

N° 2106.

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**AUTRICHE ET ESTONIE**

Convention consulaire, avec protocole  
additionnel. Signés à Vienne, le  
15 octobre 1926.

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**AUSTRIA AND ESTONIA**

Consular Convention, with Addition-  
al Protocol. Signed at Vienna,  
October 15, 1926.

<sup>1</sup> TRADUCTION. — TRANSLATION.No. 2106. — CONSULAR CONVENTION<sup>2</sup> BETWEEN AUSTRIA AND ESTONIA. SIGNED AT VIENNA, OCTOBER 15, 1926.

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*French official text communicated by the Estonian Minister for Foreign Affairs and the Federal Chancellor of the Austrian Republic. The registration of this Convention took place July 28, 1929.*

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ESTONIA, of the one part, and AUSTRIA, of the other part, being desirous of concluding an agreement regarding the admission to their respective territories of consular officials, of determining the reciprocal rights, privileges and immunities and of defining the powers of consuls-general, consuls, vice-consuls and consular agents, have resolved to conclude a Consular Convention and for that purpose have appointed as their Plenipotentiaries :

THE GOVERNMENT OF THE ESTONIAN REPUBLIC :

M. Charles MENNING, Envoy Extraordinary and Minister Plenipotentiary ;

THE FEDERAL PRESIDENT OF THE ESTONIAN REPUBLIC :

M. Rudolph RAMEK, Doctor of Laws, Federal Chancellor ;

Who, having communicated their full powers, found in good and due form, have agreed upon the following provisions :

*Article I.*

For the purposes of this Convention the terms "consul" and "consular official" shall include all officers of the consular service, namely, consuls-general, consuls, vice-consuls, consular agents and consular secretaries and attachés who are called upon to perform duties defined in the consular regulations of the respective Parties.

Consuls-general, consuls, vice-consuls and consular agents may be either consular officials *de carrière (consules missi)* or honorary officials (*consules electi*). The provisions of this Convention shall apply to the last-named category only in so far as these persons may be empowered by the consular regulations of the State which they represent to exercise the rights and to perform the duties enumerated in the present Convention.

Either of the Contracting Parties may appoint consuls-general, consuls, vice-consuls or consular agents in the ports, towns and places of the other Party.

Nevertheless, the Contracting Parties reserve the right to specify localities in which they do not desire to admit consular officials ; this restriction, however, shall not be imposed upon the other Contracting Party unless it is likewise imposed upon all other Powers.

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

<sup>1</sup> Translated by the Secretariat of the League of Nations, for information.

<sup>2</sup> The exchange of ratifications took place at Tallinn, June 28, 1929.

*Article II.*

Whenever reference is made in the present Convention to "consuls" this term shall be taken to mean consuls-general, consuls and vice-consuls; similarly, the term "consulates" shall be taken to mean consulates-general, consulates and vice-consulates.

*Article III.*

After presenting their credentials, the consuls of either Party shall be admitted and recognised according to the rules and formalities established in the country in which they are appointed to reside.

When a consul presents his credentials, the area within which he is to perform his duties shall be indicated; any subsequent change in this area shall be communicated to the Ministry of Foreign Affairs of the other Contracting Party.

The exequatur necessary for the free exercise of their functions shall be issued to consuls without delay or charge, and on the production of the said exequatur the higher authorities of their consular areas shall immediately take the necessary steps to enable them to perform their duties and to give them the benefit of the immunities and exemptions to which they are entitled.

In the exercise of their functions and the performance of their official duties, consuls shall be accorded the fullest co-operation and the most generous support on the part of the authorities of the country in which they are resident.

*Article IV.*

Consuls *de carrière* shall be entitled to appoint consular agents in the ports, towns and places in their consular districts, subject to the previous approval of the Ministry of Foreign Affairs of the other Contracting Party. These agents shall be provided with certificates issued by the consul who has appointed them. They shall carry out their duties under the orders and on the responsibility of the aforesaid consul, and they shall enjoy the privileges and immunities which are laid down in the present Convention.

*Article V.*

In the case of inability to attend or the absence or death of consuls or consular agents, the vice-consuls, consular secretaries or attachés, shall without further formality be authorised, in the order fixed by the regulations of the respective Contracting Parties, to discharge the consular duties *ad interim*.

