

N° 3918.

**TCHÉCOSLOVAQUIE ET
UNION DES RÉPUBLIQUES
SOVIÉTIQUES SOCIALISTES**

Convention consulaire, et protocole
final. Signés à Moscou, le 16 no-
vembre 1935.

**CZECHOSLOVAKIA
AND UNION OF SOVIET
SOCIALIST REPUBLICS**

Consular Convention, and Final
Protocol. Signed at Moscow,
November 16th, 1935.

¹ TRADUCTION. — TRANSLATION.

No. 3918. — CONSULAR CONVENTION ² BETWEEN THE CZECHOSLOVAK REPUBLIC AND THE UNION OF SOVIET SOCIALIST REPUBLICS. SIGNED AT MOSCOW, NOVEMBER 16TH, 1935.

French official text communicated by the Permanent Delegate of the Czechoslovak Republic to the League of Nations. The registration of this Convention took place June 22nd, 1936.

THE PRESIDENT OF THE CZECHOSLOVAK REPUBLIC, of the one part, and THE CENTRAL EXECUTIVE COMMITTEE OF THE UNION OF SOVIET SOCIALIST REPUBLICS, of the other part ;

Being desirous of coming to an agreement regarding the reciprocal rights, privileges and immunities of consuls-general, consuls, vice-consuls and consular agents, and to determine their activities and powers ;

Have decided, in execution of the provisions of Article 6 of the Treaty³ of Commerce and Navigation concluded between the two countries on the March 25th, 1935, to conclude a Consular Convention, including an Agreement concerning successions, and have appointed as their Plenipotentiaries for that purpose :

THE PRESIDENT OF THE CZECHOSLOVAK REPUBLIC :

Bohdan PAVLŮ, Envoy Extraordinary and Minister Plenipotentiary of the Czechoslovak Republic at Moscow ;

THE CENTRAL EXECUTIVE COMMITTEE OF THE UNION OF SOVIET SOCIALIST REPUBLICS :

Maxime Maximovitch LITVINOFF, Member of the Central Executive Committee of the Union of Soviet Socialist Republics, People's Commissary for Foreign Affairs ;

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

Article I.

Each of the High Contracting Parties shall be entitled to establish consulates-general, consulates, vice-consulates and consular agencies on the territory of the other Party.

Consuls and officials of the consular service must be nationals of the High Contracting Party which has appointed them and regular officials of the Department of Foreign Affairs of that Party. They may not engage in trade or any other lucrative occupation in the country in which they reside.

For the purposes of the present Convention, the term " consul " shall throughout be deemed to include consuls-general, consuls, vice-consuls and consular agents ; likewise the term " consulate " shall be deemed to include consulates-general, consulates, vice-consulates and consular agencies.

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 Prague, May 23rd, 1936.

³ Vol. CLXI, page 257, of this Series.

Article 2.

Before appointing a consul, the High Contracting Party desiring to appoint him shall apply for the assent of the Party in whose territory the consul will have to perform his official duties.

The diplomatic representative of the High Contracting Party which has appointed the consul shall submit to the Government of the Party on whose territory the consul will have to carry out his official duties the consul's letters of appointment, giving his surname and Christian names, his consular rank, the consular area assigned to him and the place at which he will reside.

Recognition of a consul as such by the Government of the High Contracting Party on whose territory he will have to reside shall be given in the form of an exequatur delivered immediately and free of charge after presentation of the letters of appointment.

Consuls cannot assume their official duties until they have been recognised as such by the High Contracting Party on whose territory they will have to perform the said duties. As soon as such recognition has been granted, consuls shall be entitled to the rights and privileges conferred upon them under the present Convention.

On the strength of the said exequatur the authorities of their consular areas shall immediately take the necessary measures to ensure that the consuls shall be able to perform the duties of their office and that they shall enjoy the immunities and exemptions attaching thereto.

Should one of the High Contracting Parties consider that the exequatur should be withdrawn, it shall communicate its decision to the other Party without being bound to give reasons for its decision.

A special agreement shall be concluded concerning the places of residence of consuls and their areas. Any later change in the areas thus established may be made by mutual agreement between the Governments of the High Contracting Parties.

Article 3.

The number of persons attached to a consulate shall be determined in each case by a special agreement between the Governments of the High Contracting Parties.

The names of the persons attached to a consulate shall be communicated in advance to the High Contracting Party on whose territory the consul carries out his official duties.

Article 4.

Consuls and the officials mentioned in Article 1, paragraph 2, of the present Convention shall not be amenable to the jurisdiction of the judicial and administrative authorities of the State in which they reside in respect of acts accomplished in performance of their official duties.

Article 5.

Consuls may not be arrested in the territory of the country in which they reside, except by reason of the sentence of a court which has become legally executory.

