

N° 273.

ALLEMAGNE ET POLOGNE

Convention relative aux gares frontières de jonction comportant des bureaux de douanes et de passeports allemands et polonais, ainsi qu'aux droits et devoirs des fonctionnaires affectés au service du transit privilégié et du passage de la frontière par chemin de fer, signée à Genève le 15 mai 1922.

GERMANY AND POLAND

Convention relating to Frontier Railway Stations possessing both German and Polish Customs or Passport Offices, and to the rights and duties of officials of the privileged transit and railway through traffic, signed at Geneva, May 15, 1922.

TEXTE POLONAIS. — POLISH TEXT.

No. 273. — UKŁAD MIĘDZY POLSKĄ A NIEMCAMI W PRZEDMIOCIE GRANICZNYCH DWORCÓW PRZEJŚCIOWYCH Z OBUSTRONNĄ REWIZJĄ CELNĄ I PASZPORTOWĄ ORAZ W PRZEDMIOCIE PRAW I OBOWIĄZKÓW URZĘDNIKÓW, ZATRUDNIONYCH PRZY UPRZYWILEJOWANYM RUCHU TRANZYTOWYM I PRZY SĄSIEDZKIM RUCHU KOLEJOWYM, PODPISANY W GENEWIE, DNIA 15-JO MAJA 1922.

Official German and Polish texts communicated by the Polish representative accredited to the League of Nations. The registration of this agreement took place June 21, 1922.

POLSKA i NIEMCY kierowane pragnieniem poczynienia — w związku z Konwencją polsko-niemiecką w sprawie Górnego Śląska² z d. 15 maja 1922 r. — najdalej idących ułatwień w dziedzinie ruchu granicznego, postanowiły zawrzeć Układ w przedmiocie granicznych dworców przejściowych z obustronną rewizją celną i paszportową oraz w przedmiocie praw i obowiązków urzędników, zatrudnionych przy uprzywilejowanym ruchu tranzytowym i przy sąsiedzkim ruchu kolejowym, i w tym celu mianowały swymi pełnomocnikami :

POLSKA :

pana Kazimierza OLSZOWSKIEGO, Ministra Pełnomocnego,

NIEMCY :

pana Eugenjusza SCHIFFERA, b. Ministra Rzeszy.

Pełnomocnicy, po wymianie swych pełnomocnictw, uznanych za sporządzone w dobrej i należytej formie, zgodzili się na następujące postanowienia :

I. EKSPOZYTURY URZĘDÓW.

Artykuł I.

Układające się Strony stanowią, że, z zastrzeżeniem poniższych postanowień, prawa suwerenności nad granicznymi dworcami przejściowymi, na których odbywa się obustronna rewizja celna i paszportowa (graniczne dworce przejściowe) — łącznie z linjami kolejowymi między temi dworcami a granicą Państwa — przysługują również w obrębie urzędów, które utworzone tam będą przez drugą układającą się Stronę (Ekspozytury urzędów), temu Państwu, na którego obszarze znajdują się wspomniane urzędy. Zgodnie z powyższem, upoważnieni są do interwencji z powodu popełnienia czynów karnych, z zastrzeżeniem odmiennych postanowień, tylko urzędnicy tego Państwa, na którego obszarze znajduje się ekspozytura, podczas gdy urzędnicy drugiego Państwa uprawnieni są do występowania tylko w tej mierze co osoby prywatne.

¹ The exchange of ratifications took place at Oppeln, June 3, 1922.

² See vol. IX, page 465 of this Series.

¹ TRANSLATION.

No. 273. — GERMAN-POLISH CONVENTION RELATING TO FRONTIER RAILWAY STATIONS POSSESSING BOTH GERMAN AND POLISH CUSTOMS OR PASSPORT OFFICES, AND TO THE RIGHTS AND DUTIES OF OFFICIALS OF THE PRIVILEGED TRANSIT AND RAILWAY THROUGH TRAFFIC, SIGNED AT GENEVA, MAY 15, 1922.