The local authorities shall render them every assistance and protection and shall accord them during their temporary term of office the benefit of the exemptions, prerogatives, immunities and privileges conferred upon titular holders by the present Convention.

*Article VI.*

Consuls and consular agents shall be entitled to place above the outer door of the house in which the offices of the consulate or consular agency are established the coat of arms of their nation, with the inscription "Consulate" or "Consular Agency of.....", and to fly the flag of their country on the consular building on days of public ceremonies and on other customary occasions; it is understood that these external signs shall never be interpreted as constituting a right of asylum.

Subject to the reservation made in the present Article with regard to the right of asylum, they may also display their national coat-of-arms and fly the flag of their country on the vessels and vehicles which they employ in the performance of their duties.

## Article VII.

Consuls and consular agents of the Contracting Parties shall enjoy in the territory of the other Party exemption from military billeting, payments and contributions, and from any direct taxation imposed by any authority of the State in question which is in the nature of a personal tax, provided that they are nationals of the Contracting Party which appointed them and that they do not engage in commerce or industry or any other occupation ; if they do so occupy themselves, they shall be subject to the same taxes, charges and dues in respect of their commerce or industry as private persons. Participation in such commercial, industrial or other enterprises shall be regarded as equivalent to being engaged in those enterprises. The possession of shares or other similar holdings shall not be deemed to be participation for the purposes of this Article. Exemption shall not be extended to taxes levied on immovable property or mortgage debts, or to the tax levied on the yield of capital by deductions therefrom, or to the tax on directors' fees which consuls may receive as members of the board of directors of an industrial, commercial or professional undertaking situated in the State in which they exercise their functions.

It is understood that exemption from direct taxation shall apply only to officials *de carrière* of the consular service and that such exemption shall in no case be more extensive than that accorded to the diplomatic representatives of the Contracting Parties.

The privileges and exemptions mentioned in the first paragraph of the present Article shall also be granted to other officials of the consular service, provided that they are officials *de carrière* and that they are nationals of the State which appointed them.

Consuls and consular agents, as also consular officials specified in the third paragraph of this Article, shall be authorised, when moving into residence in the territory of the other Contracting Party, to import their furniture and the household utensils which they have in use free from all Customs duties or other charges of whatever kind to which personal property is liable on importation in the respective States. This provision shall not be applicable to articles of consumption.

Consuls, consular agents and consular secretaries or attachés who are nationals of the State which appointed them may not be subject to arrest or to custody pending trial, except for offences which, under the laws of the country in which they reside are punishable with imprisonment for a period exceeding one year or with a severer penalty.

In the case of the arrest or prosecution of a consul, consular agent, secretary or other consular official, the Government of the State in the territory of which the arrest or prosecution takes place shall immediately inform the diplomatic representative of the State which appointed the said consular official.

Consuls, consular agents and consular secretaries or attachés whether titular holders or acting temporarily, who are nationals of the Contracting State which has appointed them, shall not be amenable to the jurisdiction of the courts of the country of residence on account of any action which they have taken in the performance of their official duties and which does not exceed the powers conferred on them by the consular regulations of their own country.

## Article VIII.

Consuls, consular agents and consular secretaries or attachés shall comply with requests to appear as witnesses which may be addressed to them, officially and without any threat of penalties in the event of their non-appearance, by the courts of the State in which they reside.

Consuls and consular agents may, however, provided that they are heads of consulates or consular agencies and are nationals of the State which has appointed them, adduce as legitimate reasons for non-attendance hindrances resulting from illness or urgent official duties, excepting cases when their evidence is required in criminal proceedings in respect of offences punishable under the laws of the country in which they reside, with imprisonment for more than one year, or with a severer penalty.

In the event of the said consular officials failing to appear before the courts for the reasons mentioned above, the judicial authorities shall proceed to their offices or residences and ask them for a written statement in the form provided for by the legislation of the country, or shall take their evidence.

Consuls, consular agents and secretaries or other consular officials who are nationals of the State which appointed them may refuse to give evidence or to produce documents which are in their possession on the ground that they would be divulging State secrets by so doing.

