

**TREATY BETWEEN
THE REPUBLIC OF INDIA
AND
THE RUSSIAN FEDERATION
ON
LEGAL ASSISTANCE AND LEGAL RELATIONS
CONCERNING CIVIL AND COMMERCIAL MATTERS**

The Republic of India and the Russian Federation, hereinafter referred to as the "Contracting Parties",

Attaching importance to the development of cooperation in the field of legal assistance in civil and commercial matters;

Have agreed as follows :

PART I

GENERAL PROVISIONS

**Article 1
Legal Protection**

1. Citizens of one Contracting Party shall enjoy in the territory of the other Contracting Party the same legal protection in respect of their person and property as do the citizens of the other Contracting Party, to the extent permitted by their laws.
2. The above shall also apply to legal persons established in accordance with the law of either Contracting Party.
3. Citizens of one Contracting Party shall be entitled to free and unimpeded access to the courts or other legal authorities of the other Contracting Party having competence in civil and commercial matters, on the same terms and conditions as its own citizens.

4. Citizens of one Contracting Party shall have the same rights and privileges in the proceedings of a court of the other Contracting Party to the same extent as the citizens of that Contracting Party.

Article 2

Mode of Communication

In providing legal assistance the courts and other legal authorities of the Contracting Parties shall communicate with each other through the Central Authorities, which shall be :

For the Republic of India – Ministry of Law, Justice and Company Affairs of the Government of India, for the Russian Federation – Ministry of Justice of the Russian Federation.

The Central Authorities shall communicate with each other directly.

PART II

LEGAL ASSISTANCE AND LEGAL RELATIONS CONCERNING CIVIL AND COMMERCIAL MATTERS

Article 3

Scope of legal assistance

Legal assistance in civil and commercial matters includes :

1. service and dispatch of documents or summons;
2. provision upon request of information on laws, which are or were in force in the respective States, and on their application by the judicial authorities;
3. taking of evidence from litigants, witnesses and experts;
4. making judicial inspections;
5. issuing commissions;
6. furnishing evidence;
7. obtaining expert opinions;

8. recognition and enforcement of judgements, including decrees, arbitration awards and settlements;
9. effecting other proceedings.

Article 4

Request for legal assistance

A request for legal assistance shall be made in writing and shall contain the following :

1. the designation of the requesting authority;
2. the designation of the requested authority;
3. the specification of the case in relation to which legal assistance is requested;
4. names and surnames of persons relating to the request, information of their citizenship, occupation and permanent or temporary residence. In case of legal persons, their names and addresses;
5. names and addresses of the representatives of persons relating to the request; and
6. contents of the request.

Article 5

Execution

1. In executing the request for legal assistance the requested authority shall apply its national laws. However, upon request of the requesting authority, it may apply procedural rules of the requesting Contracting Party as far as they are not in conflict with the laws of the requested Contracting Party.

2. If the requested authority is not competent to execute the request it shall forward the request to the competent authority and shall inform the requesting authority accordingly.

3. In case of receipt of an appropriate request the requested authority shall notify the requesting authority, parties interested in, or their representatives, of the place and time of execution of the request.

4. The requested authority shall forward documents to the requesting authority after execution of the request. In case legal assistance could not be provided as requested it shall return the request and notify the reasons for inability to execute it.

Article 6

Service of documents or summons

1. The service of documents or summons shall be effected in accordance with the laws of the requested Contracting Party. When the documents or summons are not drawn up in the language of the requested Contracting Party or are not accompanied by a translation, they may be served on the addressee if he is willing to accept them. In case of non-acceptance of such document or summons the service shall be considered as not having been effected.

2. A request for service shall contain the exact address of the addressee and the title of the document or summons to be served.

Article 7

Proof of service of documents or summons

The service of documents or summons shall be proved in accordance with the rules in force in the territory of the requested Contracting Party. The time and place of service as well as the person on whom the document or summons was served shall be indicated in a certificate of service.

Article 8

Service of documents and issue of Interrogatories to citizens through diplomatic missions or consular offices

The Contracting Parties shall be entitled to effect service of documents and issue interrogatories to their own citizens through their diplomatic missions or consular offices. No compulsion shall be applied in connection with such service.

