

No. 9625

AUSTRIA
and
ROMANIA

Treaty concerning legal assistance in civil matters, including matters of family law, and concerning official documents (with Protocol). Signed at Vienna on 17 November 1965

Authentic texts: German and Romanian.

Registered by Austria on 13 June 1969.

AUTRICHE
et
ROUMANIE

Traité concernant l'assistance juridique en matière civile, y compris les questions relatives au droit de la famille, et les actes instrumentaires (avec Protocole). Signé à Vienne le 17 novembre 1965

Textes authentiques : allemand et roumain.

Enregistré par l'Autriche le 13 juin 1969.

[TRANSLATION — TRADUCTION]

TREATY¹ BETWEEN THE REPUBLIC OF AUSTRIA AND
THE SOCIALIST REPUBLIC OF ROMANIA CONCERNING
LEGAL ASSISTANCE IN CIVIL MATTERS, INCLUDING
MATTERS OF FAMILY LAW, AND CONCERNING OFFI-
CIAL DOCUMENTS

The Federal President of the Republic of Austria and the Council of State of the Socialist Republic of Romania have agreed to conclude a treaty concerning legal assistance in civil matters, including matters of family law, and concerning official documents and for this purpose have appointed as their plenipotentiaries :

The Federal President of the Republic of Austria :

Dr. Bruno Kreisky, Federal Minister for Foreign Affairs;
Dr. Christian Broda, Federal Minister of Justice;

The Council of State of the Socialist Republic of Romania :

Mr. Corneliu Mănescu, Minister for Foreign Affairs,

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

Chapter I

GENERAL PROVISIONS

Article 1

LEGAL PROTECTION

1. Nationals of either Contracting State shall have free and unimpeded access to the courts of the other Contracting State and may institute proceedings, present petitions and 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 25 April 1969, i.e., on the sixtieth day following the exchange of the instruments of ratification, which took place at Bucharest on 24 February 1969, in accordance with article 30 (1).

Article 2

EXEMPTION FROM DEPOSIT OF SECURITY FOR LEGAL COSTS

Nationals of one Contracting State appearing before the courts of the other Contracting State as plaintiffs (applicants) or intervenors and having their domicile or habitual residence in the territory of either Contracting State shall not be required to deposit security for legal costs on the ground that they are aliens or have no domicile or habitual residence in the State to which the court belongs.

Article 3

METHOD OF COMMUNICATION

In matters governed by this Treaty, the courts of the Contracting States shall, save as otherwise provided in this Treaty, communicate with one another through their Ministries of Justice.

Article 4

LANGUAGES AND TRANSLATIONS

1. The courts of either Contracting State may use their own language in applications submitted to the courts of the other Contracting State pursuant to the provisions of this Treaty. The applications shall bear the official seal; they shall not require authentication.

2. Documents annexed to the applications specified in paragraph 1 shall, save as otherwise provided in this Treaty, be accompanied by authenticated translations into the language of the Contracting State to which the court applied to belongs.

3. The translations referred to in paragraph 2 shall be authenticated by a translator officially employed by one of the Contracting States or by a competent authority of one of the Contracting States including, where so authorized, a diplomatic or consular mission of the State to which the applicant court belongs; no further authentication shall be required.

Article 5

LEGAL INFORMATION

The Ministries of Justice of the Contracting States shall provide each other, on request, with information concerning the provisions of civil law, including family law and the law of civil procedure, in force or formerly in force in their respective States.

Article 6

STATE NOTARIES' OFFICES AND GUARDIANSHIP AUTHORITIES

The provisions of this Treaty concerning courts shall likewise apply to the State notaries' offices and guardianship authorities of the Socialist Republic of Romania.

Chapter II

ENFORCEMENT OF AWARDS OF COSTS

Article 7

1. Where a plaintiff (applicant) or intervenor, exempt from depositing security for legal costs by virtue of article 2 or the law of the State in which the complaint was filed, is required in pursuance of a final and enforceable judgment to pay legal costs, the award of costs shall on application by the successful party be enforced in the other Contracting State.

2. The provisions of paragraph 1 shall also apply to decisions retrospectively fixing the amount of the legal costs.

Article 8

1. Applications for enforcement may be made either to the court competent to decide thereon or to the court which rendered judgement concerning legal costs at first instance.

2. If application is made to the court of one Contracting State which rendered judgement at first instance, it shall be transmitted to the competent court of the other Contracting State.

3. The judgements referred to in article 7 shall be enforced, with no prior hearing of the parties but without prejudice to the right of the unsuccessful party to appeal, in accordance with the law of the State in which enforcement takes place.

Article 9

1. The Party submitting the application must produce :

- (a) A certified copy of the substantive part of the judgement, with endorsement of its finality and enforceability;
- (b) An authenticated translation thereof into the language of the court competent to decide on the application;

(c) An authenticated translation of the application into the language of the court competent to decide thereon, where the application is made to the court which rendered judgement at first instance.

2. The costs of the endorsement provided for in paragraph 1 (a) and of the translations provided for in paragraphs 1 (b) and (c) shall be regarded as legal costs. Such costs shall, on request, be fixed by the court required to decide on the application for enforcement.

Chapter III

EXEMPTION FROM LEGAL STAMP TAX AND OTHER BENEFITS

Article 10

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

2. Where a party to an action in one Contracting State 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 11

1. The certificate relating to income, property and family status necessary for obtaining the benefits referred to in article 10 shall be issued by the competent authority of the Contracting State in which the petitioner has his domicile or habitual residence.

2. Where the petitioner has his domicile or habitual residence in a third 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 12

The authority seized of a petition for the authorization of the benefits referred to in article 10, paragraph 1, shall decide thereon in accordance with the law of its own State and may, if necessary, request additional information.