Should the judicial authorities not deem well-founded the excuse or exception provided for in the present Article, they shall nevertheless refrain from employing any measure of coercion against the consular officials in question and leave all difficulties of this nature to be settled through the diplomatic channel.

#### *Article IX.*

The consular archives shall at all times be inviolable and the local authorities may not under any pretext examine or seize any books, documents or other articles forming part thereof. These books, papers and articles shall always be kept completely separate from books and papers relating to the commerce or industry in which the respective officials may be engaged, and from their private documents and other papers.

The official premises of consuls and consular agents shall at all times be inviolable. The local authorities may not enter the official premises under any pretext — except in the case of proceedings in respect of offences which, under the law of the country of residence, are punishable with imprisonment exceeding one year or with any severer penalty ; nor may they in any circumstances whatsoever examine or seize the official papers kept there.

It is understood that the consular premises may in no case serve as a place of asylum.

If a consul or consular agent, who is called upon by the local judicial or administrative authority (as provided in the fourth paragraph of Article VIII of the present Convention) to hand over documents in his possession or to produce them, refuses to do so, the judicial or administrative authority shall nevertheless refrain from employing any measure of coercion against the said consular official and shall leave all difficulties of this nature to be settled through the diplomatic channel.

#### *Article X.*

Consuls and consular agents of the Contracting Parties shall be entitled to protect their nationals and to defend, on the basis of international law and usage and within the limits of their competence, all the rights and interests of the nationals of their countries.

To this end they may appeal to any of the authorities, whether judicial or administrative, of their district against any breach of treaties or conventions existing between the two countries, and against any abuses of which their nationals may have to complain. Should their complaints not be received by the local authorities of their districts, they may apply direct to the Government of their country of residence only in the absence of any diplomatic representative of their own country.

#### *Article XI.*

Consuls, consular agents and consular secretaries or attachés of the Contracting Parties, in so far as they are authorised to do so by the authorities of the State which appointed them, shall be entitled :

- (1) To take cognisance in their offices or on board vessels of their nations of any declarations which may be made by masters, members of the crew or passengers, by traders or by any other nationals of their countries ;

(2) To take cognisance of, draw up and legalise in their offices, at the residences of the parties, or on board vessels of their nations the unilateral legal acts and testamentary dispositions of their nationals, and also bilateral legal agreements between their nationals only, or between their nationals, on the one hand, other persons, nationals of the country in which they reside, or of a third Power, on the other hand ;

(3) To take cognisance of, draw up, and legalise in their offices, or on board vessels of their nations unilateral and bilateral legal acts between nationals of the countries in which they reside or of a third Power, provided that these acts relate to rights and property situated in, or to business to be transacted or destined to produce legal effects in, the territory of the nation to which the consul or consular agent before whom the acts are executed belongs ;

(4) To translate and legalise all acts and documents emanating from the authorities or officials of their country or of the country in which they reside ; these translations shall have the same force and the same authority in each of the two countries as if they had been drawn up by the public officials or the sworn interpreters of either of the two countries.

It is understood that the above stipulations shall not be applicable to bilateral legal acts concerning the transfer of the right of ownership or designed to create a charge on immovable property situated in the territory of the State in which the consul or consular agent resides.

Copies, extracts and transcripts of acts drawn up in virtue of the present Article by consuls and consular agents duly legalised by the said consular officials and bearing the seal of the consulates or consular agencies shall have the same validity as the originals for legal or other purposes in either of the two Contracting States, and shall have the same character of authenticity and the same value as evidence as if they had been executed before a notary or legal officer of either country, provided that these acts were drawn up in the form prescribed by the laws of the State to which the consul or consular agent belongs, and were afterwards sealed and registered together with the originals, and subjected to all the other formalities prescribed in the country in which the act is to be enforced.

Should any doubt arise as to the authenticity of the copy, extract or transcript of an act drawn up in the office of the respective consulates or consular agencies, the person concerned shall be allowed to have it compared with the original and to be present when this is done if he so desires.

#### *Article XII.*

The consuls and consular agents of each of the Contracting Parties shall be entitled, in so far as they are authorised to do so by the laws and regulations of their respective countries, to draw up the birth and death certificates of nationals of the State which appointed them.

