

N° 2754.

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**POLOGNE ET ROUMANIE**

Convention consulaire, avec protocole final. Signés à Bucarest, le 17 décembre 1929.

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**POLAND AND ROUMANIA**

Consular Convention, with Final Protocol. Signed at Bucharest, December 17, 1929.

<sup>1</sup>TRADUCTION. — TRANSLATION.No. 2754. — CONSULAR CONVENTION<sup>2</sup> BETWEEN POLAND AND ROUMANIA. SIGNED AT BUCHAREST, DECEMBER 17, 1929.

*French official text communicated by the Roumanian Envoy Extraordinary and Minister Plenipotentiary accredited to the League of Nations and the Polish Delegate accredited to the League of Nations. The registration of this Convention took place July 9, 1931.*

HIS MAJESTY THE KING OF ROUMANIA and THE PRESIDENT OF THE POLISH REPUBLIC, being desirous of determining the conditions of admission of consular officials into their respective territories, together with the reciprocal rights, privileges and immunities of Consuls-General, Consuls, Vice-Consuls and Consular Agents, and of defining their powers, have resolved to conclude a Consular Convention, and have for this purpose appointed as their Plenipotentiaries :

HIS MAJESTY THE KING OF ROUMANIA :

His Excellency M. George MIRONESCO, Minister, Secretary of State in the Department of Foreign Affairs ;

THE PRESIDENT OF THE POLISH REPUBLIC :

His Excellency Count Jean SZEMBEK, Envoy Extraordinary and Minister Plenipotentiary of the Polish Republic ; and

M. Leon BABIŃSKI, Legal Adviser to the Polish Ministry of Foreign Affairs ;

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

*Article 1.*

Each of the High Contracting Parties shall be entitled to establish Consuls-General, Consuls and Vice-Consuls, or Consular Agents, in the ports, towns and places of the other Party. The High Contracting Parties nevertheless reserve the right to designate the places where they deem it inadvisable to admit consular officials ; this reservation may not be applied to one of the Parties without being equally applicable to all Powers.

Consuls-General, Consuls, Vice-Consuls and Consular Agents may be officials *de carrière* (*consules missi*) or honorary officials (*consules electi*).

For the purposes of the present Convention the word "Consul" shall be taken to mean Consuls-General, Consuls and Vice-Consuls ; similarly, the word "Consulate" shall be taken to mean Consulates-General, Consulates and Vice-Consulates.

<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 Warsaw, June 9, 1931.

Article 2.

The Consuls of each of the High Contracting Parties, after presenting their credentials, shall be admitted and recognised in the territory of the other in accordance with the rules and formalities in use in the latter country.

The credentials shall mention the consular district. Any subsequent change in this district shall be notified to the Ministry of Foreign Affairs of the other Party. The *exequatur* necessary for the free exercise of their functions shall be granted to the Consuls without delay and without charge. In virtue of such *exequatur*, the authorities of their consular district shall immediately take the necessary steps to enable the Consuls to discharge the duties entrusted to them and to give them the benefit of the immunities and exemptions connected therewith.

In the exercise of their duties and in the accomplishment of their official missions the consuls are guaranteed the widest assistance and the most benevolent support on the part of the authorities of the country in which they reside.

Article 3.

Consuls *de carrière* may, if authorised by their Government, appoint Consular Agents in the ports, towns, and places in their consular district. These Agents shall be provided with an authorisation in writing issued by the Consul who appoints them. They shall exercise their functions under the orders and responsibility of the latter and shall enjoy the privileges and immunities stipulated in the present Convention. They shall only enter on their duties after being so authorised by the Minister for Foreign Affairs for the country in which they reside.

Article 4.

Should the head of the consular office (Consulate General, Consulate, Vice-Consulate or Consular Agency) be absent, or die, or be prevented for any other reason from exercising his functions, the person appointed to replace him in accordance with the laws and regulations of the country to which he belongs shall be recognised *ipso facto* in this capacity by the local authorities.

