

N° 2803.

BELGIQUE ET POLOGNE

Convention consulaire. Signée à
Bruxelles, le 12 juin 1928.

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Consular Convention. Signed at
Brussels, June 12, 1928.

¹ TRADUCTION. — TRANSLATION.No. 2803. — CONSULAR CONVENTION ² BETWEEN BELGIUM AND POLAND. SIGNED AT BRUSSELS, JUNE 12, 1928.

French official text communicated by the Belgian Minister for Foreign Affairs and the Polish Delegate accredited to the League of Nations. The registration of this Convention took place September 6, 1931.

HIS MAJESTY THE KING OF THE BELGIANS and THE PRESIDENT OF THE REPUBLIC OF POLAND, being desirous of determining the conditions of admission to their respective territories of Consular officials and 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 for that purpose have appointed as their Plenipotentiaries :

HIS MAJESTY THE KING OF THE BELGIANS :

M. Paul HYMANS, His Minister for Foreign Affairs ;

THE PRESIDENT OF THE REPUBLIC OF POLAND :

His Excellency M. Tytus FILIPOWICZ, His Envoy Extraordinary and Minister Plenipotentiary to His Majesty the King of the Belgians ; and

M. Venceslas BABINSKI, Director of the Consular Department at the Ministry for Foreign Affairs ;

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

Article 1.

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

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.

Article 2.

After presenting their credentials, the Consuls of either Contracting Party shall be admitted to and recognised in the other country according to the rules and formalities established there.

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 The exchange of ratifications took place at Warsaw, August 6, 1931.

The credentials shall indicate the consular area ; any subsequent change in this area shall be communicated to the Ministry of Foreign Affairs of the other Party. The exequatur necessary for the free exercise of their functions shall be issued to Consuls without delay or charge ; 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 most generous support on the part of the authorities of the country in which they are resident.

Article 3.

Consuls *de carrière* shall, when authorised to do so by their Government, be entitled to appoint Consular Agents in the ports, towns and places of their consular districts. 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 shall enjoy the privileges and immunities which are laid down in the present Convention. They shall only take up their duties after having been authorised to do so by the Minister for Foreign Affairs of the country in which they reside.

Article 4.

In the case of the inability of the Head of the Consular office (Consulate-General, Consulate, Vice-Consulate or Consular Agency), to attend to his duties or his absence or death the person appointed to replace him in accordance with the laws or regulations of the country of which the said Head of the Consular office was a national shall without further formality be recognised by the local authorities.

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

Article 5.

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 country with the inscription " Consulate " or " Consular Agency of Belgium (or Poland) " 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.

Article 6.

De carrière Heads of Consular offices (Consulates general, Consulates, Vice-Consulates and Consular Agencies) and *de carrière* Consular officials (Deputy and Assistant Consuls, Vice-Consuls, Consular attachés, secretaries and head clerks), who are nationals of the State which appointed them, shall enjoy in the other State exemption from all military requisitions, contributions or billeting and from any direct taxation imposed by the State, provinces or communes, the collection of which is based on lists of names, unless these taxes are imposed by reason of ownership of immovable property or on the interest on capital employed in the State in which the said Agents exercise their functions.

Nevertheless, this exemption shall not be extended to such of the above-mentioned officials as are engaged in any profession, industry or commerce, these officials being liable to the taxes payable by all foreigners in like circumstances.

The above-mentioned privileges and exemptions shall also apply to *de carrière* consular clerks and employees who are nationals of the country which employs them and are not engaged in any commerce or industry.

Honorary Consuls and Consular Agents shall be exempted from military billeting in the premises used for their office and archives.

During a period of six months from the date on which they take up their duties, Heads of Consular offices and the *de carrière* consular officials mentioned in paragraphs 1 and 3 of the present Article shall be authorised, when taking up their duties in the territory of the other Party, to import their furniture and the household utensils which they have previously been, and are still, using, free from Customs duties and other charges levied on imports. It is understood that this provision shall not be applicable to articles of consumption.

