

No. 27203

**CZECHOSLOVAKIA
and
DEMOCRATIC YEMEN**

**Convention on legal assistance in civil and criminal matters.
Signed at Prague on 19 January 1989**

Authentic texts: Czech, Arabic and English.

Registered by Czechoslovakia on 30 April 1990.

**TCHÉCOSLOVAQUIE
et
YÉMEN DÉMOCRATIQUE**

**Convention d'entraide judiciaire en matières civiles et péna-
les. Signée à Prague le 19 janvier 1989**

Textes authentiques : tchèque, arabe et anglais.

Enregistrée par la Tchécoslovaquie le 30 avril 1990.

CONVENTION¹ BETWEEN THE CZECHOSLOVAK SOCIALIST REPUBLIC AND THE PEOPLE'S DEMOCRATIC REPUBLIC OF YEMEN ON LEGAL ASSISTANCE IN CIVIL AND CRIMINAL MATTERS

The Czechoslovak Socialist Republic and the People's Democratic Republic of Yemen,

Guided by their desire to further develop mutual relations between the two States in accordance with the Treaty on Friendship and Co-operation of September 14, 1981 concluded between the Czechoslovak Socialist Republic and the People's Democratic Republic of Yemen² and in an effort to strengthen and to improve mutual relations of the two States in the field of legal relations,

Have decided to conclude the present Convention and to this end they have appointed as their Plenipotentiaries:

The Czechoslovak Socialist Republic: academician Ján Pješčak, Prosecutor General of the Czechoslovak Socialist Republic; and

The People's Democratic Republic of Yemen: Abdul Wasa Ahmed Salam, Minister of Justice,

who, after exchanging their respective full powers, found to be in good and due form, have agreed as follows:

PART I. GENERAL PROVISIONS

CHAPTER 1. LEGAL PROTECTION AND LEGAL ASSISTANCE IN CIVIL AND CRIMINAL MATTERS

Article 1. LEGAL PROTECTION

(1) Citizens of one Contracting Party shall enjoy in the territory of the other Contracting Party equal legal protection in personal and property matters as citizens of the other Contracting Party.

(2) Citizens of one Contracting Party may appear before the judicial authorities of the other Contracting Party and defend their rights, submit requests, bring actions and apply for forms of review under the same conditions as citizens of the other Contracting Party.

(3) The provisions of this Convention concerning citizens of the Contracting Parties shall apply *mutatis mutandis* to legal persons which have their seat in the territory of either of the Contracting Parties and which have been established in accordance with its laws.

Article 2. LEGAL ASSISTANCE

(1) The judicial authorities of the Contracting Parties shall provide each other with mutual legal assistance in matters regulated by the present Convention.

¹ Came into force on 13 February 1990, i.e., the thirtieth day following the exchange of the instruments of ratification, which took place at Aden on 14 January 1990, in accordance with article 52 (2).

² United Nations, *Treaty Series*, vol. 1293, p. 179.

(2) For the purpose of the present Convention the term “civil matters” shall be deemed to include also family, labour and commercial matters.

(3) For the purpose of the present Convention the term “judicial authority” represents any state organ of either Contracting Parties having competence in matters regulated by the present Convention according to the law of its State.

Article 3. EXTENT OF LEGAL ASSISTANCE

The Contracting Parties shall grant each other legal assistance through the execution of individual acts, namely the drawing, sending and service of documents and the taking of evidence of the parties, witnesses, the accused or other persons, the recognition and execution of decisions and in penal matters especially the taking over of criminal prosecution and extradition.

Article 4. MODE OF COMMUNICATION

(1) In executing the present Convention the judicial authorities of the Contracting Parties shall maintain contacts through competent central authorities unless otherwise provided in the present Convention.

(2) For the purpose of the present Convention the central authorities shall be the following:

a) On behalf of the Czechoslovak Socialist Republic:

- The Office of the Prosecutor General of the Czechoslovak Socialist Republic;
- The Ministry of Justice of the Czech Socialist Republic;
- The Ministry of Justice of the Slovak Socialist Republic;

b) On behalf of the People's Democratic Republic of Yemen:

- The Ministry of Justice.

(3) In executing the present Convention the central authorities of the Contracting Parties shall use their official languages in their communication and always also the English language.

Article 5. REQUEST FOR LEGAL ASSISTANCE

(1) The request for legal assistance shall contain the following:

- a) The designation of the requesting authority;
- b) The designation of the requested authority;
- c) The specification of the case in which the legal assistance is requested;
- d) The names and surnames of parties, accused or convicted persons and their legal representatives, if any, the place of their permanent residence, their citizenship and occupation, in criminal matters also their place and date of birth and the names and surnames of parents and in case of legal persons their name and seat;
- e) The nature of the request giving all information necessary for the execution of the request;
- f) In criminal matters also the description and specification of the criminal act and data on the injured person; if material damage has resulted from criminal act, the amount is to be indicated.

