

No. 24069

**SWEDEN
and
HUNGARY**

**Agreement on mutual assistance in criminal matters. Signed
at Budapest on 28 September 1983**

Authentic texts: Swedish, Hungarian and English.

Registered by Sweden on 25 April 1986.

**SUÈDE
et
HONGRIE**

**Accord sur l'assistance mutuelle en matière pénale. Signé à
Budapest le 28 septembre 1983**

Textes authentiques : suédois, hongrois et anglais.

Enregistré par la Suède le 25 avril 1986.

AGREEMENT¹ BETWEEN THE KINGDOM OF SWEDEN AND THE HUNGARIAN PEOPLE'S REPUBLIC ON MUTUAL ASSISTANCE IN CRIMINAL MATTERS

The Kingdom of Sweden and the Hungarian People's Republic, desiring to develop and enhance mutual judicial co-operation in criminal matters,

Have agreed as follows:

Chapter I. GENERAL PROVISIONS

Article 1. The Contracting Parties agree to afford each other, in accordance with the provisions of this Agreement, mutual assistance in criminal proceedings.

Article 2. 1. Assistance may be refused if the request for assistance concerns an offence,

- (a) The punishment of which, at the time of the arrival of said request, falls outside the jurisdiction of the requesting Party;
- (b) Which is not punishable according to the law of the requested Party;
- (c) Which is regarded by the requested Party as an offence of a political character or as an offence connected with an offence of a political character;
- (d) Which, under the law of the requested Party, constitutes an offence against military law;
- (e) Which is or has been the subject of an investigation in the territory of the requested Party;
- (f) For which the accused person is being or has been proceeded against in the territory of the requested Party;
- (g) With regard to which the accused person is exempt from prosecution by lapse of time according to the law of the requested Party;
- (h) Which is tried before a court or tribunal which is specifically set up for trying the case or is only occasionally or under exceptional circumstances authorized to try such cases.

2. Assistance may also be refused if the requested Party considers that execution of the request is likely to prejudice the *ordre public* or other essential interests of its country.

Article 3. 1. Requests for mutual assistance shall be made through the Swedish Ministry for Foreign Affairs and through the Hungarian Ministry of Justice respectively.

Requests for mutual assistance in an investigation prior to prosecution may, however, be made through the Swedish Ministry for Foreign Affairs and the Hungarian Chief Public Prosecutor's Office.

In exceptional circumstances requests referred to in this Article may be made through diplomatic channels.

¹ Came into force on 1 March 1986, i.e., the thirtieth day following the date of the exchange of the instruments of ratification, which took place at Stockholm on 30 January 1986, in accordance with article 18.

2. Documents transmitted pursuant to this Agreement shall not require any form of authentication.

Chapter II. SERVICE OF DOCUMENTS

Article 4. 1. A request for service may emanate from a court of law. The request shall indicate:

- The authority making the request;
- The name, address and citizenship of the person to be served;
- The nature of the document to be served;
- The description of the offence with regard to which assistance is requested as well as the time and place of the offence.

2. The request for service of documents shall be made either in the language of the requested Party or in the English language.

3. The document to be served shall be transmitted in duplicate. It shall be accompanied by a translation into the language of the requested Party. Service of documents will, however, be effected even if not accompanied by a translation into the language of the requested Party, when the person to be served voluntarily receives the documents.

Article 5. 1. Service shall be effected by the requested Party in the manner provided for the service of analogous documents under its own law or, when the requesting Party so demands, in a special manner consistent with such law.

2. Proof of service shall be given in accordance with the law of the requested Party. One copy of the document served and the proof of service shall immediately be sent to the Ministry concerned of the requesting Party.

The requested Party shall state whether service has been effected in accordance with the law of that Party.

3. If service cannot be effected, the reasons shall immediately be communicated by the requested Party to the requesting Party through the Ministries concerned.

4. A request for service of a summons on an accused person, who is in the territory of the requested Party, shall be transmitted to the authorities of that Party in due time. The accused person shall receive the summons not later than thirty days before the date set for appearance.

Article 6. A witness or expert who has failed to answer a summons to appear, service of which has been requested, shall not be subjected to any punishment or measure of restraint.

Article 7. The allowances, including subsistence, to be paid and the travelling expenses to be refunded to a witness or expert by the requesting Party shall be calculated as from his place of residence and shall be at rates at least equal to those provided for in the scales and rules in force in the country where the hearing is intended to take place.

Article 8. 1. If the requesting Party considers the personal appearance of a witness or expert especially necessary, it shall so mention in its request for service of the summons and the requested Party shall invite the witness or expert to appear.

The requested Party shall inform the requesting Party of the reply of the witness or expert.

2. In the case provided for under paragraph 1 of this Article, the request shall indicate the approximate allowances payable and the travelling and subsistence expenses refundable.

