

**AGREEMENT
ON MUTUAL JUDICIAL ASSISTANCE IN CIVIL MATTERS
BETWEEN
THE SOCIALIST REPUBLIC OF VIET NAM
AND
THE REPUBLIC OF KAZAKHSTAN**

The Socialist Republic of Viet Nam and the Republic of Kazakhstan (hereinafter referred to as "the Party" individually or "the Parties" collectively),

desiring to strengthen the mutual judicial assistance between the Parties in civil matters on the basis of mutual respect for sovereignty, equality and mutual benefit,

have agreed as follows:

**CHAPTER I
GENERAL PROVISIONS**

Article 1

Scope of the mutual judicial assistance

1. The Parties shall afford each other, in accordance with the provisions of this Agreement, mutual judicial assistance in the following civil matters:

- i) Service of documents relating to mutual judicial assistance;
- ii) Taking and transferring of evidence;
- iii) Summoning of witness and expert;
- iv) Recognition and enforcement of the court judgments, decisions and arbitral awards as provided in Chapter V of this Agreement;
- v) Exchange of legal information and materials relating to mutual judicial assistance;
- vi) Other requests for mutual judicial assistance in accordance with this Agreement.

2. Unless otherwise provided, the term "civil matters" in this Agreement shall include civil, marriage and family, business, commercial and labor matters.

3. Unless otherwise provided, the term "competent authorities" in this

Agreement shall mean the court and other authorities which have competence to handle civil matters in accordance with their national law.

Article 2

Judicial protection

1. Nationals of one Party shall, in the territory of the other Party, enjoy the same judicial protections of personal and property rights as nationals of the other Party. They shall have the right to access to and exercise procedural rights before the court and other competent authorities having jurisdiction over civil matters of the other Party under the same conditions accorded to the nationals of the other Party.

2. Each Party shall not, without due cause, delay any legal proceedings in which nationals of the other Party are involved.

3. The provisions in paragraphs 1 and 2 of this Article shall also apply to legal persons and other organizations established in the territory of either Party in accordance with its national law.

Article 3

Exemption from or reduction of court fees and free legal aid

1. Nationals of one Party shall enjoy exemption from or reduction of court fees and free legal aid in the territory of the other Party under the same conditions applied to the nationals of that other Party.

2. If the exemption from or reduction of court fees and free legal aid are granted on the basis of the income level of the applicant, the certificate on the income level of the applicant shall be issued by the competent authority of the Party in whose territory the applicant has domicile or residence.

3. Nationals of one Party may apply for exemption from or reduction of court fees and free legal aid in accordance with paragraph 1 of this Article to the competent authority of the Party in whose territory the applicant has domicile or residence. This competent authority shall transfer the application attached with certificate on the income level as provided for in paragraph 2 of this Article to the competent authority of the other Party through the Central Authorities.

4. The competent authority responsible for the decision on the application for exemption from or reduction of court fees and free legal aid may require additional information from the applicant.

5. The term "court fees" in this Agreement includes any court fee and other charge payable to the State in accordance with the national law of the Party where the court sits.

Article 4

Advance payment for court fees

Nationals, legal persons and other organizations of each Party shall pay in advance court fees in accordance with the national law of the Party where the court sits.

Article 5

Channels of communication

1. The Parties shall communicate, including sending judicial assistance requests and reply to the requests under this Agreement, directly through their respectively designated Central Authorities.

2. The Central Authorities:

For the Socialist Republic of Viet Nam is the Ministry of Justice of the Socialist Republic of Viet Nam;

For the Republic of Kazakhstan is the Ministry of Justice of the Republic of Kazakhstan.

3. Each Party shall promptly inform the other Party of any change of its Central Authority through diplomatic channels.

4. This Agreement shall not prevent the Parties from sending requests for mutual judicial assistance through diplomatic channels.

Article 6

Languages

1. The language for communication between the Central Authorities of the Parties shall be the English language.

2. The requests for mutual judicial assistance and any other document attached therewith, which is drawn up under this Agreement, shall be accompanied by a duly certified translation into the official languages of the Requested Party or into the English language.

3. The reply to the requests for mutual judicial assistance and any other document attached therewith shall be in the official languages of the Requested Party and be translated into the English language.

Article 7

Costs of mutual judicial assistance

1. The Parties shall provide each other with mutual judicial assistance free of charge, except the following cases:

i) The expenses of the witness or expert located in one Party and summoned by the other Party shall be in accordance with Article 21 of this Agreement;

ii) The expenses relating to the requests for recognition and enforcement of the court judgments, decisions and arbitral awards.

2. If the extraordinary expenses relating to the execution of a request for mutual judicial assistance are required, the Parties shall consult each other to determine the conditions for the execution of that request.

