

No. 9133

**HUNGARY
and
AUSTRIA**

**Treaty concerning legal relations in civil cases and concerning
official documents (with Final Protocol and exchange of
letters). Signed at Vienna, on 9 April 1965**

Official texts: Hungarian and German.

Registered by Hungary on 6 June 1968.

**HONGRIE
et
AUTRICHE**

**Traité d'entraide en matière civile et en matière d'actes
(avec Protocole final et échange de lettres). Signé à
Vienne, le 9 avril 1965**

Textes officiels hongrois et allemand.

Enregistré par la Hongrie le 6 juin 1968.

[TRANSLATION — TRADUCTION]

No. 9133. TREATY¹ BETWEEN THE HUNGARIAN PEOPLE'S
REPUBLIC AND THE REPUBLIC OF AUSTRIA CON-
CERNING LEGAL RELATIONS IN CIVIL CASES AND
CONCERNING OFFICIAL DOCUMENTS. SIGNED AT
VIENNA, ON 9 APRIL 1965

The Presidential Council of the Hungarian People's Republic and the Federal President of the Republic of Austria, desiring to facilitate legal relations between the two States, have agreed to conclude a treaty concerning legal relations in civil cases and concerning official documents and have for that purpose appointed as their plenipotentiaries :

The Presidential Council of the Hungarian People's Republic :

Mr. János Péter, Minister for Foreign Affairs;

The Federal President of the Republic of Austria :

Dr. Bruno Kreisky, Federal Minister for Foreign Affairs;

Dr. Christian Broda, Federal Minister of Justice;

who, having exchanged their full powers, found in good and due form, have agreed as follows :

PART I

LEGAL PROTECTION, SERVICE OF DOCUMENTS
AND LEGAL ASSISTANCE IN CIVIL CASES

LEGAL PROTECTION

Article 1

(1) Nationals of either Contracting State shall, in the territory of the other Contracting State, have free access to the courts and may appear before them under the same conditions as nationals of the latter State.

(2) The provisions of this Treaty relating to nationals of either Contracting State shall also apply to bodies corporate, including commercial companies, constituted under the law of either Contracting State and domiciled in its territory.

¹ Came into force on 26 September 1967, sixty days after the exchange of the instruments of ratification, which took place at Budapest on 28 July 1967, in accordance with paragraph 1 of article 31.

COSTS

Article 2

A national of one Contracting State who appears before a court of the other Contracting State as a plaintiff (applicant) or intervenor shall not be required, on the ground of his being an alien or of his not being domiciled or habitually resident in the country, to deposit security for costs, provided that he is domiciled or habitually resident in either Contracting State.

Article 3

(1) Where a plaintiff (applicant) or intervenor who, in accordance with article 2 or with the law of the State in which the complaint was filed, has been exempted from the deposit of security is required, under a final and enforceable judgement, to pay costs, advances for costs made by the State or court fees, such judgement shall, on application, be enforced in the other Contracting State. Applications in respect of costs shall be made by the successful party, while applications in respect of advances for costs made by the State and of court fees shall be made by the competent authority of the State in which the complaint was filed. An application by the successful party may be made not only to the competent court of the other Contracting State but also to the court which rendered judgement at first instance.

(2) The provisions of paragraph (1) shall also apply to judgements by which the amount of costs, of advances for costs made by the State or of court fees are fixed retrospectively.

(3) Costs within the meaning of paragraph (1) shall include the cost of the endorsement of finality and enforceability and the costs of such translations as may be necessary. Such costs shall, on application, be fixed by the court required to decide on the application for enforcement.

Article 4

(1) The application for enforcement shall be accompanied by :

- (a) A copy of the operative part of the judgement, with endorsement of its finality and enforceability;
- (b) A translation into the language of the court competent to decide on the application; the said translation shall be subject to the provisions of article 18, paragraph (3).

(2) Where an application by the successful party is made to the court which rendered judgement at first instance, it shall be forwarded together with a translation into the language of the other Contracting State conforming to the provisions of article 18, paragraph (3).

(3) The forwarding of applications for enforcement shall be subject to the provisions of articles 10 and 11.

(4) Judgements within the meaning of paragraph (1) which are rendered by courts of the other Contracting State shall be enforced as if they were domestic judgements, provided, however, that applications for enforcement and decisions on them shall not be subject to the payment of fees, that there shall be no prior hearing of the parties and that decisions on applications for enforcement shall be open to appeal by the parties.

BENEFITS IN RESPECT OF MEANS
(JUDICIAL ASSISTANCE FOR POOR PERSONS)

Article 5

(1) Nationals of one of the Contracting States appearing before the courts of the other Contracting State shall be admitted to benefits granted in respect of means (judicial assistance for poor persons) under the same conditions and to the same extent as nationals of the latter State.

(2) Where a party to an action in one of the Contracting States is entitled to the benefits referred to in paragraph (1), such benefits shall extend to the provision of legal assistance and the service of documents in connexion with that action in the territory of the other Contracting State.

Article 6

(1) Where the petitioner is domiciled or habitually resident in one of the Contracting States, the certificate required in order to obtain the benefits referred to in article 5 shall be issued by the competent authority of the place of domicile or habitual residence.

(2) Where the petitioner is not domiciled or habitually resident in either Contracting State, it shall be sufficient if the certificate is issued by such diplomatic or consular authority of the Contracting State of which he is a national as has competence in respect of his place of domicile or habitual residence.

Article 7

(1) The authority competent to issue the certificate referred to in article 6, paragraph (1), may secure information concerning the petitioner's means from the authorities of the other Contracting State.

(2) The court required to rule on a petition for authorization of the benefits referred to in article 5, paragraph (1), shall, within the limits of its jurisdiction, retain the rights to verify the accuracy of the certificate submitted to it.

Article 8

(1) Where a national of one Contracting State who is domiciled or habitually resident in either State wishes to avail himself of the benefits referred to in article 5, paragraph (1), before a court of the other Contracting State, he may file the petition for authorization of the benefits and for appointment of a representative with the district court in whose jurisdiction he is domiciled or habitually resident.

(2) The petition shall be accompanied by the certificate referred to in article 6 and, if necessary, by a statement of the facts of the case.

(3) The petition and the documents accompanying it shall be forwarded in the manner specified in article 10.

(4) The fact that a petition is not drawn up in the language of the court required to rule on it shall not affect its treatment. Arrangements for any translations that may be necessary shall be made by the authorities of the State whose court is required to rule on the matter.

(5) The court competent to rule on the petition shall, if the benefits are authorized, appoint, of its own motion or on application, a representative for the petitioner in accordance with the law of its State.

COMMON PROVISIONS CONCERNING SERVICE OF DOCUMENTS AND LEGAL ASSISTANCE

Article 9

(1) The Contracting States undertake, through their courts, to provide each other with legal assistance and effect the service of documents in civil cases, including family cases, subject to the submission of an application.

(2) In the matters referred to in paragraph (1), the courts shall also provide legal assistance and effect the service of documents on the application of administrative authorities in so far as the latter are competent in such matters.

(3) In matters of succession, in proceedings for the preservation of evidence and in proceedings to invalidate documents and securities, the Austrian courts shall also provide legal assistance to and effect the service of documents for Hungarian notaries public.