

N° 1719.

FRANCE ET POLOGNE

Convention consulaire. Signée à Paris, le 30 décembre 1925.

FRANCE AND POLAND

Consular Convention. Signed at Paris, December 30, 1925.

¹ TRADUCTION. — TRANSLATION.No. 1719. — CONSULAR CONVENTION² BETWEEN FRANCE AND POLAND. SIGNED AT PARIS, DECEMBER 30, 1925.

French official text communicated by the Minister for Foreign Affairs of the French Republic. The registration of this Convention took place May 23, 1928.

THE GOVERNMENT OF THE FRENCH REPUBLIC and THE GOVERNMENT OF THE POLISH REPUBLIC, recognising the desirability of defining the reciprocal rights, immunities and privileges of consuls, and having resolved to conclude a Consular Convention, the undersigned, being duly authorised, have agreed on the following provisions :

Article 1.

Each of the High Contracting Parties shall be entitled to establish Consulates-General, Consulates, Vice-Consulates and consular Agencies within the territory of the other Party. They nevertheless reserve the right to designate the places which they may deem it desirable to except, provided that the said reservation shall apply to all Powers.

Consuls-General, Consuls, Vice-Consuls and consular Agents, on presentation of their credentials, shall be admitted and recognised according to the rules and formalities established in the country in which they reside. The exequatur necessary for the free exercise of the functions of the said Agents shall be issued without delay and without charge, and on the production of the said exequatur the higher authorities of their consular area shall immediately take the necessary steps to enable them to discharge the duties entrusted to them and to give them the benefit of the immunities and exemptions connected therewith.

Article 2.

Consuls-General, Consuls and Vice-Consuls may appoint consular Agents in the towns, ports and places in their consular districts, subject to the approval of the Government of the State in which they reside.

These consular Agents may be chosen either from citizens of the two States or from citizens of other countries, and shall be provided with authorisation in writing issued by the consul who appoints them and under whose orders they will be placed.

Article 3.

Heads of consular offices (Consulates-General, Consulates, Vice-Consulates and consular Agencies) and Agents of the consular service (acting and assistant Consuls, Vice-Consuls, chancery attachés and secretaries, chief clerks, chancery assistants, consular attachés and secretaries,

¹ Traduit par le Secrétariat de la Société des Nations, à titre d'information.

¹ Translated by the Secretariat of the League of Nations, for information.

² Came into force May 27, 1928.

interpreters, chancellery clerks), when citizens of the State which appoints them, shall be exempt from any military requisition, whether personal or in respect of movable or immovable property, and from direct imposts on immovable property in the nature of a personal tax, imposed by any authority of the State in question.

They shall also be exempt from Customs duties and other charges on furniture for their personal use which they import within a period of six months from the date on which they take over their duties.

If, however, the said Agents are in possession of immovable property, engage in commerce or carry on any industry or profession, or have capital invested in industrial or commercial undertakings, they are not entitled to claim any privilege in respect of such activities, and shall be subject to the same dues, charges and taxes as other private persons under the same conditions. Nevertheless, they shall be exempt from any obligation in respect of military billeting so far as concerns the premises used for their chancellery and archives, which immunity shall be extended even to Agents who are nationals of third Powers or nationals of the State in which they reside.

Article 4.

Heads of consular offices and Agents of the consular service, whether or not citizens of the State which appoints them, shall not be amenable to the jurisdiction of the Courts of the country in which they reside in respect of acts done by them in the exercise of their functions within the limits of the powers conferred upon them by the present Convention.

Should an Agent put forward this plea before an authority of the country in which he resides, such authority shall not take any decision on the matter, since all difficulties of this character must always be settled through the diplomatic channel.

Heads of consular offices and Agents of the consular service who are citizens of the State which appoints them may not be subjected to preventive detention except for offences which under the local legislation are punishable with imprisonment for not less than five years. In the case of arrest or prosecution, the Government of the country of residence shall as soon as possible advise the diplomatic representative under whose authority the above-mentioned officials are placed.

