

No. 27141

**CZECHOSLOVAKIA
and
HUNGARY**

Treaty concerning legal assistance and the regulation of legal relations in civil, family and criminal cases. Signed at Bratislava on 28 March 1989

Authentic texts: Slovak and Hungarian.

Registered by Czechoslovakia on 9 March 1990.

**TCHÉCOSLOVAQUIE
et
HONGRIE**

Traité concernant l'entraide judiciaire et les relations juridiques en matière civile, familiale et pénale. Signé à Bratislava le 28 mars 1989

Textes authentiques : slovaque et hongrois.

Enregistré par la Tchécoslovaquie le 9 mars 1990.

[TRANSLATION — TRADUCTION]

TREATY¹ BETWEEN THE CZECHOSLOVAK SOCIALIST REPUBLIC AND THE HUNGARIAN PEOPLE'S REPUBLIC CONCERNING LEGAL ASSISTANCE AND THE REGULATION OF LEGAL RELATIONS IN CIVIL, FAMILY AND CRIMINAL CASES

The President of the Czechoslovak Socialist Republic and
The Presidential Council of the Hungarian People's Republic,

Desiring to strengthen as much as possible comprehensive friendly relations and to develop cooperation between the two States and their peoples in keeping with the Treaty of Friendship, Co-operation and Mutual Assistance between the Czechoslovak Socialist Republic and the Hungarian People's Republic of 14 June 1968,²

Endeavouring to deepen and improve the provision of legal assistance and the legal relations between those judicial and other authorities which act in the legal affairs of nationals and in the defence of their rights and interests,

Have decided to conclude this Treaty and

For that purpose have appointed as their plenipotentiaries:

The President of the Czechoslovak Socialist Republic: Academician Milan Čič, Minister of Justice of the Slovak Socialist Republic;

The Presidential Council of the Hungarian People's Republic: Academician Kálmán Kúlsár, Minister of Justice,

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

PART ONE. GENERAL PROVISIONS

Article 1. LEGAL PROTECTION

(1) Nationals of either Contracting Party shall, in the territory of the other Contracting Party, enjoy the same legal protection in personal and property cases as nationals of the other Contracting Party.

(2) Nationals of either Contracting Party may appear, present petitions, take initiatives and perform other acts relating to proceedings before the authorities of the other Contracting Party which act in civil, family and criminal cases, under the same conditions as nationals of the other Contracting Party.

(3) The provisions of this Treaty shall also apply *mutatis mutandis* to bodies corporate.

¹ Came into force on 12 February 1990, i.e., the thirtieth day following the exchange of the instruments of ratification, which took place at Budapest on 13 January 1990, in accordance with article 93.

² United Nations, *Treaty Series*, vol. 678, p. 45.

(4) For the purposes of the application of this Treaty, the term “civil cases” shall also be understood to mean labour cases and relations pertaining to membership in a cooperative.

Article 2. LEGAL ASSISTANCE

(1) The courts, procurator’s offices and State notarial offices (hereinafter referred to as “judicial authorities”) and other authorities which act in civil, family and criminal cases shall provide one another with legal assistance in such cases.

(2) In labour cases only the judicial authorities competent to do so shall provide one another with legal assistance.

Article 3. METHOD OF COMMUNICATION

(1) The judicial authorities of the Contracting Parties shall, in the implementation of this Treaty, communicate with one another direct, except as otherwise provided in this Treaty.

(2) Other authorities which act in civil, family and criminal cases shall, in the implementation of this Treaty, communicate with one another through the competent judicial authorities, except as otherwise provided in this Treaty.

(3) The central authorities within the meaning of this Treaty shall be: for the Czechoslovak Socialist Republic the Office of the Chief Procurator of the Czechoslovak Socialist Republic, the Ministry of Justice of the Czech Socialist Republic and the Ministry of Justice of the Slovak Socialist Republic; for the Hungarian People’s Republic the Ministry of Justice of the Hungarian People’s Republic and the Office of the Chief Procurator of the Hungarian People’s Republic.

Article 4. USE OF LANGUAGES

(1) The authorities of the Contracting Parties shall, in communicating with one another in the implementation of this Treaty, use their own official language or the Russian language.

(2) With a view to facilitating relations in connection with legal assistance, translations of documents into the language of the Contracting Party applied to shall be attached even in those cases in which the Treaty does not prescribe such attachment as mandatory.

Article 5. SCOPE OF LEGAL ASSISTANCE

The Contracting Parties shall extend legal assistance to each other by performing specific acts, in particular, the preparation, sending and service of documents, the conduct of inspections, the receipt and delivery of physical evidence, the preparation and implementation of expert opinions, the interrogation of parties, defendants, witnesses, experts and other persons and the enforcement of decisions.