Article 8

Request for mutual judicial assistance

1. The request for mutual judicial assistance shall be in writing and shall contain the following information:

i) Issue date and place of the request;

ii) Name, address and other contact information of the requesting authority, including telephone and fax number as well as email (if any);

iii) Name, address and other contact information of the requested authority (if any);

iv) Full name, gender, citizenship, occupation, place of birth and address of the related persons, or full name and address of their representatives (if any); name and address of the agencies or organizations relating to the request;

v) A description of the case, requested matters and other information relating to the request for mutual judicial assistance;

vi) Commitment to pay expenses as provided in Article 7 of this Agreement.

2. The request for mutual judicial assistance and accompanied documents must be in two (02) copies, unless otherwise required by the national law, signed and certified by the competent authority of the Requesting Party.

3. If the Requested Party finds that the information in the request for mutual judicial assistance is insufficient for its execution, the Requested Party shall ask for further necessary information.

Article 9

Execution of request for mutual judicial assistance

1. The Requested Party shall execute request for mutual judicial assistance in accordance with its national law.

2. The Requested Party may execute request for mutual judicial assistance in a specific manner requested by the Requesting Party if such execution is not contrary to the national law of the Requested Party.

3. The request for mutual judicial assistance shall be executed expeditiously within ninety (90) days from the date of receiving the request. In case of delay resulting from legitimate reasons, the Requested Party shall promptly inform the Requesting Party.

Article 10

Refusal or postponement of execution of a request for mutual judicial assistance

1. If the Requested Party considers that the execution of a request for mutual judicial assistance would prejudice its sovereignty, security, public order, or the fundamental principles of its national law, or the assistance sought does not fall within the functions of its competent authorities, it may refuse the request. The Requested Party shall inform the Requesting Party of the reasons for the refusal within thirty (30) days from the date of receiving the request.

2. The execution of a request for mutual judicial assistance may be postponed if the Requested Party finds that the immediate execution of the request is likely to impede its ongoing investigation or prosecution in the territory of the Requested Party. The Requested Party shall inform the Requesting Party of the reasons of postponement within thirty (30) days from the date of receiving the request.

Article 11

Transfer of documents, objects and currencies

Transfer of documents, objects and currencies from the territory of one Party to the territory of the other Party under this Agreement shall be in accordance with the national law of the transferring Party.

Article 12

Exchange of legal information and materials

1. One Party, upon request of the other Party, shall provide information on its legal normative documents relating to the mutual judicial assistance and relevant publicly available documents of the competent authorities of the Requested Party.

2. The requests to provide legal information and materials shall contain the name of requesting authority and purposes for which these information and materials are to be used.

Article 13

Transfer of civil status documents

1. Upon request, one Party shall transfer to the other Party court judgments or decisions or their extracts and other necessary documents which are related to the civil status of the citizen of the Requested Party for use only within the purposes specified in the request.

2. The transfer of documents in accordance with paragraph 1 of this Article shall be through the channels of communication as provided in Article 5 of this Agreement.

Article 14

Exemption from legalization

The documents that are issued or certified by the competent authorities and transferred through channels of communication under Article 5 of this Agreement shall not be subject to legalization requirements.

Article 15

Execution of multiple requests for mutual judicial assistance

1. Where the Requested Party receives more than one request for mutual judicial assistance on the same subject matter, the Requested Party shall decide which request shall be executed.

2. In deciding which request shall be executed, the Requested Party shall

take into account all relevant circumstances, particularly:

- i) The date on which the request was received;
- ii) The nature of the matter requested;
- iii) The effect of the execution of the request on the execution of other requests.

3. The Requested Party shall inform the Requesting Party of the existence of multiple requests relating to the same subject matter and its decision taken.

CHAPTER II

SERVICE OF DOCUMENTS

Article 16

Request for service of documents

1. The competent authorities of one Party shall, in accordance with this Agreement, request the competent authorities of the other Party to serve documents relating to mutual judicial assistance.

2. The Requested Party shall, upon request, serve documents relating to mutual judicial assistance in accordance with its national law.

3. The Requested Party, after serving documents, shall send to the Requesting Party a certificate or other documents proving the service of documents or notify the Requesting Party of the reasons that prevent full or partial execution of the request for mutual judicial assistance. A copy of the certificate or other documents may, upon request, be sent by fax or email before the original is sent by post.

4. The certificate or other documents proving the service of documents shall contain the name of the person who has received documents, date, place and method of serving, the signature and seal of the serving authority.

Article 17

Service of documents on own nationals

The competent authorities of one Party may serve documents on its own nationals, who reside in the territory of the other Party, through their diplomatic or consular representation located in the other Party. The service of documents in this way must be compatible with the national law of the other Party.