The latter shall render him assistance and protection and shall accord him during his temporary conduct of the business the benefits of the exemptions, prerogatives, immunities and privileges conferred upon titular officials by the present Convention.

Article 5.

Consuls and Consular Agents shall be entitled to place above the outer door of the building in which the Consulate or Consular Agency is installed the coat of arms of the country which they represent, with the usual inscription in their own language; they may also fly the flag of that country on the consular building on days of public solemnities and on other customary occasions. It is understood that these external signs shall never be interpreted as indicating a right of asylum.

Subject to the reservations made in the present Article with regard to the right of asylum, they may also place the arms of their country or fly the flag of their country on the vessels which they employ in the exercise of their functions.

Article 6.

Heads of Consulates General, Consulates, Vice-Consulates or Consular Agencies, and Agents of the Consular Service (Acting and Assistant Consuls, Vice-Consuls, Attachés and Consular Secretaries, Chancellery Assistants), who are officials *de carrière* and citizens of the State which

has appointed them, shall be exempt from all military requisitions, contributions and billeting and from all other direct contributions in the nature of a personal tax levied for the benefit of the State, provinces, communes, etc.

If, however, the said officials 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.

The above-mentioned privileges and exemptions shall also apply to chancellery clerks and employees of the Consulate who are officials *de carrière* and nationals of the country which employs them and who do not carry on any trade or industry whatsoever.

Honorary Consuls and Consular Agents shall be exempt from military billeting and from the requisitioning of premises used for their office and archives.

For a period of six months from the date on which they enter on their functions, the heads of consular offices and officials *de carrière* of the consular service mentioned in the first and third paragraphs of the present Article shall be authorised, when taking up their post in the territory of the other Party, to bring in their furniture and the household effects still required for their own use, without being subject to the payment of Customs duties or import charges.

The same rule shall apply to the export of the said furniture and effects.

It is understood that the present provision does not apply to articles of consumption.

Heads of consular offices and officials of the consular service mentioned in the first paragraph of the present Article may not be subjected to arrest or preventive detention except for offences which under the local legislation applicable to the case are punishable by imprisonment for a period exceeding one year.

In case of judicial proceedings, arrest or prosecution of the head of a consular office or an official of the consular service mentioned in the first and third paragraphs of the present Article, the Government of the State in which the arrest or prosecution has taken place shall immediately inform the diplomatic Representative of the State to which the said consular official belongs.

Heads of consular offices and officials of the consular service mentioned in the first and third paragraphs of the present Article 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.

#### Article 7.

Heads of consular offices and officials of the consular service mentioned in the first paragraph of Article 6 shall appear as witnesses when called upon to attend by an official letter from the courts or competent magistrates 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 illness or 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 on facts connected with the exercise of their duties 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 compulsion against the said consular official; difficulties arising in this connection shall always be settled through the diplomatic channel.

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

Article 8.

The consular archives shall be inviolable and the local authorities may not, under any pretext, examine or seize books, papers or other objects forming part thereof.

These books, papers and objects shall always be kept completely separate from any private papers and from books and papers relating to the commerce or industry in which the respective consular officials may be engaged.

The official premises of Consuls *de carrière* are inviolable. The local authorities may not, under any pretext, enter the consular premises except to take proceedings in respect of an offence which, under the local laws applicable to the case, is punishable by more than one year's imprisonment. In no case may they examine or seize the official papers found on the premises.

It is understood that consular premises may not in any case be used as an asylum.

Article 9.

Consuls and Consular Agents of each of the High Contracting Parties shall be entitled to protect and defend all the rights and interests of nationals of the State which has appointed them, in accordance with international law and usage. To this end they may apply to all administrative and judicial authorities in their area for the purpose of obtaining the necessary information and explanations; they may also apply to all the administrative authorities of their area for the purpose of protesting against any breach of the conventions or treaties 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 the local authorities of their area, 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 10.

