

No. 4656

**UNION OF SOVIET SOCIALIST REPUBLICS
and
HUNGARY**

Treaty (with Protocol) concerning the provision of legal assistance in civil, family and criminal cases. Signed at Moscow, on 15 July 1958

Official texts: Russian and Hungarian.

Registered by the Union of Soviet Socialist Republics on 3 February 1959.

**UNION DES RÉPUBLIQUES SOCIALISTES
SOVIÉTIQUES
et
HONGRIE**

Traité (avec Protocole) relatif à l'entraide judiciaire en matière civile, familiale et pénale. Signé à Moscou, le 15 juillet 1958

Textes officiels russe et hongrois.

Enregistré par l'Union des Républiques socialistes soviétiques le 3 février 1959.

[TRANSLATION — TRADUCTION]

No. 4656. TREATY¹ BETWEEN THE UNION OF SOVIET SOCIALIST REPUBLICS AND THE HUNGARIAN PEOPLE'S REPUBLIC CONCERNING THE PROVISION OF LEGAL ASSISTANCE IN CIVIL, FAMILY AND CRIMINAL CASES. SIGNED AT MOSCOW, ON 15 JULY 1958

The Presidium of the Supreme Soviet of the Union of Soviet Socialist Republics and the Presidium of the Hungarian People's Republic, being desirous of strengthening, in the sphere of legal relations as in others, the close and steadfast friendship which unites the two countries, have decided to conclude this Treaty concerning the provision of legal assistance in civil, family and criminal cases.

For this purpose, they have appointed as their plenipotentiaries :

The Presidium of the Supreme Soviet of the Union of Soviet Socialist Republics :

Mr. Nikolai Semenovich Patolichev, First Deputy Minister of Foreign Affairs of the Union of Soviet Socialist Republics;

The Presidium of the Hungarian People's Republic :

Dr. Ferenc Nezvál, Minister of Justice of the Hungarian People's Republic;

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. Citizens (natural and juridical persons) of either Contracting Party shall enjoy in the territory of the other Party the same legal protection of their persons and property as citizens of the other Party.

2. Citizens of either Contracting Party may appear before the authorities of the other Party having jurisdiction in civil, family or criminal cases and institute proceedings, make statements and present complaints under the same conditions as citizens of the other Party.

¹ Came into force on 4 January 1959, thirty days after the date of the exchange of the instruments of ratification, in accordance with article 76.

Article 2

PROVISION OF LEGAL ASSISTANCE

1. The courts and the procurator's and State notarial offices of the 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, family or criminal cases.

Article 3

METHOD OF COMMUNICATION

1. In providing legal assistance, the authorities referred to in article 2, paragraph 1, shall, save as otherwise provided herein, communicate with one another through the intermediary of their central organs.

2. Other authorities dealing with civil, family or criminal cases shall, save as otherwise provided herein in specific cases, address their applications for legal assistance to the authorities referred to in article 2, paragraph 1.

Article 4

SCOPE OF LEGAL ASSISTANCE

The Contracting Parties shall provide one another with legal assistance by performing specific acts required in connexion with judicial proceedings, for example, by carrying out searches, seizures and attachment of property, by transmitting or delivering material evidence, by interrogating accused persons, witnesses and experts, by taking evidence from litigants and other persons, by carrying out judicial inspections *in situ*, by executing applications for the service of documents, by transmitting material bearing on the case, and by drawing up and transmitting documents.

Article 5

FORMS OF APPLICATIONS FOR LEGAL ASSISTANCE

1. Applications for legal assistance must contain the following particulars :

- (a) The title of the authority making the application;
- (b) The title 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 names of the parties or of the accused, tried or convicted persons, their domicile or residence, citizenship and occupation and, in criminal cases,

where possible, the place and date of birth of the accused and the names of the latter's parents;

(e) The names and addresses of the legal representatives of the parties or of the accused;

(f) The nature of the application and any necessary relevant information, including, in criminal cases, a description of the *corpus delicti*.

2. Documents transmitted under the terms of this Treaty shall bear a signature and an official seal.

3. In applying for legal assistance the Contracting Parties shall use forms drawn up in two languages; model forms shall be exchanged by the Parties.

Article 6

PROCEDURE FOR EXECUTING APPLICATIONS

1. In executing an application for legal assistance, the authority applied to shall follow the laws 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 Contracting Party, provided that such procedures do not conflict with the laws of its own State.

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. The authority applied to shall, if requested to do so, notify the applicant authority in due time of the time and place of execution of the application.

4. After executing an application, the authority applied to shall return the documents to the applicant authority; if it has not been able to execute the application, it shall advise the applicant authority of the circumstances which prevented such execution.

Article 7

IMMUNITY OF WITNESSES AND EXPERTS

1. No person who, in response to a summons served 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 for the offense which is the subject of the proceedings or for any other 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 privilege if he fails to quit the territory of the applicant Contracting Party within one month from the date on

which the authority taking evidence from him informs him that his presence is no longer necessary. Such period of one month shall not be deemed to include any period of time during which the witness or expert is unable through no fault of his own to quit the territory of the applicant Contracting Party.

Article 8

APPLICATIONS FOR THE SERVICE OF DOCUMENTS

1. In effecting the service of a document the authority applied to shall comply with the laws governing service of documents in effect in its own State, provided that the document to be served is drawn up in the language of the Contracting Party applied to or is accompanied by a certified translation. Otherwise, the authority applied to shall deliver the document to the addressee if he is willing to accept it.

2. Applications for the service of documents must indicate the exact address of the recipient and the designation of the document 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, returning to it the document in question.

Article 9

CONFIRMATION OF SERVICE OF DOCUMENTS

Service of documents shall be officially confirmed in accordance with the regulations in effect in the State applied to. Such confirmation shall indicate the date and place of service.

Article 10

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 may be used in such service.

Article 11

COSTS OF LEGAL ASSISTANCE

1. The Contracting Party to which an application for legal assistance is addressed shall make no claim for repayment of the costs of such assistance. Each Party shall assume all costs incurred in providing legal assistance in its territory.