Article 9. 1. A witness or expert, whatever his nationality, appearing on a summons before a court of law of the requesting Party shall not be prosecuted or detained or subjected to any other restriction of his personal liberty in the territory of that Party in respect of acts or convictions prior to his departure from the territory of the requested Party.

2. A person, whatever his nationality, summoned before a court of law of the requesting Party to answer for acts forming the subject of proceedings against him, shall not be prosecuted or detained or subjected to any other restriction of his personal liberty for acts or convictions prior to his departure from the territory of the requested Party and not specified in the summons.

3. The immunity provided for in this Article shall cease when the witness or expert or prosecuted person, having had for a period of fifteen consecutive days from the date when his presence is no longer required by the court of law an opportunity of leaving, has nevertheless remained in the territory, or having left it, has voluntarily returned.

Article 10. The execution of a request for service shall not entail the levying of any fees or the refunding of any charges.

Chapter III. LETTERS ROGATORY

Article 11. 1. Letters rogatory for the purpose of procuring evidence, search or seizure of property and transmitting articles to be produced in evidence, records or documents shall emanate from a court of law of the requesting Party and be addressed to a court of law of the requested Party, except in the cases referred to in Article 15. They shall be drawn up in the language of the requested Party or be accompanied by a translation into that language.

2. Letters rogatory referred to in paragraph 1 of this Article shall indicate:

- The court of law making the request;
- The name, address and citizenship of the person concerned;
- A description of the offence and a brief summary of the facts of the case.

Article 12. 1. The requested Party shall execute the letters rogatory in the manner provided for by its law. If the letters rogatory contain a request to the effect that a special procedure be applied, the request shall be complied with, if the procedure is consistent with the law of the requested Party.

2. When the letters rogatory have been executed, the documents relating to them shall immediately be returned to the requesting Party. If the letters rogatory cannot be executed, the requested Party shall inform the requesting Party accordingly, stating the reasons.

3. If the requesting Party desires witnesses or experts to give evidence on oath or on a declaration of truth it shall expressly so request, and the requested Party shall comply with the request.

Article 13. 1. The requested Party shall inform the requesting Party of the date and place of execution of the letters rogatory.

2. The requested Party may transmit certified copies of records or documents requested, unless the requesting Party expressly requests the transmission of originals, in which case the requested Party shall endeavour to comply with the request.

3. The requested Party may delay the handing over of records or documents requested, if it requires the records or documents in connection with pending criminal proceedings.

4. Original records or documents, handed over in execution of letters rogatory, shall be returned by the requesting Party to the requested Party as soon as possible, if the latter Party so desires.

Article 14. The execution of letters rogatory shall not entail the levying of any charges or the refunding of any expenses except those incurred by the attendance of experts in the territory of the requested Party.

Article 15. Requests for investigation prior to prosecution may emanate from a public prosecutor. In regard to such requests, Articles 11, paragraph 1, second sentence, 12, paragraphs 1 and 2, 13, paragraphs 2, 3, and 4, and 14 shall apply. Requests for the hearing of a witness, an expert or a suspect may not be executed if he does not consent.

Chapter IV. TRANSFER OF PROCEEDINGS

Article 16. 1. Either Contracting Party may request, in accordance with its legislation, criminal proceedings to be instituted in the territory of the other Party for an offence committed in the territory of the requesting Party.

2. To this end, the requesting Party shall forward documents, information and objects to the requested Party, in particular information concerning the penal law applicable to the alleged offence. Such information shall be drawn up in the language of the requested Party or be accompanied by a translation into that language.

3. The requested Party shall notify the requesting Party of any action taken on such request and shall forward a copy of the record of any verdict pronounced.

Chapter V. TREATMENT OF NATIONALS OF THE OTHER PARTY

Article 17. Each Contracting Party agrees to afford nationals of the other Contracting Party, who are the subject of an investigation or proceedings in a criminal matter in the territory of the former Party, the same facilities for their defence as it affords its own nationals, including the assistance of a lawyer appointed *ex officio* and legal aid.

Chapter VI. FINAL CLAUSE

Article 18. 1. This Agreement shall be ratified, and the instruments of ratification shall be exchanged at Stockholm.

2. The Agreement shall enter into force on the thirtieth day after the exchange of the instruments of ratification. It may be terminated by either Contracting Party by giving notice of termination to the other Contracting Party through the diplomatic channel. The termination shall become effective six months after the date of receipt of such notice.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto, have signed the Agreement and affixed their seals thereto.

DONE at Budapest, this 28th day of September 1983 in two original copies, both in the Swedish, Hungarian and English languages, all texts being equally authentic. However, in case divergencies between the texts arise, the English text shall prevail.

For the Kingdom of Sweden:

OVE RAINER

For the Hungarian People's Republic:

I. MARKOJA