Heads of Consular offices and the Consular officials enumerated in the first paragraph of the present Article may not be arrested or placed in custody pending trial except for offences which, under the local laws of any part of the country in which they reside are punishable with imprisonment for a period exceeding one year or with a severer penalty.

If judicial proceedings are taken against the Head of a Consular office or of a Consular official mentioned in the first paragraph of the present Article, or if he is arrested or charged with an offence, 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.

Heads of Consular offices and the Consular officials enumerated in the first paragraph of the present Article shall not be amenable to the jurisdiction of the Courts of the country in which they reside in respect of any act performed 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 the Consular officials enumerated in the first paragraph of Article 6 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 competent Courts or magistrates of the State in which they reside. They may, however, obtain the postponement of their appearance for a short time by adducing as legitimate reasons for non-attendance hindrances resulting from illness or urgent official duties.

They may also refuse to give evidence on all facts connected with the exercise of their functions or to produce any papers documents or registers which are in their possession or to give up such papers, documents or registers on the ground that they would be divulging State or professional secrets by so doing. Should the judicial authorities not deem such excuse or plea well-founded they shall nevertheless abstain from employing any measure of coercion against the Consular official in question. All difficulties of this nature shall be settled through diplomatic channels.

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

Article 8.

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 private papers as well as from the books and papers relating to any commerce or industry in which the respective officials may be engaged.

The official premises of *de carrière* Consular offices shall at all times be inviolable. The local authorities may not enter the consular premises on any pretext, except in the case of proceedings in respect of offences which, under the local law of any part of the country of residence, are punishable with imprisonment exceeding one year or with any severer penalty; nor may they in any circumstances whatever 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.

Article 9.

Consuls and consular agents of each of the two Contracting States shall be entitled to protect and to defend, on the basis of international law and usage, all the rights and interests of the nationals of the country which appointed them.

To this end they may appeal to any of the judicial or administrative authorities of their area for any information or explanations which they may require; they may also appeal to any of the administrative authorities against any breach of conventions or treaties existing between the two countries and against any abuses of which their nationals may have to complain.

Should their complaints not be taken up by the local authorities of their districts, they may not approach the Government of the country of residence direct except in the absence of any diplomatic representative of their own country.

Article 10.

The consuls and consular agents of each of the Contracting Parties shall be entitled, if authorised to do so by the laws or regulations of the country which appointed them, to issue passports and other personal papers to the nationals of that country, and to endorse passports, certificates indicating the origin of goods and other papers.

Article 11.

The Consuls and Consular Agents of each of the Contracting Parties shall be entitled, if authorised to do so by the laws and regulations of the country which appointed them, to legalise signatures of nationals of that country. Such legalisations shall have the same validity as if they had been effected by the notaries or competent authorities of the country in which the consul is resident.

Consuls and Consular Agents of each of the Contracting Parties shall be entitled, if authorised to do so by the laws and regulations of the country which appointed them, to legalise signatures of authorities or officials of that country and of the country of residence.

They shall also be entitled to certify the authenticity of documents drawn up by the authorities of a third country, which concern their nationals only.

Article 12.

Consuls and Consular Agents of each of the Contracting Parties shall be entitled, if authorised to do so by the laws and regulations of the country which appointed them, to translate all documents emanating from private persons or authorities either of the country to which they belong or of that in which they exercise their functions. These translations, when duly signed and bearing the seal of the Consulate, shall have the same validity in each of the two countries as if they had been drawn up by a sworn translator of the country where they are to be used.

Article 13.

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

The said copies shall be issued in the customary form employed in the country where the act has been drawn up, on payment of the fees prescribed by the laws and regulations in force. They shall be applied for and forwarded through the intermediary of the Consulates and Consular Agencies of the Party making the application. They shall, however, be issued free of charge when they are applied for for administrative use or on behalf of indigent persons.

Article 14.

Consuls and Consular Agents of the Contracting Parties shall be entitled, if authorised to do so by the laws or regulations of the State which appointed them, to take, in their offices or on board vessels of their country, any declarations which may be made by masters, members of the crew or passengers, by traders or by any other nationals of their country.