It is understood that the present stipulation does not affect the obligation imposed by the laws of the two countries to notify births and deaths to the local authorities.

#### *Article XIII.*

The consuls and consular agents of each of the Contracting Parties shall be entitled, in conformity with the regulations of the State which appointed them, to issue passports and other personal papers and to endorse passports, certificates indicating the origin of goods and other similar acts.

#### *Article XIV.*

The Contracting Parties mutually undertake to forward to each other, on request, duly legalised copies of birth, marriage and death certificates, of acts recognising or legitimising children born out of wedlock, and of acts of adoption concerning the nationals of the other Party.

The said copies shall be drawn up and forwarded in the customary form employed in each country, on payment of the fees prescribed by the laws and regulations in force and through the intermediary of the consulates and consular agencies of the Contracting Party making the application. The copies in question shall, however, be drawn up and forwarded free of charge when they are applied for through the diplomatic channel for the official requirements of the Contracting Parties or on behalf of indigent persons.

#### Article XV.

With regard to estates left by nationals of one of the Contracting Parties in the territory of the other Party, the following rules shall be observed :

*Paragraph 1.* The nationals of either of the Contracting Parties shall be entitled in the territory of the other, on the same footing as nationals, to succeed to property which may be bequeathed to them in that State by law or testament and to take possession of such property.

*Paragraph 2.* The estates of Estonians in Austria and of Austrians in Estonia shall not be liable to transfer duties other or higher than those imposed on the estates of nationals.

*Paragraph 3.* The authorities of the State of which the deceased was a national shall be competent to take decisions concerning succession rights in respect of the movable property.

Succession rights shall be taken to include succession *ab intestato*, the right to the reserved portion of the estate, testamentary succession, *donatio mortis causa* and legacies.

Should claims in respect of the movable property be put forward on some other legal ground by nationals of the State in which the property is situated, they shall be dealt with by the authorities of that State, which shall apply the laws in force therein.

*Paragraph 4.* All questions relating to succession to immovable property shall be decided by the authorities of the State in which such property is situated.

*Paragraph 5.* Property of which the deceased was not able to dispose *mortis causa* (property in trust) shall be dealt with according to the laws of the State in which it is situated.

The same laws shall apply to the restrictions of public law to which the estate or any parts thereof may be subject.

*Paragraph 6.* If the property left by the deceased is escheatable according to the laws of the State of which he was a national, it shall be subject as an escheatable estate to the laws of the State in the territory of which it is situated at the time of his death.

Property shall be regarded as escheatable if under the national laws of the deceased it would revert in default of other heirs either to the State or to some other juristic person.

*Paragraph 7.* In cases in which jurisdiction in questions of succession is reserved under paragraph 3 of the present Article to the national authorities of the deceased, the authorities of the State in whose territory the inheritance is situated shall, on application being made by any person who is a national of or is domiciled in the country and who has put forward a claim to the succession, adopt the same procedure in dealing with the estate as if it had been left by a national, but shall apply the laws of the country to which the deceased belonged.

The above procedure shall, however, only be followed if none of the other heirs to the estate, having been duly notified, lodge an objection.

*Paragraph 8.* If a national of one of the Contracting Parties dies leaving the whole or part of his estate in the territory of the other Party, the authorities of the latter Party shall in principle confine their action to preserving intact the property belonging to the estate and to safeguarding the succession rights and the claims of their own nationals, of the inhabitants of the country, and of the fiscal authorities.

*Paragraph 9.* In the case of the opening of a succession relating to an estate left by a national of one of the Contracting Parties in the territory of the other Party, the local authorities shall be required to notify immediately the nearest consular authority of the deceased's country. Whenever possible, the local authorities shall communicate at the same time to the consular authority any particulars that may be available regarding the nature of the hereditament, the heirs and their place of residence, the existence of a *mortis causa* deed, and the measures with respect to the safeguarding of the estate which have been taken by the said authorities.

If the consular authority is the first to receive information of the opening of the succession, it shall notify the local authorities in the same manner.

In the case of personal estate, the consular authority shall affix the seals, draw up an inventory of the movable property and arrange for the administration and liquidation of the estate. In order to facilitate the co-operation of the local authorities in so far as, under paragraph 8 of the present Article, these authorities are called upon to take measures for the safeguarding of succession claims and rights, the consular authority shall inform the local authorities of any measures it intends to take with regard to the estate, not less than twenty-four hours beforehand.