Article 9

Summons served upon witness or expert abroad

1. If in course of the judicial proceedings in the territory of one Contracting Party there is need for the personal appearance of a witness or an expert, staying in the territory of the other Contracting Party, the request to serve summons shall be addressed to the competent authority of that Contracting Party.
2. A summons may not contain any penalties connected with failure of the summoned person to appear.
3. A witness or expert, who in response to a summons, has voluntarily appeared before the competent authority of the requesting Contracting Party shall not be in the territory of that Contracting Party prosecuted, detained or punished for a criminal offence committed by him before he enters its territory.
4. A witness or expert shall be deprived of this immunity if he fails to leave the territory of the requesting Contracting Party within 15 days after being informed by the requesting authority that his presence is no longer necessary. Such period shall not include any period of time during which the witness or expert was unable to leave the territory of the requesting Contracting Party for reasons beyond his control.
5. Witnesses and experts who upon request appeared in the territory of the requesting Contracting Party shall have the right to be reimbursed by the requesting authority their travel expenses and costs connected with their stay in its territory. Experts shall also be entitled to remuneration for making an examination. The request shall contain the information on reimbursements which the requested persons are entitled to; the requesting Contracting Party shall provide against their statement an advance payment to cover the corresponding expenses.
6. The Contracting Parties shall render all necessary assistance to each other for taking evidence of a witness in accordance with the provisions of their laws or, as the case may be, on the basis of

interrogatories, questionnaire or otherwise, which may be admitted as evidence in accordance with the laws of the requested Contracting Party.

Article 10

Recognition of documents

1. Documents issued or certified in the prescribed form and sealed with an official seal of the court or other legal authority, other competent body or official person (a full time translator, expert, etc.) in the territory of one Contracting Party shall not require any form of authentication in the territory of the other Contracting Party.
2. Documents considered as official in the territory of one Contracting Party shall have the evidentiary force of official documents also in the territory of the other Contracting Party.

Article 11

Costs of legal assistance

The requested Contracting Party shall normally not apply for the reimbursement of legal assistance costs. However, should the estimated or actual expenses of the requested Contracting Party be of extraordinary amount, the Central Authorities shall consult each other and find the mutually acceptable solution.

Article 12

Dispatching of certificates of civil status and other documents

The Contracting Parties undertake to dispatch to each other upon request, by diplomatic channels, without translation and free of charge of identification, if any, and other documents (of education, occupation, marriage etc.) concerning personal rights and property interests of their citizens.

Article 13
Refusal of legal assistance

The requested Contracting Party may refuse legal assistance if it considers it may be prejudicial to its sovereignty, security or public order or is in conflict with its laws or international obligations.

Article 14
Exemption from payment of legal fees

The citizens of one Contracting Party shall be exempt in the territory of the other Contracting Party from payment of legal fees under the same conditions and to the same extent as citizens of that Contracting Party.

Article 15
Issuance of documents on personal, marital and property status

1. A document relating to personal, marital and property status necessary to receive permission for exemption from payment of legal fees shall be issued by a competent authority of the Contracting Party in the territory of which the declarant resides or stays.
2. If the declarant does not reside or stay in the territories of the Contracting Parties the document issued or certified by a diplomatic mission or consular office of the State, whose citizen he is, is sufficient.
3. A court passing order for exemption from payment of legal fees may request the authority which issued the document to furnish additional information.

Article 16

Court competence

The Courts of a Contracting Party have competence to give judgements on civil and commercial matters if the defendant resides in its territory. As far as claims against a legal person are concerned the courts of the Contracting Party where this legal person is situated, registered or has its branch or carries on business for gain shall have competence.

Exclusive competence of courts may not be changed by the agreement of litigants.

If proceedings are instituted between the same parties on the same matter and on the same grounds in both Contracting Parties' courts which are competent in accordance with this Treaty, the court in which the proceedings are instituted later shall not proceed with the matter.

Article 17

Legal capacity

1. The legal capacity of a natural person shall be determined by the laws of the Contracting Party whose citizen that person is.
2. The legal capacity of a legal person shall be determined according to the law of the Contracting Party, in whose territory it was incorporated.

Article 18

Recognition as a missing person, dead person and establishment of the fact of death

1. Cases concerning recognition as a missing person, dead person and establishment of the fact of death shall be within the competence of the authorities of the Contracting Party whose citizen that person was at the moment when he according to the last information was alive.

2. Competent authorities of one Contracting Party may recognize a citizen of the other Contracting Party as a missing person or dead person and may establish the fact of his death at the request of interested persons who reside in its territory if their rights and interests are based on the laws of this Contracting Party.

3. In cases provided for by paragraphs 1 and 2 of this Article competent authority of the Contracting Party shall apply its laws.