Article 6. CONTENT OF APPLICATIONS FOR LEGAL ASSISTANCE

(1) Applications for legal assistance must contain:

(a) The designation of the applicant authority;

(b) The designation of the authority applied to;

(c) The designation of the case in which legal assistance is being requested;

(d) The given names and family names of the parties, their permanent or temporary places of residence, nationalities and occupations and, in criminal cases, where possible, the place and date of birth of the accused, indicted or convicted persons, as well as the names of the parents; in the case of bodies corporate, the designation and headquarters of the bodies corporate;

(e) The given names, family names and addresses of the witnesses and of the representatives of the persons referred to in item (d);

(f) The subject of the application and the data necessary for its execution;

(g) In criminal cases also a description and definition of the criminal act committed.

(2) The application must bear the signature of the competent official and the official seal of the applicant authority.

(3) In the provision of legal assistance, the Contracting Parties may use bilingual forms.

Article 7. PROCEDURES FOR EXECUTING THE APPLICATION

(1) In executing an application, the authority applied to shall follow the law of its own State. If the applicant authority so requests, the application shall be executed in the manner indicated in the application, provided that it does not conflict with the law of the Contracting Party applied to.

(2) If the authority applied to is not competent, it shall transmit the application to the competent authority and shall notify the applicant authority accordingly.

(3) Where the exact address of the person referred to in the application is unknown, the authority applied to shall take the necessary steps to determine the address. If it is unable to determine the address, it shall notify the applicant authority accordingly and shall at the same time return the application.

(4) The authority applied to shall, at the request of the applicant authority, notify the applicant authority and the parties to the case in good time of the place and date of execution of the application.

(5) After the execution of an application, the authority applied to shall return the documents to the applicant authority; if it has not been possible to execute the application, the authority applied to shall, at the same time as it returns the documents, inform the applicant authority of the circumstances which prevented its execution.

Article 8. PROTECTION OF WITNESSES AND EXPERTS

(1) A summons issued to a witness or expert who is resident in the territory of one Contracting State and who is to appear before a judicial authority of the other Contracting Party may not contain any threat of the use of coercive measures in the event of failure to appear.

(2) A witness or expert, irrespective of nationality, who, in response to a summons, appears before an applicant authority of the other Contracting Party may not be subjected to prosecution under criminal or administrative regulations in respect of the criminal act to which the summons relates or in respect of any other act which he committed prior to crossing the frontier of the applicant Contracting Party, and no penalty to which he has been sentenced for such an act may be executed.

(3) The witness or expert shall, however, forfeit such protection if he fails to quit the territory of the applicant Contracting Party within one week from the date on which the applicant authority informs him that his presence is no longer necessary. Such time-limit shall not be deemed to include any period of time during which the witness or expert has been unable through no fault of his own to quit the territory of the applicant Contracting Party.

(4) The witness or expert shall be entitled to reimbursement of the costs of his travel and stay and of his lost income; an expert shall, in addition, be entitled to remuneration in his capacity as an expert. The summons shall indicate what compensation the witness or expert is entitled to receive. An advance payment for his expenditures shall be made upon his request.

Article 9. SERVICE OF DOCUMENTS

The authority applied to shall serve documents in accordance with the law of its own State if the document to be served is written in the language of the Contracting Party applied to or is accompanied by a certified translation into that language. Otherwise it shall serve the document upon the addressee if he is willing to accept it. The provisions of articles 6 and 7 shall be applied *mutatis mutandis*.

Article 10. CONFIRMATION OF SERVICE

Service shall be confirmed by a certification signed by the recipient and bearing an imprint of the official seal of the authority applied to, the date and the signature of the competent official of the authority applied to, or by a certification issued by the authority applied to which confirms the manner, place and time of service. If the document to be served was sent in duplicate, its acceptance and the fact that service has taken place may also be certified on the second copy.

Article 11. SERVICE OF DOCUMENTS ON OWN NATIONALS

The Contracting Parties may also serve documents on their own nationals through their diplomatic missions or consular posts.

Article 12. COSTS OF LEGAL ASSISTANCE

(1) The Contracting Party applied to shall make no claim for reimbursement of the costs of executing the application. Each Contracting Party shall bear all the costs incurred in providing legal assistance in its territory.

(2) The authority applied to shall inform the applicant authority of the amount of the costs incurred. If the applicant authority recovers the costs from the person liable therefor, the reimbursed costs shall accrue to the applicant Contracting Party.

Article 13. INFORMATION ON LEGAL QUESTIONS

The central authorities of the Contracting Parties shall, on request, provide each other with information concerning the legislation which is or has been in force in their territory, as well as concerning the legal practice of the judicial authorities and concerning other legal questions.

Article 14. DETERMINATION OF ADDRESSES AND OTHER DATA

(1) The judicial authorities of the Contracting Parties shall, on request, provide assistance in the determination of the addresses of persons present in their territory if that is necessary for the exercise of the rights of their nationals.