Heads of consular offices and Agents of the consular service who are citizens of the State which appoints them shall be immune from arrest both in civil matters and in connection with isolated commercial acts (such as signing or endorsing a bill of exchange), and if they are engaged in commerce they may only be arrested for acts exclusively connected with their business, and not for civil matters.

Heads of consular offices and Agents of the consular service who are not citizens of the State in which they reside shall appear as witnesses when called upon to attend by the Courts of the State in which they reside, but without any threat of penalties in the event of their non-appearance. Nevertheless, they may if necessary adduce the fact that they are prevented from appearing by the urgent requirements of their service as a legitimate reason for postponing their attendance to a later, but not very distant, date.

They may also refuse to give evidence or to produce documents in their possession on the ground that they would be guilty of a violation of professional or State secrecy. Should the judicial authority consider that the excuse or plea is not warranted, it shall refrain from employing any measures of constraint against the Agent since difficulties of this kind must always be settled through the diplomatic channel.

Subject to the above-mentioned privileges and immunities, heads of consular offices and Agents of the consular service shall be amenable both in civil and in criminal matters to the jurisdiction of the courts of the country in which they reside under the same conditions as nationals.

Article 5.

Heads of consular offices and Agents of the consular service of the two High Contracting Parties shall be entitled to place above the outer door of the consular building the coat-of-arms of their country with the inscription: Consulate-General, Consulate, Vice-Consulate or Consular Agency of...

They may also fly the flag of their country on the consular building on days of public solemnities and on other customary occasions, it being understood that these external signs shall never be interpreted as constituting a right of asylum.

Under the same conditions and subject to the reservations made in the preceding paragraph with regard to the right of asylum, they may also fly the flag of their country on the vessel which they employ in the port in the exercise of their functions.

Article 6.

The consular archives shall at all times be inviolable, and the local authorities may not, under any pretext, examine or seize any papers, documents or files forming part thereof.

These papers, documents and files shall always be kept completely separate from books, papers and documents which are of a personal character, or which relate to the commerce or industry in which the respective consular officials may be engaged.

If a head of a consular office or an Agent of the consular service of one of the two High Contracting Parties who is called upon by the local judicial or administrative authorities to hand over or to produce papers, documents or files kept in such archives refuses to do so, the judicial or administrative authority shall refrain from employing any measure of constraint against the said official, all difficulties of this nature having to be settled through the diplomatic channel.

Article 7.

Should the head of a consular office be absent, or die, or be prevented for any reason from exercising his functions, the Agents of the consular service shall be admitted as of full right, in the order fixed by the regulations of the respective High Contracting Parties, to discharge the consular duties *ad interim*.

The local authorities shall render them assistance and protection, and shall accord them during their temporary conduct of business the benefits of the exemptions, prerogatives, immunities and privileges reciprocally conferred upon titular consuls by the present Convention. They shall also give all desirable facilities to such *ad interim* Agents as the Consuls-General, Consuls and Vice-Consuls may designate to replace temporarily consular Agents who have resigned or died.

Article 8.

Consuls-General, Consuls, Vice-Consuls and consular Agents shall be entitled to protect the nationals of the State which has appointed them and to defend, in accordance with international law and usage, all the rights and interests of such nationals.

To this end they may apply to all authorities in their area for the purpose of protecting against any breach of the treaties or conventions existing between the two countries and against any abuse of which their nationals may have to complain. Should their complaints not be attended to by these authorities, they may apply direct to the Government of the State in which they reside only in the absence of any diplomatic representative of their country.

Article 9.

Consuls-General, Consuls, Vice-Consuls and consular Agents shall be entitled to receive declarations of births and deaths of their nationals in their offices, but the persons concerned shall be obliged to make the declarations required by the law of the country in question.

Article 10.

On the death of a national of either of the Contracting Parties in the territory of the other, the competent territorial authorities shall immediately advise the consular Agent in whose area the death took place and forward to him as soon as possible without charge a copy of the death certificate.

Article 11.