Consuls and Consular Agents of each of the High Contracting Parties, if they are so authorised by the legal provisions or regulations of the country which has appointed them, shall be entitled to issue to the nationals of that country passports and other identity documents and to visa all passports, certificates of origin or provenance of goods and other documents.

Article 11.

Consuls and Consular Agents of each of the High Contracting Parties, provided they are so authorised by the authorities of the State which has appointed them, shall be entitled:

(1) To receive in their offices or on board vessels of their nationality all declarations which may have to be made by captains, members of the crew, passengers, traders and any other nationals of the State which has appointed them. It is understood that in the eyes of the authorities of the country of residence such declarations can be valid only in so far as they are in conformity with the law of the country;

(2) To receive, as notaries, unilateral and bilateral legal documents and testamentary dispositions of nationals of the State which has appointed them;

(3) To receive as notaries all documents, whatever the nationality of the parties, provided that these documents relate to property situated, to business to be transacted, or to rights to be established in the territory of the State which has appointed them;

(4) To legalise the signature of nationals of the State which has appointed them;

(5) To legalise or translate all kinds of deeds and documents emanating from the authorities or officials of their country or of the country in which they reside.

The above-mentioned deeds and documents, together with translations, copies or extracts, drawn up or legalised by the Consul or Consular Agent in the form required by the provisions of the State by which the said consular officials have been appointed and bearing the consular seal, shall be recognised in the country of residence of the Consul or Consular Agent as authentic documents, copies, extracts or translations, shall be valid and shall have the same value as evidence for judicial or other purposes as if they had been drawn up, legalised or translated by notaries, public officials or competent sworn translators of the country of residence.

If these deeds or documents refer to business to be executed in the country where the Consul or Consular Agent resides, they must be subject to stamp duties and other charges required by the laws of the said country and to any other formalities governing the matter in that country.

It is understood that the above provisions shall not be applicable to bilateral legal documents which refer to the transfer of rights to immovable property, or the purpose of which is to impose a burden on such immovable property, provided the latter is situated in the territory of the State where the Consul or Consular Agent resides.

#### Article 12.

The High Contracting Parties undertake to deliver to one another on request duly legalised copies of birth certificates, certificates of recognition and legitimisation of illegitimate children, certificates of adoption, marriage and death, and documents relative to the acquisition or loss of nationality in respect of nationals of the other Party.

The said copies shall be delivered free of charge and in the form usual in the country where the document has been drawn up. They shall be applied for and transmitted through the intermediary of the Consulates or Consular Agencies of the Party which has requested them.

#### Article 13.

On the death of nationals of either of the Contracting Parties in the territory of the other the competent local authorities shall immediately advise the Consul or Consular Agent in whose area the death has taken place and shall as far as possible forward to him at the same time information regarding the names and addresses of heirs and the existence of a will.

The Consul or Consular Agent shall notify the local authorities and supply them with the information if he has been informed first.

The Consul or Consular Agent shall be informed without delay of anything that may have been done to protect the estate.

He may also ask the local authorities for any information regarding the measures taken in respect of the estate.

The above provisions are applicable *mutatis mutandis* to the case of a national of one of the High Contracting Parties possessing property in the territory of the other who dies outside the said territory.

#### Article 14.

With regard to the estate of seamen or travellers nationals of one of the High Contracting Parties, who have died in the territory of the other, whether on board a vessel or on land, the Consuls or Consular Agents of the country of the deceased shall be exclusively competent to draw up an inventory of the effects, valuables and property carried by them or found on board and to take all the necessary measures for purposes of conservation, administration or liquidation.

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 Consul or Consular Agent of the country of the deceased.

*Article 15.*

It is understood that in all questions relating to estates dealt with in the territory of either of the High Contracting Parties, the Consuls and Consular Agents of the other Party will be permitted as of right, and without having to produce any special power of attorney, to represent the nationals of the country which has appointed them, before the administrative and judicial authorities of their consular district, provided such nationals are absent and have not appointed any other agent.

