.

Article 2

SCOPE OF LEGAL ASSISTANCE

The Contracting Parties shall provide each other with legal assistance by performing specific acts required in connexion with judicial proceedings, for example, by preparing and transmitting files and documents, by carrying out searches and seizures, by transmitting or delivering material evidence, by interrogating or taking evidence from witnesses, experts, litigants, accused persons and other interested person, by judicial inspection *in situ* and by executing applications for the service of documents.

Article 3

PROVISION OF LEGAL ASSISTANCE

1. The courts and the procurator's and State notarial offices of the two Contracting Parties shall provide one another with legal assistance in civil, family and criminal cases.

2. The authorities referred to in paragraph 1 shall also provide legal assistance to other authorities having jurisdiction in civil and family cases.

Article 4

METHOD OF COMMUNICATION

1. In providing legal assistance, the authorities of the Contracting Parties referred to in article 3, paragraph 1, shall communicate with one another directly, save as otherwise provided herein in individual cases.

2. Other authorities having jurisdiction in civil and family cases shall direct their applications to the authorities referred to in article 3, paragraph 1, save as otherwise provided herein in individual cases.

Article 5

FORM OF APPLICATIONS FOR LEGAL ASSISTANCE

1. Applications for legal assistance must contain the following particulars :
- (a) The title of the applicant authority;
 - (b) The title of the authority applied to;
 - (c) The title of the case in respect of which legal assistance is applied for;

- (d) The first names and family names of the parties, or of the accused or convicted persons, their citizenship, their occupation and their domicile or, where appropriate, residence;
- (e) The names and addresses of their authorized legal representatives;
- (f) Any necessary relevant information, including, in criminal cases, a description of the criminal offence.

2. In applying for legal assistance the Contracting Parties shall use bilingual forms, models of which they shall exchange.

Article 6

PROCEDURE FOR EXECUTING APPLICATIONS

1. In providing legal assistance, the authority applied to shall follow the laws of its own State. However, it may on request employ different judicial procedures, provided that such procedures do not conflict with mandatory legislative provisions of its own State.

2. If the authority applied to is not competent to execute the application, it shall of its own motion transmit the application to the competent authority, notifying the applicant authority accordingly.

3. The authority applied to shall, at the request of the applicant authority, notify the latter in due time of the date and place of execution of the application for legal assistance.

4. The authority applied to shall, after executing an application for legal assistance, return the documents to the applicant authority, or shall advise the latter of the circumstances which prevent execution of the application.

Article 7

IMMUNITY OF WITNESSES AND EXPERTS

1. No person of whatsoever citizenship who, in response to a request transmitted to him by an authority of the Contracting Party applied to, appears as a witness or an expert before an authority of the applicant Party may be prosecuted or detained either for the punishable offence which is the subject of the proceedings or for any other punishable offence committed before he crossed the frontier of the applicant State. Nor may he be punished for such offences in the territory of the applicant Party.

2. The witness or expert shall forfeit this protection if, being at liberty to do so, he fails to quit the territory of the applicant Contracting Party within one week from the date on which the applicant authority informs him that his presence is no longer necessary.

Article 8

FORM OF DOCUMENTS

Documents transmitted in pursuance of this Treaty shall bear a seal.

Article 9

APPLICATIONS FOR THE SERVICE OF DOCUMENTS

1. In serving documents, the authority applied to shall employ the procedure in effect in its own country, provided that the document to be served is drawn up in the language of the authority applied to or is accompanied by a certified translation in that language. Otherwise, the authority applied to shall deliver the document to the recipient if he freely expresses his willingness to accept it.

2. An application for the service of documents must contain the exact address of the recipient and the designation of the documents to be served.

3. If a document cannot be served at the address indicated in the application, the authority applied to shall of its own motion take the necessary steps to determine the recipient's address. If the authority applied to is unable to determine such address, it shall so inform the applicant authority when returning to it the document in question.

Article 10

CONFIRMATION OF SERVICE OF DOCUMENTS

Service of documents shall be confirmed in accordance with the appropriate regulations in effect in the Contracting Party applied to. The authority applied to shall notify the applicant authority of the time and place of service.

Article 11

SERVICE OF DOCUMENTS ON OWN CITIZENS

1. Each Contracting Party shall have the right to serve documents on its own citizens through the intermediary of its diplomatic or consular missions.

2. No compulsion of any kind may be used in such service.

Article 12

RECOGNITION OF DOCUMENTS

1. Documents drawn up or attested in the territory of either Contracting Party by the competent State authority or public official in due form, and bearing an official seal, shall not require legalization in the territory of the other Party. The same shall apply to signatures attested in accordance with the regulations of either Contracting Party.