*Paragraph 10.* The consular authority and the local authorities shall inform each other, on request, of all important circumstances connected with the assessment of succession duty. The property of the deceased shall not be handed over to the heirs as duly established by law or be sent abroad until the liabilities in respect of succession duties, claims put forward against the estate and the indisputable succession rights of nationals of the State in which the property is situated and of persons domiciled therein have been discharged or the discharge thereof sufficiently guaranteed.

The consular authority may, however, advance out of the estate the expenses of the last illness and of the funeral of the deceased, the wages of his servants, the rent due for the last half-year, the legal, consular and similar fees, and in cases of urgency the necessary maintenance expenses of the family of the deceased. Nevertheless, the creditors of the estate cannot oppose the handing over of the property concerned if within nine months of the death they have not been able to prove that their claims have been recognised by the heirs or recognised by a final judicial decision, or that they have at least been duly submitted to the competent judicial authority.

*Paragraph 11.* In all questions arising out of the transfer, administration and liquidation of estates left by the nationals of one of the Contracting Parties in the territory of the other, the respective consular officials shall have full power to represent the absent heirs and shall be recognised as their legal representatives without being obliged to prove their title by a special authorisation, provided that the said heirs have not appointed other representatives and are nationals of the State which appointed the consular officials.

It is understood that consular officials in their capacity as legal representatives of their nationals shall in no case be treated as personally responsible in connection with any matter relating to the succession.

*Paragraph 12.* The consular officials of the Contracting Parties shall possess exclusive competence in respect of the taking of inventories and other acts involved in the conservation and liquidation of the estates of seamen, passengers and other travellers of their nation dying in the course of their voyage in port, on land or on board ship.

#### Article XVI.

Consuls and consular agents shall be entitled to protect minors and feeble-minded and other incapable persons who are nationals of the State which appointed these officials; to this end the said consular officials shall be entitled to take all measures they may think fit within the limits of the local law.



*Article XVII.*

The consuls and consular agents of each of the Contracting Parties shall be entitled to render all relief and assistance to merchant ships of their nation calling at the seaports of their consular area.

For this purpose they may proceed personally or send representatives on board merchant ships of their nation, after these ships have been admitted to *pratique*.

They may question the masters and crews, examine the ship's papers, take cognisance in conformity with Article XI of the present Convention of declarations regarding their voyage, their destination and the events of the journey; draw up manifests and facilitate the departure of their vessels; and accompany the masters or crews before the courts or administrative offices of the country for the purpose of acting as interpreters and agents in any business they may have to transact or in submitting any applications they may have to make.

In seaports in which there resides a consul or consular agent of one of the Contracting Parties, the judicial and administrative officials and the Customs officials and agents of the country may not effect examination or searches on board merchant ships other than ordinary Customs and medical examinations, or arrest or imprison or effect any other official act necessitating compulsion without notifying previously, or in urgent cases at the time of the action in question, the consul or consular agent of the nation to which the vessel belongs, in order that he may be present during the examination. They must also give the consul or consular agent sufficient notice to enable him to be present when any declarations are made by masters or crews before the courts or administrative authorities of the country.

The invitation addressed in the above-mentioned cases to consul or consular agents shall specify an exact hour, and if the consul or consular agent fails to attend in person or to send a representative, the proceedings shall be conducted in his absence. The competent local authorities shall nevertheless be obliged to inform the consul or consular agent without delay of any examination or other official proceedings of the nature referred to in the previous paragraph effected in his absence, and at the same time to state the real reasons which necessitated urgent action; they shall do so even if the consul or consular agent does not reside in the port.

*Article XVIII.*

In all that concerns seaport police regulations, the loading and unloading of merchant ships and the safeguarding of merchandise, goods and effects, the laws, decrees and regulations of the country shall be observed, subject to the express condition that any privilege or advantage which may be granted in such ports by one of the Contracting Parties to the merchant ships of the most favoured nation shall also be granted in that port to the ships of the other Party. Within the limits laid down in the laws of the State which appointed them, consuls and consular agents in the above ports shall alone be responsible for the maintenance of order on board merchant ships of their nation; they shall themselves decide, in conformity with the laws of the State which appointed them, disputes of all kinds which may arise between the masters, officers and seamen of such ships, especially those relating to pay and the execution of contracts entered into between them.