*Article 16.*

Consuls and Consular Agents shall be allowed to protect minors, weak-minded and other persons under a disability, nationals of the State to which the said officials belong ; for this purpose they may take or propose any measures which they consider necessary within the limits of the laws of the place.

It is, however, understood that the above provision does not in any way restrict the rights of Consuls or Consular Agents or of the authorities of the country of origin laid down in the Hague Conventions of June 12, 1902<sup>1</sup> and July 17, 1905.

*Article 17.*

Consuls and Consular Agents of each of the two High Contracting Parties shall be entitled to help and assist vessels of their nationality anchored in a port in their consular district and flying the flag of the State to which the Consul belongs.

For this purpose they may proceed in person or send representatives on board these vessels after the latter have been given *pratique*. As regards merchant ships, they may also question the captain, examine the ships papers, receive declarations — in accordance with the provisions of Article 11 of the present Convention — regarding their voyage, their destination and the events of the passage, draw up manifests and facilitate the departure of these vessels ; lastly, they may accompany the captain to the courts and administrative offices of the country, in order to act as interpreters and agents in matters which they may have to attend to or requests which they may have to submit.

In ports in which a Consul or Consular Agent of one of the High Contracting Parties resides, the judicial and administrative officials and the Customs officers and agents of the country may not effect any arrest on board the merchant vessels of the other Party (save in cases in which the offenders are taken in the act) or carry out any search or inspection on board or engage in other official duties necessitating measures of compulsion, without notifying previously or, in urgent cases, at the actual moment of the search, the Consul or Consular Agent of the country to which the vessel belongs, in order that he may be present during the examination. They must also notify the Consul or Consular Agent in 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 and Consular Agents shall specify the exact hour and, should the Consuls or Consular Agents fail to attend in person or to send a representative, the case shall be dealt with in their absence. The competent local authorities shall, however, be obliged to inform the Consul or Consular Agent without delay of any examination or other official function referred to in the preceding paragraph that is carried out in his absence and shall, at the same time, specify the reasons for the urgency. They shall act in the same manner if the Consul or Consular Agent does not reside in the port.

<sup>1</sup> *British and Foreign State Papers*, Vol. 95, page 421.

The intervention of Consuls or Consular Agents shall not, however, be required for the accomplishment of ordinary formalities by the local authorities on the arrival or departure of vessels, in accordance with regulations regarding navigation, Customs and public health, since their assistance is only necessary in case of judicial or administrative proceedings.

*Article 18.*

With regard to the harbour police, the loading and unloading of merchant ships and the protection of goods, property and effects, the laws, ordinances and regulations of the country shall be observed, on the express condition that any privilege or favour granted in a specific port by one of the High Contracting Parties to the merchant ships of a third Party shall also be granted in that port to the vessels of the other Party.

Consuls or Consular Agents shall alone be responsible, within the limits stipulated by the legislation of the State which has appointed them, for the maintenance of internal order on board merchant ships of that State. They shall themselves decide, in accordance with the laws of their country, 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 agreements 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 not belonging to the crew is involved.

Even in this case the local authorities shall, if possible, first advise the competent Consul or Consular Agent.

In all other cases the said authorities shall confine themselves to giving their support to the Consuls and Consular Agents, if so requested by the latter, in order to assist them in the discharge of their duties.

*Article 19.*

Consuls and Consular Agents may cause to be arrested and sent back to their ships or to their country, officers, seamen or any other person belonging, in any capacity, to the crew of ships of their nationality who have deserted in 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. In places where there is no Consul or Consular Agent, the request to hand over persons may be addressed to the local authorities by the commander of the ship, who must observe the above formalities.

On the receipt of such a duly authenticated request, the handing-over of deserters may only be refused if they have committed a crime or offence on land, in which case the local authorities may defer their release until the competent court has given judgment and the said judgment has been fully and completely carried out. The 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 Consulate or Consular Agency until they are returned to a vessel of the country or until an opportunity occurs to repatriate them.