GERMANY and POLAND, being desirous of facilitating, as far as possible, traffic across the frontiers, in connection with the German-Polish Convention of May 15, 1922, relating to Upper Silesia, have agreed to conclude a Convention regarding frontier railway stations possessing German and Polish Customs and Passport Offices, and also regarding the rights and duties of officials of the privileged transit and railway through traffic, and for this purpose have appointed as their Plenipotentiaries :

GERMANY :

Herr Eugen SCHIFFER, former Minister of the Empire.

POLAND :

M. Casimir OLSZOWSKI, Minister Plenipotentiary.

The Plenipotentiaries, having communicated their powers to each other, and found them to be in good and due form, have agreed on the following provisions :

I. ADVANCED POSTS.

Article 1.

The Contracting Parties agree that, without prejudice to the provisions set forth below, the sovereign rights over the frontier railway stations possessing German and Polish customs and passport offices (frontier stations) including the sections of railway between them and the actual frontier, and also in the area of the offices established by the other Contracting Party (Posts beyond the frontier) shall belong to the State on whose territory these posts are situated, and that, subject to any provisions to the contrary, only officials of the latter State shall be authorized to take action in the case of any punishable offence, the officials of the other State only being entitled to intervene on the same footing as private persons.

Article 2.

The authorities of either side shall have the sole right to maintain order in the premises and grounds placed at its disposal in the other country's territory for its exclusive use, and to remove

¹ Translated by the Secretariat of the League of Nations.

any persons guilty of a breach of order. In all other premises and grounds this right shall belong to the State in whose country the frontier-station is situated.

Article 3.

The import and export of goods and the passenger traffic through a frontier station shall be subject to the Customs regulations of the State in which the station is situated, and also to those of the other State when exporting thereto, from the time when the Customs examination by the officials of the latter State begins, and, when importing from the other State, up to the time when the Customs examination by officials of that State ends; nevertheless, the Customs regulations of each State shall only be applied by the State that has issued them.

If local conditions permit, the customs examination by the second party may begin as soon as the examination by the first party is finished, both in the case of export and import.

The Contracting Party in whose territory a frontier station is situated may not impose import and export duties on articles that have reached its territory from the territory of the other country and that are returned before they cease to be liable to the Customs regulations of the exporting State.

Article 4.

Should goods be subject, under Article 3, to the Customs regulations of both Contracting Parties and so be liable to pay duties to the Customs authorities of both Parties, the Customs authority of the territory from which the goods were exported shall have the prior claim. If required to do so, the Customs authority of the other State must hand over the goods, as long as they are still in the territory of the State having the prior claim.

Should the Customs authority of the one party deem it necessary to inspect goods which are under the supervision of the other party, the goods shall be placed at its disposal for this purpose, provided the Customs regulations of the first-named Party apply to them.

Article 5.

Under the provisions of Articles 3 and 4 of this Convention, the Customs authorities of each Contracting Party shall have the right to investigate any contravention of the Customs regulations of their State, discovered in the territory of the other Party, to confiscate the goods concerned, to adjudicate upon the contravention in conformity with the penal code of their State, and to confiscate or hold as security goods belonging to offenders, with the exception of their working tools, in order to cover fines whether anticipated or inflicted, and dues of all kinds.

The Customs authorities of one Contracting Party may transfer to their own country goods which they have thus confiscated or seized as security in the territory of the other Party, or they may have them publicly sold by auction by a competent official of the other Party.

Article 6.

Customs officials of one Contracting Party, employed in the territory of the other Party may, in conformity with the laws of their country, arrest persons and use constraint in the exercise of the authority conferred on them under Article 5 of this Convention, at any place where they are authorized to carry out their official duties. Nevertheless, nationals of the other Contracting Party must not be arrested. An offender may, however, be forced to appear at an enquiry into

the facts of the case. This enquiry must be attended by an official of the other Party. Forcible searching of nationals of the other Party must not be resorted to except in the presence of an official of that Party.