Article 15.

Each of the Contracting Parties undertakes to recognise as valid the following notarial acts drawn up on its own territory by Consuls or Consular Agents of the other country who have been invested with notarial powers by the latter :

(1) Wills of nationals of the country to which the agent who drew up the act belongs ;

(2) Contracts of marriage of nationals of the country to which the agent who drew up the act belongs.

(3) Contracts of marriage of nationals of the country to which the agent who drew up the act belongs and of foreign women who are not nationals of the country where the act was drawn up ;

(4) All acts and contracts other than those enumerated Sections 1) and 2) of the present Article, which exclusively concern nationals of the country to which the agent who drew up the document in question belongs ;

(5) All acts and contracts concerning nationals of the country of the agent who drew them up and of nationals or other inhabitants of the country of his residence, as also all acts and contracts exclusively concerning the latter, provided that, in all these cases, such acts or contracts relate to property situated, or business to be transacted, in the territory of the country which appointed the Consul or Consular Agent.

The first clause of the present Article shall not apply to acts and contracts mentioned in Sections 2, 3 and 4 above, which have for their object the acquisition or transfer of rights *in rem* in respect of landed or immovable property situated in the country where the act was drawn up.

Copies, extracts and transcripts of acts drawn up in virtue of the present Article, duly legalised by the competent Consul or Consular Agent and bearing the seal of the Consulate, shall have the same validity and the same value as evidence for legal or other purposes in Belgium or in Poland as if they had been executed before a notary or other legal officer of either of the countries concerned, 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 subjected, where required, to stamp duty and registration formalities and 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 of an act drawn up in accordance with the present Article, the person concerned may demand to have it compared with the original and to be present when this is done. Such comparison must be made without removing the originals from the place where they are kept.

Article 16.

Until a complete and final agreement has been concluded between the Contracting Parties with regard to estates left by deceased nationals of one of the Parties in the territory of the other Party, the following provisions shall apply :

(1) In the case of the decease of a national of one of the Contracting Parties in the territory of the other, the competent local authorities shall immediately notify the Consul or Consular Agent of the area in which the death occurred and at the same time supply him with such information as may be possible concerning the names and addresses of the heirs and the existence of a testamentary disposition, if any.

Similarly, the Consul or Consular Agent shall notify the local authorities, if he is the first to be informed of the death.

The Consul or Consular Agent shall be empowered to proceed, jointly with the competent local authorities, to the affixing and removal of seals and to the drawing up of an inventory. In cases, however, where any delay would be likely to jeopardise the succession, the said consular authority or local authority shall be empowered to carry out these duties alone, provided that the other authority is informed without delay with a view to its subsequent co-operation.

(2) In the event of absence or incapacity of the heirs and in the absence of testamentary executors or special representatives, the Consul or Consular Agent shall be empowered to take all necessary measures for the preservation and administration of the personal estate and take over everything pertaining to the estate in the possession of private persons or local authorities, under the same conditions as those under which the deceased person himself would have had the right to demand their surrender.

If the action of the Consul or Consul Agent is delayed for any reason, the local authority shall take any necessary measures for the preservation of the personal estate and thereupon inform the competent Consul or Consular Agent.

The measures taken by the local authorities in virtue of the preceding paragraph shall be revoked at the request of the Consul or Consular Agent.

(3) The Consul shall hold in safe-keeping everything pertaining to the personal estate which he has taken over until four months have elapsed from the death of the deceased. The Consul shall, however, be entitled to draw immediately on the assets of the estate for the sums necessary to cover the judicial and consular fees, the sums to be reimbursed to the local authorities, the cost of the last illness and of the funeral of the deceased, the wages of his servants, rent for the last six months and, if necessary, the maintenance of the deceased's family.

The Consul shall not be entitled to surrender anything pertaining to the estate until the fiscal dues have been paid and any claims lodged with him against the estate have been settled or duly secured. This obligation shall cease if, within the following six months, the Consul has not been informed that the said claims have been recognised by the heirs or approved by a judicial decision or lodged in due form with the competent judicial authority of the place where the consul resides.