(2) The request for legal assistance and enclosed documents shall be drawn up in the official language of the requested Contracting Party or a translation into this

language or into the English language shall be attached. Each translation attached to the request shall be certified as correct by a competent translator or the diplomatic mission or consular office of one of the Contracting Parties.

(3) The request shall indicate the date of its issue, the signature and official seal of the competent authority shall be affixed [thereto].

Article 6. EXECUTION OF THE REQUEST FOR LEGAL ASSISTANCE

(1) In executing the request for legal assistance the requested authority shall apply the law of its State. However, upon the request of the requesting authority it can apply the method referred to in the request if not in conflict with the law of its State.

(2) If the requested authority is not competent to execute the request it shall forthwith pass it on to the competent authority and shall so advise the requesting authority.

(3) If the address given in the request for legal assistance is not exact or if the person referred to in the request does not reside at the given address, the requested authority shall take necessary measures to ascertain the correct address.

(4) The requested authority shall, upon request of the requesting authority, in due time notify directly the latter of the place and time of execution of the request for legal assistance.

(5) After executing the request for legal assistance the requested authority shall, upon request, return the documents to the requesting authority. If the request for legal assistance cannot be complied with, the requested authority shall return the documents to the requesting authority and at the same time shall give the reasons preventing the execution of the request.

Article 7. SERVICE OF DOCUMENTS

The requested authority shall effect service of documents according to the law of its State if they are drawn up in the language of the requested Contracting Party or if a translation certified as correct into this language is attached. Otherwise the requested authority shall serve the document to an addressee only if he is willing to accept it voluntarily.

Article 8. CERTIFICATE OF SERVICE

(1) The service of documents shall be proved by a certificate signed by the person served and provided with an official seal, date and signature of the authority which has effected the service or by a certificate issued by this authority stating the manner, place and date of such service. If the document to be served is sent in two copies the certificate of acceptance and service can be effected on the other copy.

(2) The certificate of service shall be sent immediately to the requesting Contracting Party. If service cannot be effected, the reasons shall be communicated immediately by the requested Contracting Party to the requesting Contracting Party.

Article 9. EXECUTION OF THE REQUEST FOR LEGAL ASSISTANCE THROUGH DIPLOMATIC MISSIONS OR CONSULAR OFFICES

The Contracting Parties shall be free to effect service of documents on and to examine their own citizens also through their diplomatic missions or consular offices. In such case no compulsion shall be used.

Article 10. PROTECTION OF WITNESSES AND EXPERTS

(1) A citizen who is to be examined as a witness or expert before the judicial authority of one of the Contracting Parties and who resides in the territory of the other Contracting Party is not obliged to appear before that authority on the basis of summons; therefore the summons shall not contain the threat of penalty in case he fails to appear.

(2) A witness or expert who has his domicile in the territory of one of the Contracting Parties and who appears on the basis of summons before the judicial authority of the other Contracting Party, shall not be prosecuted, or subjected to any restriction of his personal liberty, in the territory of that Contracting Party, in respect of a criminal act or conviction anterior to the crossing of the border of the requesting Contracting Party.

In the same way he shall not be prosecuted in connection with the giving of his testimony or expert evidence.

(3) A witness or expert shall be deprived of the protection provided for in paragraph 2 of the present Article if he does not leave the territory of the requesting Contracting Party within the period of 7 days from the day on which he was informed by the judicial authority which summoned him that his presence is no longer required, or having left the territory of the requesting Contracting Party, has returned voluntarily. The time during which the witness or expert was unable to leave the territory of such Contracting Party for reasons not dependent on his will shall not be reckoned in the above mentioned period.

(4) The summoned citizen is entitled to compensation for the costs of his journey and sojourn, as well as for loss of earnings and, in addition, the expert is entitled to survey fees for expert evidence. The kind of compensation to which the summoned person is entitled shall be stated in the summons and upon request he shall be provided with an advance to cover such expenses.

Article 11. COSTS OF LEGAL ASSISTANCE

(1) The Contracting Parties shall not require the reimbursement of costs for the execution of the request for legal assistance with the exception of survey fees and other expenses arising in connection with the execution of expert evidence.

(2) Compliance with the request for expert evidence can be made conditional upon the deposit of an advance.

(3) Upon request, the requested authority shall advise the requesting authority about the amount of costs occasioned by the compliance with the request for legal assistance. In case that the authority collects these costs from the person who is obliged to cover them, the collected sum remains with the requesting Contracting Party.

Article 12. REFUSAL OF LEGAL ASSISTANCE

Compliance with the request for legal assistance may be refused:

- a) If the requested Contracting Party is of the opinion that its sovereignty, security or public policy would be endangered thereby;
- b) In the penal matters the granting of legal assistance may be refused also in the case if the request refers to an act which, according to the law of the requested Contracting Party, is not judicially punishable.