

No. 5681

**ROMANIA
and
GERMAN DEMOCRATIC REPUBLIC**

Treaty concerning legal assistance in civil, family and criminal cases. Signed at Bucharest, on 15 July 1958

Official texts: Romanian and German.

Registered by Romania on 28 April 1961.

**ROUMANIE
et
RÉPUBLIQUE DÉMOCRATIQUE ALLEMANDE**

Traité d'assistance juridique en matière civile, familiale et pénale. Signé à Bucarest, le 15 juillet 1958

Textes officiels roumain et allemand.

Enregistré par la Roumanie le 28 avril 1961.

[TRANSLATION — TRADUCTION]

No. 5681. TREATY¹ BETWEEN THE ROMANIAN PEOPLE'S
REPUBLIC AND THE GERMAN DEMOCRATIC
REPUBLIC CONCERNING LEGAL ASSISTANCE IN
CIVIL, FAMILY AND CRIMINAL CASES. SIGNED AT
BUCHAREST, ON 15 JULY 1958

The Presidium of the Grand National Assembly of the Romanian People's Republic and the President of the German Democratic Republic, desiring to strengthen the fraternal bonds between their two countries and peoples and to develop co-operation in the sphere of legal relations, have decided to conclude a Treaty concerning legal assistance in civil, family and criminal cases, and for this purpose have appointed as their plenipotentiaries :

The Presidium of the Grand National Assembly of the Romanian People's Republic : Mr. Avram Bunaciu, Minister for Foreign Affairs;

The President of the German Democratic Republic : Dr. Lothar Bolz, Deputy Chairman of the Council of Ministers and Minister for Foreign Affairs, 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. Nationals of either Contracting Party and bodies corporate constituted in accordance with its laws (hereinafter called "nationals") shall enjoy in the territory of the other Contracting Party, in respect of their personal and property rights, the same legal protection as nationals of the latter Contracting Party.

2. Nationals of either Contracting Party shall have free and unimpeded access to the courts and the procurators' and State notaries' offices (hereinafter called "judicial authorities") and other authorities of the other Contracting Party having jurisdiction in civil, family and criminal cases, and may appear, present petitions and institute proceedings before such authorities under the same conditions as nationals of the latter Contracting Party.

¹ Came into force on 25 March 1959, one month after the exchange of the instruments of ratification, in accordance with article 79. The exchange of the instruments of ratification took place at Berlin on 25 February 1959.

Article 2

PROVISION OF LEGAL ASSISTANCE

1. The judicial authorities of the two Contracting Parties shall provide one another with legal assistance in civil, family and criminal cases.

2. The judicial authorities shall also provide legal assistance to other authorities having jurisdiction in the cases referred to in paragraph 1.

Article 3

METHOD OF COMMUNICATION

1. In providing legal assistance, the judicial authorities of the two Contracting Parties shall, save as otherwise provided in this Treaty, communicate with one another through their central organs.

2. Other authorities having jurisdiction in civil or family cases shall communicate with the judicial authorities of the other Contracting Party through the Ministry of Justice.

Article 4

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 drawing up and transmitting documents, by carrying out searches and seizures, by transmitting and delivering material evidence, by conducting expert examinations, by interrogating accused persons, witnesses and experts, by taking evidence from litigants and other persons, by carrying out judicial inspections *in situ*, and by serving documents.

Article 5

LANGUAGES

1. In communicating with one another, the judicial and other authorities of the Contracting Parties shall use their own language or the Russian language.

2. Applications for legal assistance and accompanying documents must be drawn up in the language of the applicant Contracting Party; they shall be accompanied by a certified translation into the language of the Contracting Party applied to.

3. The language of execution of an application for legal assistance shall be that of the Contracting Party applied to.

Article 6

CONTENTS OF APPLICATIONS FOR LEGAL ASSISTANCE

An application 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 which legal assistance is applied for;
- (d) The given names and surnames of the parties or of the persons accused, on trial or convicted, and their nationality, occupation and domicile or residence;
- (e) The given names, surnames and addresses of their legal representatives;
- (f) The necessary information concerning the nature of the application, including, in criminal cases, a description of the offence.

Article 7

PROCEDURE FOR EXECUTING APPLICATIONS

1. In executing an application for legal assistance, the authority applied to shall follow the legal rules of its own State. The authority applied to may, if requested to do so, 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 of its own motion transmit the application to the competent authority and shall at the same time 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 date and place of execution of the application for legal assistance.

4. After executing an application, the authority applied to shall return the relevant documents to the applicant authority. If it has not been able to provide the legal assistance requested, the authority applied to shall return the documents to the applicant authority and shall at the same time advise it of the circumstances which prevented the execution of the application.

Article 8

FORM OF DOCUMENTS

Documents transmitted in pursuance of this Treaty shall bear an official seal.

Article 9

IMMUNITY OF WITNESSES AND EXPERTS

1. No person of whatsoever nationality who, in response to a summons served on him by an authority of the Contracting Party applied to, appears as a

witness or an expert before an authority of the applicant Contracting Party may be prosecuted, detained or punished in the territory of the latter Contracting Party either for the offence which is the subject of the proceedings in which he was summoned or for any other offence committed before he crossed the frontier.

2. The witness or expert shall forfeit this protection if he fails to quit the territory of the applicant Contracting Party within one week from the date on which the authority taking evidence from him informs him that his presence is no longer necessary. Such period of one week 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 10

PROCEDURE FOR SERVING DOCUMENTS

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

2. The translation may be certified by an official translator, or by the applicant authority, or by the diplomatic or consular mission of one of the Contracting Parties.

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

4. 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.

Article 11

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.

Article 12

SERVICE OF DOCUMENTS ON OWN NATIONALS

Each Contracting Party shall have the right to serve documents on its own nationals through its diplomatic or consular missions, provided that the said nationals are willing to accept service.