Should a French national leave property in Poland or a Polish national leave property in France and should the heirs, or some of their number, be unknown or absent, Consuls-General, Consuls, Vice-Consuls and consular Agents shall be entitled to demand that seals be affixed to the effects, papers and other movable property of the deceased and to be present when this formality is carried out. They shall take steps to ensure that the competent authorities make investigations for the purpose of discovering whether a will exists, and shall receive communication of all information and documents which may enable them to ascertain the heirs. They may, further, should they think it desirable, demand the appointment by the competent local authorities of an administrator or curator of the estate, who shall be chosen at their suggestion from among the persons designated by law or custom to carry out such duties.

The administrator or curator shall, whenever he is called upon to do so, communicate to the Consul-General, Consul, Vice-Consul or consular Agent all information connected with the winding up of the estate.

The Consular authorities may no longer intervene when it is ascertained that none of the heirs are of the nationality of the State which appointed the consular Agent or that all the heirs are present or represented.

Article 12.

When an estate is wound up, the administrator or curator shall immediately notify the Consul-General, Consul, Vice-Consul or consular Agent and those heirs whose names and addresses are known, in the latter case by registered letter.

If, within a period of six months from the date of notification to the Consul-General, Consul, Vice-Consul or consular Agent, the heirs, or some of their number, have not claimed their rights, the above-mentioned Agents may, as legal representatives of the persons absent, require that those parts of the assets of the estate which have not been claimed should be handed over to them by the administrator, curator or other authority in possession of the same.

For this purpose they shall produce all documents and proof which would be required of the heirs themselves.

Article 13.

The provisions of Articles 11 and 12 shall apply when nationals of one of the Contracting States, who are absent or without capacity, and not legally represented, are interested in a succession opened on the territory of the other State, whatever be the nationality of the deceased. The consular authorities, however, may no longer intervene when the heirs of the nationality of the State which has appointed the Agent are present or represented.

Article 14.

Should a French national leave property in Poland or a Polish national leave property in France and the territorial authorities assess the value of such property at a sum inferior to :

500 francs in France ;
500 zloty in Poland,

the Consul-Général, Consul, Vice-Consul or consular Agent may have the property in question handed over to him. He shall have the sole charge of winding up the estate, but may not send the proceeds thereof outside the territory of the State in which he resides till all liabilities have been discharged and all taxes which may be due have been paid.

The sums indicated in the present Article should be reckoned on a gold basis.

Article 15.

When nationals of one or other of the High Contracting Parties are interested in the estate of a national of a third Power, the provisions of the present Convention shall not affect the rights conferred by earlier treaties on Agents of the consular service of the State of which the deceased was a national.

Article 16.

Consuls-General, Consuls, Vice-Consuls and consular Agents of the two High Contracting Parties shall be entitled to receive in their offices, at the residence of the parties and on board merchant vessels and warships of the State which has appointed them, the declarations which may have to be made by captains, members of the crew, passengers, traders or any other nationals of the said State.

They shall also be entitled to receive, as notaries, the testamentary dispositions of nationals of their country.

They shall furthermore have the right to receive all acts in their offices provided that these acts relate to property situated, to business to be transacted, or to rights to be established outside the territory of the country in which they reside.

Copies of or extracts from acts drawn up in virtue of the preceding paragraphs, duly legalised by the said Agents and bearing the official seal of the consular office shall have the same validity as the originals for judicial or other purposes, both in Poland and in France, and shall have the same character of authenticity and the same value as evidence as if they had been executed before a notary or other public officer of either country, provided that these acts were drawn up in the form prescribed by the laws of the State which appointed these Agents, that they were stamped and registered and that they satisfy all the other requirements prescribed in connection therewith in the country in which effect is to be given to the act.

Should any doubt arise as to the authenticity of copies or of extracts from acts drawn up in the offices of the respective Consuls, they shall be compared with the originals if the person interested so requests, and he may be present when this is done if he thinks it desirable.

Article 17.

Consuls-General, Consuls, Vice-Consuls and consular Agents of the two High Contracting Parties may translate and legalise any kind of document emanating from authorities or officials of their country, or from authorities or officials of third countries, but in the latter case only if the said documents concern their nationals.

Translations made by them shall have the same force and the same authority in the country in which they reside as if they had been drawn up by sworn translations of that country.