(4) In all questions arising out of the opening of the succession, the administration and liquidation of estates left by nationals of one of the States in the territory of the other, Consuls shall have full power to represent the absent or incapable heirs who are nationals of the country which appointed them, provided that the latter have not appointed other

representatives. They shall thus be officially recognised as the representatives of these heirs without being obliged to prove their title by a special authority.

As the Consul in his capacity as legal representative of his nationals shall not be treated as personally responsible in connection with any matter relating to the succession.

(5) The provisions of the preceding paragraph shall apply *mutatis mutandis* to cases where a national of one of the Contracting Parties owning property on the territory of the other dies outside that territory.

(6) Should nationals of one of the Contracting Parties interested in a succession opened on the territory of the other be absent or incapable or not represented, the Consul or Consular Agent of the country of which these heirs are nationals may, whatever the nationality of the deceased, act as their representative without being obliged to produce special authority. The Consul or Consular Agent may not act if the said claimants are present or represented. Nevertheless, this provision may not prejudice the rights conferred by treaties on consular officials of the State of which the deceased was a national.

(7) With regard to the estate of a seaman or passenger of one of the Contracting Parties who dies on the territory of the other, whether on board ship or on land, the Consuls of the deceased's country shall possess exclusive competence to draw up inventories and take any other official action for the preservation and liquidation of the estate.

Wages, emoluments, securities and effects belonging to seamen or travellers who are nationals of either of the Contracting Parties and who die on board a ship of the other party, shall be handed over, in the port of arrival, to the Consul of the country of the deceased.

Article 17.

The Consuls of the Contracting Parties may draw the attention of the competent authority of the country in which they are resident to the desirability of providing guardianship for nationals of their country who are minors, it being understood that the said authority alone has the right to decide this question.

Article 18.

Consuls and consular agents of each of the Contracting Parties shall be entitled to afford relief and assistance to merchant ships and war ships lying in a harbour within thier consular area and flying the flag of the country to which the consul belongs.

For this purpose, they may proceed personally or send representatives on board such ships, after they have been admitted to *pratique*. In the case of merchant ships, they may also question the masters and crew, examine the ship's papers, take declarations regarding their voyage, their destination and the events of their journey as provided in Article 14 of the present Convention, draw up manifests and facilitate the clearing of the said merchant vessels.

In ports where a Consul or Consular Agent of one of the two Contracting States resides, the judicial and administrative officials and the Customs officials and agents of the country may not make arrests (except in the case of offenders found *in flagrante delicto*) on board merchant ships of the other Party or conduct any search or examination other than ordinary Customs and medical examinations, or take any other action involving 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 Consuls 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 action of the nature referred to in the previous paragraph undertaken in his absence ; they shall at same time state the reasons which necessitated urgent actions. They shall proceed in the same way even if the Consul or Consular Agent does not reside in the port.

Article 19.

In all that concerns harbour 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 a particular port by one of the Contracting Parties to its own merchant ships or to the merchant ships of a third party 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 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 that State, 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 disorder on board a ship is liable to cause a disturbance 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, notify the competent Consul or Consular Agent in advance.

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.

Article 20.

Consuls and Consular Agents may procure the arrest and return to their ships or to their country of officers, seamen or any other person belonging, in whatever capacity, to the crew of merchant ships of the country which appointed them, who have deserted in the territory of either Contracting Party.

For this purpose they must apply in writing to the competent local authorities and prove by producing the registers of the vessel or the muster-roll of the crew, or, in the absence of these documents, a certified copy thereof, that the persons claimed really belong to the crew. In places where there is no Consul or Consular Agent, a demand for extradition may be made to the local authorities by the master of the ship, who shall observe the above-mentioned formalities.