The priority laid down in connection with the collection of dues in Article 4, paragraph 1 of this Convention also applies to arrest.

Persons arrested under the foregoing provisions by the officials of one Party in the territory of the other may be taken by the officials of the first Party back to their own territory accompanied, if necessary, by an official of the other Party.

Article 7.

If both Customs authorities exercise supervision in common over goods liable to the Customs regulations of both Parties, only the Customs authorities of that Party having priority as regards the collection of dues under Article 4, paragraph 1, shall be regarded as the party responsible for the property.

Article 8.

Prohibitions and restrictions of import, export and transit, regulations relating to indirect taxes and similar dues, regulations relating to the statistics of goods traffic, as well as all decisions issued for the carrying out of these regulations, shall be considered as customs regulations for the purpose of this Convention.

The authorities, officials and employees responsible for carrying out these regulations shall be on the same footing as the customs authorities and officials.

Article 9.

Travellers wishing to leave the territory of one Contracting Party from a frontier station in the territory of the other Contracting Party may be turned back by the officials and employees of the first-named Party employed on the inspection of passports there, unless they are provided with a visa valid for the journey. Such travellers may be ordered to return to the country of departure, and, in case of refusal, may be forcibly taken back.

Nevertheless, force must not be used in returning nationals of the Party on whose territory the frontier station is situated. The traveller may, however, be forced to appear at an enquiry into the facts of the case. This enquiry must be attended by an official of the other Contracting Party. After the enquiry has been held the traveller must be allowed to proceed.

Article 10.

Should one of the Contracting Parties institute a ticket inspection at a station in the territory of the other Party, its officials and employees responsible for the inspection shall be authorised to detain forcibly any persons found to be evading payment of their fare, and an enquiry as to the facts of the case shall be held, at which, in the case of nationals of the other Party, an official of such Party shall attend.

Article 11.

Posts of both Parties beyond the frontier are entitled to display on their official premises the coat of arms of their own State.

Article 12.

The higher authorities of each State shall communicate to the other the names and duties of the officials and employees detailed to these posts and shall indicate the responsible officials in charge of them.

Article 13.

The officials of the Contracting Party in whose territory a frontier station is situated shall, in the execution of their duties, have access at all times to the precincts allotted to the authorities of the other Party or enclosed by these authorities, for the purpose of carrying out their duties provided such officials are outwardly recognisable as such or are able to prove that they are on the precincts for official purposes. They may not, however, take with them goods liable to duty under the regulations of the other Party.

Article 14.

Goods sent for official use by one State to offices in the territory of the other State shall be free of duty and other taxes in the State to which they are sent, even if they are re-exported.

Article 15.

The Contracting Parties shall be entitled to send official letters and parcels, including those containing money and other articles of value, from and to their posts beyond the frontier by their postal staff or by other persons, free of charge and without the intervention of that Party's postal authorities.

These consignments must be sealed with the seal of the despatching authority and shall not be liable to censorship.

Article 16.

The officials of both Contracting Parties employed at the frontier stations shall assist each other in the carrying out of their duties, especially in preventing and discovering breaches of the law.

Article 17.

The authorities of one of the Contracting Parties shall offer all necessary protection to the authorities and officials of the other Party on duty in its territory, and shall act on requests received from them in the same way as on those received from its own authorities and officials.

Article 18.

On direct application from the competent authority of one of the Contracting Parties with regard to offences against that Party's regulations for customs, passports and railways, committed in the territory referred to in Article 1 of this Convention, the competent authorities of the other Contracting Party shall:

- (a) hear witnesses and experts,
- (b) undertake an official inspection and record findings,
- (c) forward summonses and judgments.

The actual costs thus incurred shall be refunded by the authority making the request to the authority to whom the request is made.

Article 19.

In order to carry out customs supervision and railway policing in its own territory, each Contracting Party shall be entitled to allow its officials to travel in trains crossing the frontier as far as the first halt in the territory of the other Party, and back again.