If, however, such opportunity should not occur within two months from the date of arrest, the deserters shall, after notification has been given to the Consul or Consular Agent three days in advance, be released, and may not be rearrested for the same cause.

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



*Article 20.*

When a vessel belonging to the Government or to nationals of one of the High Contracting Parties is wrecked or runs aground on the coasts, in a port or in the inland waters of the other Party, the local authorities shall notify without delay the Consul or Consular Agent in the district in which the accident has occurred.

Operations connected with salvage shall be carried out with the assistance of the Consuls or Consular Agents.

In the absence and until the arrival of the 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.

The local authorities shall only intervene to assist the consular officials to keep order, to safeguard the interests of salvors not belonging to the crew, to censure the execution of the regulations with regard to the import and export of the salvaged goods, and to safeguard the general interests of shipping.

No charges of any kind shall be made in respect of the intervention of the local authorities, nor shall any expenses be refunded except those necessitated by the salvage operations and the preservation of the salvaged effects, and those payable in such cases by warships and merchant ships of the country or by vessels belonging to the most-favoured nation.

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 may not be liable to any Customs duty unless they are cleared for consumption within the country.

*Article 21.*

Whenever no provisions to the contrary have been agreed on by the ship-owners, freighters or underwriters, questions relating to damage suffered at sea by ships of one of the High Contracting Parties (whether they enter the respective ports voluntarily or for some unavoidable reason) shall be settled by their Consuls or Consular Agents, unless nationals of the State in which the said Consuls or Consular 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, the question of the damage shall be settled by the local authorities.

*Article 22.*

Each of the High Contracting Parties further undertakes to grant to the other Party most-favoured-nation treatment in respect of consular establishment and in all matters concerning the exercise of consular functions and the enjoyment of exemptions, rights, privileges, immunities and honours.

It is, however, agreed that neither of the High Contracting Parties can claim the benefit of the most-favoured-nation clause and demand for its consular officials exemptions, rights, privileges, immunities and honours other or more extensive than those granted by itself to consular officials of the same grade and category of the other Party.

*Article 23.*

All the provisions of the present Convention regarding the powers of Consuls shall apply also to diplomatic agents of the High Contracting Parties who are invested with consular functions. A notification of the assumption of such functions shall be made by the diplomatic agent to the Government of the country in which he resides.

## Article 24.

The present Convention shall be ratified and the ratifications shall be exchanged at Warsaw as soon as possible.

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

The present Convention shall remain in force so long as it is not denounced by either of the High Contracting Parties. Such denunciation shall have effect only on the expiry of a period of six months.

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

Done at Bucharest, in duplicate, December the seventeenth, one thousand nine hundred and twenty-nine.

(L. S.) G. G. MIRONESCO.

(L. S.) J. SZEMBEK.

(L. S.) LÉON BABIŃSKI.

## FINAL PROTOCOL.

When proceeding to sign the Consular Convention between Roumania and Poland, the undersigned Plenipotentiaries agreed as follows :

(1) The provisions laid down in Articles 13, 14 and 15 of the said Convention shall remain in force pending the entry into force of a Polish-Roumanian Judicial Convention regulating the question of estates, the negotiations for which shall be opened within three months at latest. The provisions of this future Convention shall *ipso facto* replace the provisions of the above-mentioned Articles of the present Convention.

(2) The adoption of the most-favoured-nation rule in the first paragraph of Article 18 of the present Convention shall not preclude discussion as to the possible adoption of the national clause in relation to the subject of that paragraph, when a Commercial Convention between Roumania and Poland is concluded.

The present Final Protocol shall form an integral part of the above-mentioned Convention and shall be ratified at the same time.

In faith whereof the Plenipotentiaries have signed the Protocol and have affixed their seals thereto.

Done at Bucharest, in duplicate, December the seventeenth, one thousand nine hundred and twenty-nine.

(L. S.) G. G. MIRONESCO

(L. S.) J. SZEMBEK.

(L. S.) LÉON BABIŃSKI.