The said consular Agents may also legalise the signature of their nationals.

Article 18.

Consuls-General, Consuls, Vice-Consuls and consular Agents of the two High Contracting Parties may draw the attention of the competent authorities of the State in which they reside to the desirability of providing guardianship for nationals of their country who are minors, it being understood that the said authorities alone have the right to decide this question.

Article 19.

The judicial and administrative authorities of the State in which they reside shall be entitled to request Consuls-General, Consuls, Vice-Consuls and consular Agents of the two High Contracting Parties to act as interpreters or to designate an interpreter to assist their nationals.

Article 20.

Allowances or compensation due for occupational accidents may be paid to Consuls-General, Consuls, Vice-Consuls and consular Agents of the State of which the person entitled is a national, should he not be at the moment in the territory of the State in which the above-mentioned agents reside.

Insurance companies and others concerned shall be relieved of liability on obtaining receipts given by the said agents.

Article 21.

Indigent nationals of either High Contracting Party who present in the other country the certificate provided for in Article 4 of the Convention of to-day's date concerning Legal Protection and Assistance, shall be entitled to obtain free or at a reduced charge copies of extracts from the register of births, marriages, and deaths, if the legislation of the country in which these documents are applied for grants a similar right to the nationals of the country. Documents necessary for their marriages shall be legalised free of charge by the diplomatic or consular agents of the two High Contracting Parties.

Article 22.

Consuls-General, Consuls, Vice-Consuls and consular Agents may issue passports and other personal documents to their nationals and visa all passports and other documents.

These passports and documents may be used before the local authorities to the extent allowed by the practise and by the laws and regulations of the State in which they reside.

Article 23.

Consuls-General, Consuls, Vice-Consuls, or consular Agents of the two States shall alone be competent in regard to acts of inventory and other steps taken for safeguarding property or articles of any kind left by seamen and travellers of the nationality of the State which has appointed the said Agents, who died during the voyage or in the port of arrival either on land or on board a vessel of the said State.

Wages, emoluments, securities and effects belonging to seamen or travellers, nationals of either of the High Contracting Parties, who die on board a ship of the other Party shall be handed over, in the port of arrival to the competent authority of the country of the deceased, or to the Consul-General, Consul, Vice-Consul or consular Agent of his country.

Article 24.

Consul-General, Consuls, Vice-Consuls or consular Agents may proceed in person or send representatives on board ships of their country after those ships have been admitted to free pratique, may question the captains and crews, examine the ship's papers, receive declarations regarding their voyage, their destination and the events of the passage, draw up manifests and facilitate the departure of their vessels.

In ports in which a Consul-General, Consul, Vice-Consul or consular Agent of one of the two States resides, the judicial and administrative officials and the Customs officers and agents of the country may not effect any arrest on board (save in cases in which the offenders are taken in the act) or carry out any search or inspection on board other than the usual Customs and medical inspection without notifying previously, or in urgent cases at the actual moment of the search, the Agent of the country to which the vessel belongs in order that he may be present during the examination. They must also give the Consul or consular Agent the necessary notice in good time to enable him to be present when any declarations are made by captains or crews before the courts or administrative authorities of the country.

The invitation addressed in the above-mentioned cases to Consuls-General, Consuls, Vice-Consuls and consular Agents shall specify the exact hour and, should the above-mentioned Agents fail to attend in person or to send a representative, the case shall be dealt with in their absence.

Article 25.

Consuls-General, Consuls, Vice-Consuls and consular Agents shall alone be responsible for the maintenance of internal order on board merchant ships of the State which has appointed them. They shall themselves decide disputes of all kinds which may arise between the captains, officers and seamen of such vessels, especially those relating to pay and the execution of contracts entered into between them.

The local authorities may only intervene when disturbances occurring on board ship are of a nature to disturb public tranquillity on land or in the port or when a person belonging to the country or not forming part of the crew is involved.

In all other cases the said authorities shall confine themselves to giving their support to the Consuls-General, Consuls, Vice-Consuls or consular Agents, if asked to do so by the latter, in order to assist them in the discharge of their duties, and in particular to arrest and imprison any person entered as a member of the crew, whenever for any reason the said Agents deem it necessary, provided he is not a national of the country and, furthermore in the case of Poland, a national of the Free City of Danzig.