CHAPTER III

TAKING AND TRANSFERRING OF EVIDENCE

Article 18

Request for taking and transferring of evidence

The request for taking and transferring of evidence, in addition to Article 8 of this Agreement, may include the following particulars:

- i) The required evidence to be transferred;
- ii) The questions to be answered by the examined persons and the description of civil cases involved;
- iii) The documents or objects to be examined;
- iv) Special measures to be applied or special procedures to be followed in taking of evidence.

Article 19

Execution of request for taking and transferring of evidence

1. Upon request, the Parties shall assist each other in taking and transferring of evidence and performing necessary legal procedural acts in order to transfer the evidence.

2. The Requested Party shall notify in written form the Requesting Party of the results of the execution of the request for taking and transferring of evidence accompanied with the requested evidence and documents to that effect; or notify the Requesting Party of the reasons preventing full or partial execution of the request.

Article 20

Taking of evidence from own nationals

The competent authorities of one Party may take evidence from its own nationals, who reside in the territory of the other Party, through their diplomatic or consular representation located in the other Party. The taking of evidence in this way must be compatible with the national law of the other Party.

CHAPTER IV

SUMMONING OF WITNESS AND EXPERT

Article 21

Summoning of witness and expert

1. The competent authorities of one Party shall request, through channels of communication as provided in Article 5 of this Agreement, the other Party to summon a witness and/or expert if the appearance of the witness and/or expert, who is a national of the other Party, is necessary.

2. The summons shall be sent to the Requested Party not later than ninety (90) days prior to the date on which the summoned person must appear before the competent authorities of the Requesting Party.

3. The summons shall specify the conditions for acting as a witness or expert including commitments of protecting the witness's or expert's life and health, providing travel, meal and accommodation expenses, and other payable expenditures, conditions and time for their payment.

4. The Requested Party shall serve the summons on the person concerned and notify the Requesting Party whether the summoned person has agreed or not to the request.

Article 22

Protection of witness and expert

1. The summoned witness or expert, under this Agreement, shall not be investigated, prosecuted, tried, detained or subject to any other restriction of personal liberty in the territory of the Requesting Party in respect of criminal acts or convictions anterior to his/her departure from the territory of the Requested Party and in respect of the truthful testimony as expert or witness.

2. The protection under paragraph 1 of this Article shall terminate after fifteen (15) day period from the date when the witness or expert is officially informed in writing by the competent authority of the Requesting Party that his/her presence is no longer required, but he/she fails to leave or has returned to the territory of the Requesting Party. Such period shall not include the time, during which the witness or expert is unable to leave the territory of the Requesting Party for reasons beyond his/her control.

3. The summoned witness or expert under Article 21 of this Agreement

shall be reimbursed by the summoning competent authority with respect to expenses for travel, meal and accommodation as well as salary during his/her leave from work and be paid advance payment. The expert shall also be paid for the expert work.

4. The summoned witness or expert may refuse to comply with the summons in accordance with the national law of the Requested Party. The Requested Party shall not take any compulsory measure to enforce the summons.

CHAPTER V

RECOGNITION AND ENFORCEMENT OF THE COURT JUDGMENT, DECISION AND THE ARBITRAL AWARD

Article 23

Recognition of the court judgment and decision

A legally effective non-monetary judgment and decision in a family and marriage matter, which is made by a court of the Requesting Party and does not require enforcement in the territory of the Requested Party, shall be recognized by the Requested Party without having to go through any other special judicial proceedings, except the following cases:

- i) Prior to that the courts of the Requested Party had made a judgment and decision on the same matter, which had already entered into effect;
- ii) The courts of the Requested Party have exclusive jurisdiction over the same matter under this Agreement or under the national law of the Requested Party where this Agreement contains no such provision.

Article 24

Recognition and enforcement of the court judgment and decision

1. The Requested Party shall recognize and enforce in its territory the following legally effective judgment and decision rendered by the courts of the Requesting Party:

- i) The judgment and decision in civil matters as stipulated in this Agreement; or
- ii) The decision relating to property in criminal or administrative judgment, decision.

2. This Agreement shall not prevent the recognition and enforcement of

court judgments and decisions in circumstances permitted by the national law of the Party in whose territory the recognition and enforcement is sought.