The local authorities shall be entitled to intervene only when disturbances occurring on board a ship are of a nature to endanger public tranquillity on land or in the seaport, or when a person not belonging to the crew is involved. Even in this case, the local authorities shall, if possible, notify the competent consul or consular agent.

In all other cases the said authorities shall confine themselves to giving their assistance to the consuls and consular agents if the latter so request, and to helping them in the discharge of their duties, particularly in arresting and conveying on board a merchant ship any person entered as a member of the crew, or, provided that he is not a national of the country, in conducting him to prison whenever the said consuls or consular agents for any reason deem it

necessary ; if the person in question is to be detained in custody, the aforesaid consuls and consular agents shall at the earliest possible moment notify the judicial authorities of the country to that effect by an official communication.

*Article XIX.*

When a sea-going vessel belonging to the Government or to nationals of one of the Contracting Parties is wrecked or runs aground on the coast of the other, the local authorities shall notify without delay the consul or consular agent stationed in the area in which the event occurred.

All operations connected with the salvage of merchant ships of one of the Contracting Parties which have been wrecked or have run aground in the territorial waters of the other Party shall be carried out under the direction of the consuls or consular agents.

The local authorities of the two countries shall intervene only to assist the consular officials, to keep order, to guarantee the interests of salvage workers not belonging to the crew and to ensure the execution of the regulations with regard to the importation and removal of the salvaged goods.

In the absence and until the arrival of the consuls consular agents or their representatives, the local authorities shall take all necessary measures for the protection of the persons and preservation of the effects that have been 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 merchant ships of the most favoured nation would be subject in similar circumstances.

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

Salvaged goods or effects shall not be subject to any Customs duty, unless they are sold for consumption within the country.

*Article XX.*

Whenever no provisions to the contrary have been agreed upon by the shipowners, freighters or underwriters, any questions relating to damage suffered at sea by merchant ships of the two countries, whether they enter the respective ports of their own free will or by compulsion, shall be settled by the consuls or consular agents of their own nation, unless nationals of the country in which the said consuls or consular agents reside or those 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 XXI.*

Each of the Contracting Parties undertakes furthermore to grant most-favoured-nation treatment to the other Party in regard to the appointment of consuls and all that concerns the performance of consular duties, together with the enjoyment of exemptions, rights, privileges, immunities and honours. It is agreed, however, that neither of the Contracting Parties may invoke the benefit of the most-favoured-nation clause and demand in favour of its consular officials and employees any exemptions, rights, privileges, immunities and honours other or more extensive than those granted by itself to the consular officials and employees of the other Party.

*Article XXII.*

The present Convention shall be ratified and the ratifications shall be exchanged at Tallinn as soon as possible. It shall come into force one month after the date of the exchange of ratifications.

*Article XXIII.*

The present Convention shall remain in force as long as it is not denounced by either of the Contracting Parties. Such denunciation shall not take effect until after the expiration of a period of six months.

In faith whereof, the respective Plenipotentiaries have signed the present Convention and have thereto affixed their seals.

Done in duplicate at Vienna on October 15, 1926.

MENNING.  
RAMEK.

## ADDITIONAL PROTOCOL

## TO THE CONSULAR CONVENTION BETWEEN ESTONIA AND AUSTRIA.

The Contracting Parties have agreed on the following provisions with a view to supplementing Article XII of the Consular Convention which has been signed on this date :

(1) If either of the Contracting Parties should grant to the consuls of any third Power the right to solemnise marriages of nationals of the State, to which the nationals in question belong or to draw up marriage certificates and to keep registers of marriages, the consuls of the other Contracting Party shall be granted the same rights in the same measure.

(2) It is agreed that the rights laid down in paragraph 1 of the present Protocol shall be accorded only on terms of reciprocity.

(3) The present Protocol constitutes an integral part of the Consular Convention.

In faith whereof the Plenipotentiaries have signed the present Protocol.

VIENNA, *October 15, 1926.*

MENNING.  
RAMEK.