Article 26.

Consuls-General, Consuls, Vice-Consuls and consular Agents may cause to be arrested and sent back to their ships or to their country seamen or any other persons who belong, in whatever capacity, to the crew of warships or merchant ships of the State which has appointed the said Agents, and who have deserted on the territory of one of the High Contracting Parties.

For this purpose they must apply in writing to the competent local authorities and prove, by producing either the registers of the vessel or the muster-roll of the crew, or a certified extract therefrom, that the persons claimed really belonged to the crew.

On the receipt of such a duly authenticated request, the handing over of the deserters may not be refused.

The said consular officials shall, moreover, be given every help and assistance in searching for and arresting such deserters, who shall be placed in a prison of the country and detained there on the written request and at the expense of the consular authorities until they are returned to their vessel or until an opportunity occurs to repatriate them. If, however, such opportunity should not occur within two months from the date of arrest, or should the expense incurred by their detention not be regularly paid, after notification has been given to the consular official three days in advance, the said deserters shall be released and may not be re-arrested for the same cause.

Should the deserter have committed an offence on shore, the local authority may defer his release until the court has given judgment and the said judgment has been fully and completely carried out.

The High Contracting Parties agree that seamen and other members of the crew who are nationals of the country in which they have deserted (and further in the case of Poland, nationals of the Free City of Danzig) shall be excepted from the provisions of the present Article.

Article 27.

Whenever no provisions to the contrary have been agreed on by the shipowners, freighters or underwriters, questions relating to damage suffered at sea by ships of the two countries, whether they enter the respective ports voluntarily or for some unavoidable reason, shall be settled by the Consuls-General, Consuls, Vice-Consuls or consular Agents of their country unless nationals of the State in which the said Agents reside, or nationals of a third Power, are interested in such damage; in this case and in the absence of a friendly agreement between all the parties concerned, they shall be settled by the local authorities.

Article 28.

When a vessel belonging to the Government or to nationals of one of the two States is wrecked or runs aground on the coast of the other, the local authorities shall notify without delay the nearest Consul-General, Consul, Vice-Consul or consular Agent.

All operations connected with the salvage of ships of one of the two States which have been wrecked or have run aground in the territorial waters of the other State shall be carried out under the direction of the respective Consuls-General, Consuls, Vice-Consuls or consular Agents.

The local authorities of the two States shall only intervene to assist the above-mentioned Agents to keep order, to safeguard the interests of salvors not belonging to the crew and to ensure the execution of the regulations with regard to the import and export of the goods.

In the absence and until the arrival of the Consuls-General, Consuls, Vice-Consuls or consular Agents, or their representatives, the local authorities shall take all necessary steps for the protection of persons and the preservation of effects saved from the wreck.

No charges of any kind shall be made in respect of the intervention of the local authorities in these cases, except those necessitated by the salvage operations and the preservation of the salvaged effects, and those to which the ships of the nation itself or of the most favoured nation would be liable in similar circumstances.

In case of doubt as to the nationality of a wrecked vessel, the local authorities shall alone be competent to take the measures mentioned in the present Article.

Salvaged goods and effects shall not be liable to any Customs duty unless they are cleared for consumption within the country.

Article 29.

It is further agreed that heads of consular offices and agents of the consular service of either State shall, subject to reciprocity, enjoy in the other State all privileges and immunities which are or may hereafter be granted to officials of the same class belonging to the most favoured nation.

Article 30.

The present Convention shall be ratified.

It shall come into force one month after the exchange of ratifications.

It shall cease to have effect on the expiration of a period of six months dating from the notice of denunciation given by either of the Contracting Parties.

In faith whereof the undersigned, duly authorised for the purpose, have signed the present Convention and affixed their seals thereto.

Done in Paris, in duplicate, December 30, 1925.

(Signed) Alfred CHLAPOWSKI.

(Signed) BRIAND.

(Signed) Waclaw BABINSKI.