

No. 5867

**HUNGARY
and
GERMAN DEMOCRATIC REPUBLIC**

**Treaty (with Final Protocol) concerning legal assistance in
civil, family and criminal cases. Signed at Berlin, on
30 October 1957**

Official texts: Hungarian and German.

Registered by Hungary on 26 September 1961.

**HONGRIE
et
RÉPUBLIQUE DÉMOCRATIQUE ALLEMANDE**

**Traité (avec Protocole final) concernant les relations juri-
diques en matière civile, familiale et pénale. Signé à
Berlin, le 30 octobre 1957**

Textes officiels hongrois et allemand.

Enregistré par la Hongrie le 26 septembre 1961.

[TRANSLATION — TRADUCTION]

No. 5867. TREATY¹ BETWEEN THE HUNGARIAN PEOPLE'S
REPUBLIC AND THE GERMAN DEMOCRATIC
REPUBLIC CONCERNING LEGAL ASSISTANCE IN
CIVIL, FAMILY AND CRIMINAL CASES. SIGNED AT
BERLIN, ON 30 OCTOBER 1957

The Presidential Council of the Hungarian People's Republic and the President of the German Democratic Republic,

Desiring to strengthen the friendly relations between the two countries and their peoples in the sphere of legal co-operation as in others, have decided to conclude a treaty concerning legal assistance in civil, family and criminal cases.

For this purpose they have appointed as their plenipotentiaries :

The Presidential Council of the Hungarian People's Republic :

Dr. Ferenc Nezvál, Minister for Justice;

The President of the German Democratic Republic :

Dr. Hilde Benjamin, Minister for Justice,

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 shall enjoy in the territory of the other Contracting Party, in respect of their person and property, the same legal protection as nationals of the latter Contracting Party. The same shall apply to corporations constituted under the laws of either Contracting Party.

(2) They shall have free and unimpeded access to the authorities of the other Contracting Party which deal with civil, family and criminal cases; they may appear before such authorities and may present petitions under the same conditions as nationals of the latter Contracting Party.

¹ Came into force on 23 June 1958, thirty days after the exchange of the instruments of ratification, in accordance with article 88.

Article 2

PROVISION OF LEGAL ASSISTANCE

(1) The courts and the procurators' and State notaries' 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 which deal with civil and family cases.

Article 3

METHOD OF COMMUNICATION

(1) In providing legal assistance, the authorities of the Contracting Parties referred to in article 2, paragraph (1), shall communicate with one another directly, save as otherwise provided herein in individual cases.

(2) Other authorities which deal with civil and family cases shall address their applications to the courts, save as otherwise provided herein in individual cases.

Article 4

SCOPE OF LEGAL ASSISTANCE

Legal assistance shall include the performance of specific acts required in connexion with judicial proceedings, especially the preparation and transmittal of files and documents, the execution of searches and seizures, the transmittal and delivery of articles, the collection of evidence through the interrogation of litigants, accused persons, witnesses, experts and other interested persons, the making of judicial inspections *in situ* and the execution of applications for the service of documents.

Article 5

FORM OF APPLICATION FOR LEGAL ASSISTANCE

(1) An application 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 which legal assistance is applied for;
- (d) The given names and surnames of the parties or of the persons accused or convicted, their domicile or, where appropriate, residence, their nationality, their occupation and, in criminal cases, where possible, their place and date of birth and the names of their parents;

- (e) The names and addresses of their legal representatives;
- (f) The necessary information concerning the subject of the application, including, in criminal cases, a description of the 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 provisions of municipal law.

(2) If the authority applied to is not competent to execute an application, it shall of its own motion 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 date and place of execution of an application for legal assistance.

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

Article 7

IMMUNITY OF WITNESSES AND EXPERTS

(1) No person of whatsoever nationality who, in reponse 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 either for the offence which is the subject of the proceedings or for any other offence committed before he crossed the frontier of the applicant State.

(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 interrogating authority informs him that his presence is no longer necessary.

Article 8

FORM OF DOCUMENTS

Documents transmitted in pursuance of this Treaty must be signed and sealed.

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 into that language. Otherwise, the authority applied to shall deliver the document to the recipient only if he is willing to accept it.

(2) An application for the service of documents must state the exact address of the recipient and the subject 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 such address cannot be determined, the applicant authority shall be so informed and the document in question shall be returned.

Article 10

CONFIRMATION OF SERVICE OF DOCUMENTS

Service of documents shall be confirmed in accordance with the appropriate regulations of 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 NATIONALS

(1) Each Contracting Party shall have the right to serve documents on its own nationals through its diplomatic or consular missions.

(2) No compulsion may be used in such service.

Article 12

COSTS OF LEGAL ASSISTANCE

(1) The Contracting Party applied to shall make no claim for repayment of the costs of legal assistance. Each Contracting Party shall bear all costs incurred in providing legal assistance in its territory, including expenses incurred in taking evidence.

(2) The authority applied to shall communicate to the applicant authority the amount of the costs incurred. If the applicant authority recovers these costs from the person liable therefor, the sums recovered shall be retained by the Contracting Party which recovered them.