Article 20.

The Contracting Parties shall give each other's Customs officers at frontier stations all necessary powers for Customs examination of imports and exports. They shall pay special regard to the fact that these examining powers should as far as possible be identical on both sides. As far as possible, the examination of goods by the two Contracting Parties shall directly follow one another and shall be carried through with all possible despatch. Passengers and their luggage must be dealt with immediately on the arrival and departure of the train.

Article 21.

The official assistance referred to in Articles 5 (paragraph 2), Articles 6, 9 and 10, must be given when applied for.

Article 22.

Officials and employees of each of the Contracting Parties employed at a post beyond the frontier who are nationals of the State by whom they are employed, shall retain their nationality. The same applies to their relatives and servants living with them in the territory of the State to which they are sent. They do not acquire the nationality of the latter State by virtue of residence, sojourn or birth.

Article 23.

Officials and employees of German nationality who, upon the transfer of sovereignty, would immediately become Polish nationals from the fact of residence in Polish Upper Silesia, in accordance with the section concerning nationality of the German-Polish Convention of May 15, 1922, relating to Upper Silesia, shall preserve their nationality if they remain of their own free-will in the service of the German Empire or State, and, on the occasion of the transfer of sovereignty were appointed for employment at a German post in Poland. They shall, in fact, be regarded as if they had opted for Germany.

The period of time fixed for the nationality option shall not begin until the nationals concerned have left their employment at a German post in Poland, and shall end at the latest with the expiration of the fifteenth year after the transfer of sovereignty. The wives and children under age of these officials shall enjoy the same rights.

Article 24.

Poles of German nationality who, upon the transfer of sovereignty, on account of their residence in the German section of the voting area, have the right to opt for Poland, in conformity

with Part Two of the German-Polish Convention of May 15, 1922, concerning Upper Silesia, shall acquire Polish nationality and forfeit their German nationality if they enter the service of the Polish State as officials or employees, and, upon the transfer of sovereignty are appointed to a Polish post in Germany. They are, in fact, to be regarded as if they had opted for Poland.

Article 23, paragraph 2 of this Convention shall be similarly applied.

Article 25.

Officials and employees at posts beyond the frontier during their residence in the foreign State shall be subject to the jurisdiction and police regulations of that State. In the execution of their duties, however, they shall be solely answerable to the laws and authorities of the State employing them; and for punishable offenses committed in the exercise of their calling they shall, if desired, be handed over to the State which employs them.

Article 26.

Officials and employees in service at frontier railway stations upon foreign territory shall, while on duty, wear uniform or some distinctive badge of office. When off duty, they shall be authorised to wear their uniform only at the place where they are employed or within an area to be agreed upon by the administrative authorities on both sides, and while passing from their place of employment or the agreed area to the State employing them.

Weapons shall only be carried during hours of service, fire-arms only at night when on guard over goods or cash.

Officials in charge of posts beyond the frontier, shall have authority to wear uniform and carry arms when they visit these posts officially.

The use of weapons shall only be allowed in self-defence.

Article 27.

Whenever a public prosecution is admissible in a case of insult or assault, in addition to the action brought by the plaintiff, the Contracting Parties shall prosecute on behalf of the officials of the other party employed on their territory, as much as on behalf of their own officials.

Article 28.

The persons referred to in Article 22 of this Convention shall not be less well-treated than the nationals of the other party as regards participation in the benefits of public organizations existing in that part of the State in which they are resident, more especially organizations for public legal protection, churches and schools, housing and domestic regulations.

Article 29.

The Contracting Parties undertake to help officials and employees at offices beyond the frontier to find suitable accommodation, and, where they already have a home in the State to which they are sent, to allow them to remain in it at any rate until they find another house suited to their needs.

Article 30.