On the receipt of such duly authenticated demand, the handing over of deserters may not be refused unless it is proved that the person claimed is a national of the country in which the Consul resides or that the deserter has been guilty of some crime or offence on land ; in the latter case the local authority may defer handing over the offender until the court has given judgment and until the sentence has been fully carried out. The said consular officials shall, moreover, be given help and assistance in searching for and arresting such deserters, who shall be removed to the prisons of the country and detained there on the written request and at the expense of the Consulate or Consular Agency, until they are transferred to a vessel of their country or until an opportunity occurs to repatriate them. If, however, such opportunity should not occur within two months from the date of arrest, or the expenses incurred for their detention were not duly paid, the said deserters shall, after three days' previous notice to the Consul or Consular Agent, be released, and may not be re-arrested for the same reason.

The Contracting Parties agree that the officers and seamen or other members of the crew, who are nationals of the country in which they have deserted (also, in the case of Poland, nationals of the Free City of Danzig) shall not be subject to the provisions of the present Article.

Article 21.

When a vessel belonging to the Government or nationals of either Contracting Party is wrecked or stranded on the coast, in a harbour or in the territorial waters of the other, the local authorities shall without delay notify the Consul or Consular Agent of the district in which the casualty has occurred. Salvage operations shall be directed by the Consuls or Consular Agents.

The local authorities shall only intervene to assist the consular officials to keep order, to safeguard the interests of salvage workers not belonging to the crew and to ensure the enforcement of the regulations with regard to the import and export of goods salvaged, and to safeguard the general interests of navigation.

In the absence, and until the arrival, of the Consul or Consular Agent or person delegated by him, the local authorities shall take all necessary steps to protect individuals and preserve articles salvaged from the wreck.

No dues of any kind shall be leviable in connection with the action of the local authorities in these various cases, nor shall any claim be made for the refund of expenses except such as are occasioned by salvage operations and the preservation of articles salvaged and would in a like case be payable by national warships or merchant vessels or vessels belonging to the most-favoured-nation.

In case of doubt as to the nationality of the wreck, the measures referred to in this Article shall come under the exclusive competence of the local authorities.

Goods and articles salvaged shall not be subject to any Customs duty, unless they enter the country for internal consumption.

Article 22.

In the absence of any stipulation to the contrary between the ship-owners, charterers or underwriters, any questions relating to damage suffered at sea by merchant ships of the two countries, whether they enter the respective ports voluntarily or under compulsion, shall be settled by the Consuls or Consular Agents of their own nation, unless the interests of nationals of the country in which the said Consuls or Consular Agents reside, or nationals of a third Power, are involved in such damage; in this case, and failing an amicable arrangement between all the Parties concerned, these questions shall be settled by the local authority.

Article 23.

Each of the contracting Parties undertakes, furthermore, to grant most-favoured-nation treatment to the other Party in regard to the conditions of establishment for Consuls and in 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 rely upon the most-favoured-nation clause to demand for its consular officials and employees exemptions, rights, privileges, immunities and honours other or more extensive than those granted by itself to the consular officials and employees of the same rank and class of the other Party.

Article 24.

For the purposes of this Convention, the term "Consuls" shall include Consuls-General, Consuls and Vice-Consuls, and the term "Consulates" shall include "Consulates-General, Consulates and Vice-Consulates".

Article 25.

All the provisions of the present Convention relating to the powers of Consuls shall also apply to Diplomatic Agents of the Contracting Parties who have consular powers. The diplomatic agent shall notify the Government of the country of residence that such powers have been conferred upon time.

Article 26.

The present Convention shall not apply to the Belgian Congo, but the Belgian Government may at any time, after prior agreement with the Polish Government, extend this Convention to its Colony by simple notification.

Article 27.

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 date of the exchange of ratifications.

The present Convention shall remain in force as long as it has not been denounced by one of the Contracting Parties. Such denunciation shall only become operative after the expiry of six months.

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

Done in duplicate at Brussels, June, 12, 1928.

(Signed) T. FILIPOWICZ. (L. S.) (Signed) HYMANS. (L. S.)
(Signed) Venceslas BABINSKI. (L. S.)