Article 25

Conditions for recognition and enforcement of the court judgment and decision

The court judgment and decision stipulated in Article 24 of this Agreement shall be recognized and enforced when all the following conditions are met:

- i) The case does not fall into the exclusive jurisdiction of the courts of the Requested Party under the national law of the Requested Party;
- ii) The litigants or their legal representatives have been duly summoned or declared absent in accordance with the national law of the Requesting Party;
- iii) The court judgment and decision have entered into legal effect and the statutes of limitation for execution of such judgments and decisions have not expired under the national law of the Requesting Party;
- iv) At the time of application for recognition and enforcement, there has not been a legally effective court judgment and decision on the same matter of the Requested Party or third country, whose court judgment and decision has been recognized for enforcement by the court of the Requested Party, or the court of the Requested Party has not registered or heard the same case;
- v) The recognition and enforcement of the court judgment and decision and consequences of the recognition and enforcement of such judgment and decision shall not contradict the fundamental principles of the national law and public order of the Requested Party.

Article 26

Application for recognition and enforcement of the court judgment and decision

1. An application for recognition and enforcement of the court judgment and decision shall be sent by the related person or his/her legal representative through the Central Authorities or directly to the competent authority of the Requested Party under the national law of the Requested Party.

2. In addition to Article 8 of this Agreement, the applicant for recognition and enforcement of the court judgment and decision shall provide the following documents:

- i) A duly notarized or certified copy of the legally effective judgment and decision;
- ii) Legal documents certifying that this judgment and decision has entered to legal effect and information on its execution;
- iii) Documents proving the service of the judgment and decision or other documents to the same effect;
- iv) Documents proving that the defaulting party has been summoned to the process in which the judgment and decision is rendered by default if the judgment and decision has not clearly shown that the defaulting party was legally summoned;
- v) Other documents as required by the national law of the Requested Party.

Article 27

Procedures for recognition and enforcement of the court judgment and decision

1. Procedures for recognition and enforcement of the court judgment and decision shall be in accordance with the national law of the Requested Party.
2. The competent authorities of the Requested Party shall not review the substance and contents of the court judgment and decision which are to be recognized for enforcement.
3. The competent authority of the Requesting Party may request, through its Central Authority, to postpone or terminate the recognition and enforcement of the court judgment and decision. In such cases, the relevant competent authority of the Requested Party shall postpone or terminate the recognition and enforcement of the mentioned judgment or decision.

Article 28

Effect of recognition and enforcement of the court judgment and decision

The court judgment and decision of one Party, which has been recognized for enforcement by the court of the other Party, shall have the same legal effects of the court judgment and decision of the other Party.

Article 29

Recognition and enforcement of the arbitral award

Each Party shall recognize and enforce the arbitral award rendered in the

territory of the other Party in accordance with the Convention on the Recognition and Enforcement of Foreign Arbitral Awards done at New York on June 10, 1958 or in accordance with the national law of the Requested Party where the Convention does not apply.

CHAPTER VI

MISCELLANEOUS PROVISIONS

Article 30

Relations with other international treaties

This Agreement shall not affect the rights and obligations of the Parties arising from any other international treaties to which both Parties are members.

Article 31

Settlement of disagreements

Any disagreement arising from or relating to the interpretation, application or implementation of this Agreement shall be resolved by friendly consultation through the Central Authorities of the Parties.

Article 32

Consultation

1. The Parties shall ensure the exchange of opinions on the implementation of this Agreement within the framework of the existing cooperation mechanisms.

2. The review and assessment of the implementation of this Agreement shall be undertaken by the Parties, when it is necessary.

Article 33

Ratification and entry into force

1. This Agreement shall be ratified in accordance with provisions of the national law of the Parties. This Agreement shall enter into force on the thirtieth (30th) day from the date of exchanging letters of ratification by the Parties.

2. This Agreement shall remain in force for indefinite time.

3. This Agreement shall be terminated by either Party giving written

notice of its intention on termination to the other Party through diplomatic channels. Such termination shall come into effect six (06) months from the date of receipt of the notice.

4. In case of the termination of this Agreement, any mutual judicial assistance request in civil matters received prior to the termination of this Agreement shall be executed in accordance with this Agreement.

Article 34

Supplements and amendments

This Agreement may be supplemented or amended through written consent by the Parties.

The supplements or amendments shall be made in the form of protocol, which is subject to the ratification and entry into force requirements provided for in Article 33 of this Agreement and shall become an integral part of this Agreement.

Article 35

Final provision

The request for mutual judicial assistance in civil matters, which is not covered by this Agreement, may be executed in accordance with the national law of the Requested Party.

Done in the city of Ha Noi, on the 31st day of October 2011, in duplicate, in the Vietnamese, Russian and English languages, all texts being equally authentic. In case of any conflict or difference in interpretation, the English text shall prevail.

In witness whereof, the undersigned, being duly authorized, have signed this Agreement.

**FOR
THE SOCIALIST REPUBLIC OF
VIET NAM**



**HA HUNG CUONG
MINISTER OF JUSTICE**

**FOR
THE REPUBLIC OF
KAZAKHSTAN**



**RASHID TUSSUPBEKOV
MINISTER OF JUSTICE**