The persons referred to in Article 22 of this Convention shall, during the period of their residence in the State to which they are sent, enjoy :

(1) exemption from every kind of personal service or contributions in kind provided for by the general legislation ;

(2) exemption from all public taxes levied in the State to which they are sent to the same degree in which they would enjoy this exemption if they were neither domiciled nor temporarily resident in that State ;

(3) free railway fares on the shortest route between the place at which they are employed and the frontier of the State employing them, as may be agreed upon ;

(4) exemption from import duties on all objects destined for their own personal or official use and consumption, which they import from the State employing them, and exemption from export dues for such of the above mentioned objects as they return after use to the State employing them. In like measure, the import and export prohibitions imposed by the Contracting Parties on such objects shall not apply in their case. The clearing of objects for which these privileges are claimed shall take place at the Customs office at the place of residence of the official or employee who claims such exemption for himself and the members of his household, upon presentation of a certificate from his immediate superior. The Contracting Parties reserve the right to adopt measures of control upon mutual agreement should occasion arise.

Article 31.

Officials and employees on duty at posts beyond the frontier shall receive from their administrative authorities identification badges of a special agreed pattern, assuring them of free communication with the State employing them.

This applies equally to officials appointed to supervise posts beyond the frontier.

Article 32.

Relatives and servants in the employ of persons referred to in Article 22, paragraph 1 of the present Convention, living with them, shall, if necessary, in accordance with Article 270 of the German-Polish Convention of May 15, 1922, relating to Upper Silesia, receive a railway permit. Its validity may be restricted to the territory defined in Article 26, paragraph 1 of the present Convention, and the frontier stations lying on the direct route to the country employing them. The authority entitled to issue these permits shall be that residing at the place at which the authority of the other party entitled to countersign the permits also resides. The countersigning authorities may not refuse to countersign.

II. PRIVILEGED TRANSIT.

Article 33.

The carrying out of all measures necessary for the maintenance of peace and order in all railway trains used for privileged transit shall be the duty of the officials and employees working the trains belonging to the State entitled to privileged transit, irrespective of the provisions of Article 470, paragraph 1, and Article 480 of the German-Polish Convention of May 15, 1922, concerning Upper Silesia.

Article 34.

Officials appointed to work trains of the State entitled to privileged transit shall be allowed to keep in custody throughout the territory of the country of transit, persons arrested by them upon the territory of the State from which they started, if they have made the arrest on the train between the last station before the frontier and the frontier itself, and convey them back through the country of transit to the country entitled to transit.

Article 35.

Officials and employees on duty on transit trains shall receive vouchers of a special agreed pattern, which shall be valid in this service as passports, permits and other prescribed identification papers.

Article 36.

Articles 16, 17, 25, 26 and 27 of this Convention shall apply to officials and employees working on privileged transit; they are, however, forbidden to carry fire-arms. (Article 26, paragraph 2 of this Convention.)

III. THROUGH TRAFFIC CROSSING THE FRONTIER.

Article 37.

In cases where railway officials of the one Contracting Party work through trains across the frontier into the territory of the other Contracting Party, they shall exercise the authority granted to them under Article 33.

Article 38.

The provisions of Articles 16, 17, 19, 25, 26, 27 and 35 of this Convention shall apply equally to officials and employees in through trains crossing the frontier. They shall, however, not be permitted to carry fire-arms. (Article 26, paragraph 2 of this Convention.)

IV. FINAL PROVISIONS.

Article 39.

All the provisions of this Supplementary Convention shall apply only to traffic between the two portions of the plebiscite area of Upper Silesia.

Article 40.

This Convention shall be ratified and the instruments of ratification shall be exchanged simultaneously with those of the German Polish Convention of May 15, 1922, relating to Upper Silesia. It shall come into force on the same date as that Convention.

In faith whereof, the plenipotentiaries have signed this Convention and affixed their seal thereto.

Done in duplicate at Geneva on May 15, 1922.

(L. S.) CASIMIR OLSZOWSKI.

(L. S.) EUGEN SCHIFFER.