PROPERTY LEGAL RELATIONS

Article 19 Ownership

1. The ownership of immovable property is determined by the law of the Contracting Party in whose territory such property is located.

2. The ownership of means of transport, which require registration with authorities, is to be determined by the law of the Contracting Party in whose territory the registering authority is located.

3. Acquisition, alienation or termination of ownership or other right to property is determined by the law of the Contracting Party in whose territory the property was located at the moment when an act or other circumstance, serving as a basis for such rights occurred. The acquisition and termination of ownership or other rights to property, which is the subject of transaction, is to be determined by the law of the place where the transaction occurred, unless otherwise provided for by an agreement between the parties to this transaction.

Article 20 Form of transaction

1. In case of movable property, the law of the Contracting Party where transaction was made, shall be applicable.

2. In case of immovable property, the law of the Contracting Party in whose territory such property is located, shall be applicable.

Article 21 **Damages**

The obligations to compensate for damage, except those provided for by international treaties and resulting from other legal acts, are determined by the law of the Contracting Party in whose territory such an act or other circumstance serving as a basis for demanding damages took place.

Article 22 **Representation of interests of citizens of the Contracting Parties in respect of succession issues**

A diplomatic mission or consular office of one Contracting Party may represent the interests of citizens of that Party in respect of succession issues before competent authorities of the other Contracting Party, if those citizens, because of their absence or other valid reasons, are not able to defend their rights and interests in time and have failed to designate a representative.

Article 23 **Transfer of personal effects of the deceased**

If a citizen of one Contracting Party dies during travel in the territory of the other Contracting Party where he did not have permanent residence, his personal effects shall be immediately transferred to a diplomatic mission or consular office of the contracting Party of which the deceased was a citizen.

PART III

RECOGNITION AND ENFORCEMENT OF JUDGEMENTS

Article 24

Recognition and enforcement of judgements on civil and commercial matters and damages awarded in criminal cases

1. The Contracting Parties shall mutually recognize and enforce effective judgements of judicial authorities on civil and commercial matters as well as orders awarding damages in criminal cases.
2. In the territory of the Contracting Parties judgements of the guardianship and trusteeship authorities, registrar's offices and other authorities on civil matters, which do not require enforcement due to their nature shall be equally recognized without special proceedings.

Article 25

Consideration of applications for granting authorization for enforcement of judgements

1. Consideration of applications for granting authorization for enforcement shall fall under the jurisdiction of the courts of the Contracting Party in whose territory the judgement is to be enforced.
2. Application for granting an authorization for enforcement shall be submitted to the competent court. Requirements for submission of the application shall be specified by the law of the Contracting Party in whose territory the judgement is to be enforced.

Article 26

Accompanying documents

Application for granting authorization for enforcement must be accompanied by :

- 1) a copy of the judgement, certified by the court, together with an official document stating that the judgement or decree is enforceable, if it is not clear from the text of the judgement itself;
- 2) a document from which it follows that a summons was in due time and form at least once handed to the defendant, who refused to accept it or did not participate in the proceedings; and
- 3) certified translations of the application and the accompanying documents into the language of the requested Contracting Party or the English language.

Article 27

Procedure for enforcement of judgements

The procedure for enforcement of judgements shall be regulated by the law of the Contracting Party in whose territory the judgement is to be enforced.

Article 28

Costs of enforcement

Legal costs relating to enforcement shall be regulated by the law of the Contracting Party in whose territory the judgement is to be enforced.

Article 29

Scope of application

The provisions of Articles 24 to 28 of this Treaty relating to judgements shall also apply to arbitration awards and settlements approved by a court.

FOR THE GOVERNMENT OF INDIA

FOR THE RUSSIAN FEDERATION

Article 30 Languages

While complying with the present Treaty, the Contracting Parties shall use their national language attaching the translation in the national language of the other Contracting Party or in English language.

PART IV

FINAL PROVISIONS

Article 31 Ratification, entering into force and termination

1. This Treaty shall be subject to ratification and shall enter into force on the date of exchange of instruments of ratification.

2. Either of the Contracting Parties may terminate this Treaty at any time by giving notice to the other Contracting Party through the diplomatic channel; and if such notice is given the Treaty shall cease to have effect six months after the receipt of the notice.

Done in duplicate at New Delhi this 3rd day of October, 2000 in Hindi Russian, and English languages, each version being equally authentic. In case of any interpretational difference the English text shall prevail.



FOR THE REPUBLIC OF INDIA



FOR THE RUSSIAN FEDERATION