Consuls may be arrested or placed under preventive detention in the case of a judicial enquiry instituted against them in respect of offences against health, life and individual liberty, if the person who has committed the offence has been taken in *flagrante delicto*, and if, under the laws of the State in which the offence has been committed, the said offence involves a penalty depriving the offender of liberty for not less than one year or a severer penalty.

Should the consul be liable for arrest under the circumstances referred to in the previous paragraph, or should a penal enquiry be instituted against him, the legation of the High Contracting Party in question must be previously notified of the fact.

The provisions of the present Article shall be extended to the officials mentioned in Article 1, paragraph 2, of the present Convention.

Article 6.

Consuls shall be liable to be called as witnesses before the courts of the country in which they reside, if the local judicial authorities deem it to be necessary. Nevertheless, in such cases the judicial authorities must request them to appear by an official letter addressed to the consulate without any threat of penalties in case of non-appearance.

Should the consul be prevented from appearing before the judicial authorities for reasons connected with his duties or with his health, he must reply to the request in writing and without delay ; his evidence shall be taken in the premises of the consulate or in his private residence in the form required by the legislation of the High Contracting Party which the said authorities represent, or by sending a written deposition bearing his signature and his official seal.

Consuls and consular officials may decline to give evidence on circumstances connected with the performance of their official duties.

Any cases which may arise with regard to non-appearance before the courts or refusal to give evidence shall be settled solely through diplomatic channels. No coercive measures may be taken by the court.

The provisions of the present Article shall also apply to procedure before the administrative authorities.

Article 7.

The consular offices, the consular archives and the official correspondence of consuls shall be inviolable ; they must, however, be kept completely apart from the personal effects and private correspondence of the consul. Should they be in the same apartment, they must be kept in a separate room. The consul may permit the authorities of the country of residence to search the consular offices or to inspect them. These authorities shall not, however, be entitled on any pretext to inspect, seize or place under seal the official correspondence, books, documents or any articles which are in the consular offices and belong to such offices.

Consular offices and consular archives may not be used for asylum purposes.

The authorities of the country in which the consul resides may not enter the private residence of consuls without the latter's consent.

Article 8.

Consuls shall be entitled to affix over the outer door of the building in which the consular office or chancellery is situated a shield bearing the arms of the State which has appointed them, with the inscription " Consulate of ".

They may also display the flag of the State which has appointed them on the building in question and on any vehicles (carriages, motor-cars, boats, etc.) which they use in the performance of their duties.

Article 9.

Consuls, the officials mentioned in Article 1, paragraph 2, of the present Convention and all consular employees who are not nationals of the country in which they reside, together with their wives and their children being minors, shall be exempt from all direct personal taxes and charges on household effects having the character of a personal tax levied by any authority whatsoever in the States concerned. They must, however, pay taxes representing remuneration for special services rendered by the State or any other public institution or corporation.

Nevertheless, they shall not be exempt from taxes and charges on capital invested or revenue. other than their official salaries, received in the country in which they reside.

The persons mentioned above and personnel solely employed in the service of the office or in that of the families of consular officials, not being nationals of the country in which they reside, shall also be exempt from all personal contributions levied in the country in which they reside by the State or by local authorities.

Consuls and the consular officials mentioned in Article 1, paragraph 2, shall also be exempt from material military charges such as contributions, requisitions and billeting so far as concerns movable or immovable property or vehicles used for official or personal purposes.

Article 10.

Seals and stamps, shields, flags, badges, official printed matter for current official work and fittings and office furniture for use in the consular service shall be admitted free of Customs duties and all other charges.

Article 11.

In case of the absence, sickness or death of a consul or of his being prevented by any other circumstance from carrying out his duties, his deputy who must be a member of the staff of the consulate, and whose name must have been previously communicated to the Department of Foreign Affairs of the country in which the consul resides, shall be authorised, without any special agreement for the purpose being required, to perform the duties of the consular office *ad interim*, and shall enjoy during that time the rights, privileges and immunities conferred upon consuls by the present Convention.

If a consul is unable to perform the duties of his office he must inform the competent authorities of his consular area.

Should a consul die without leaving behind him a qualified representative of his country, the local authorities must apply through the regular channels to the legation of the High Contracting Party for the purpose of having the consular archives sealed.

Article 12.

Consuls shall be entitled to protect nationals of the State which has appointed them and to defend, in accordance with international law and usage and within the limits of their competence, all their rights and interests and to give aid and assistance to their trade and shipping.

They shall be responsible for the protection of widows, minors and persons incapable of looking after their own interests who are nationals of the State which has appointed them.

For this purpose, consuls shall be authorised in the performance of their duties, provided that they comply with the regulations in force in each of the High Contracting Parties, to approach the competent authorities with a view to obtaining information of any description, or to protesting against any infringement of rights and interests, or against any abuses of which the nationals of the High Contracting Party in question may have reason to complain.

The written communication to the authorities referred to in the previous paragraph shall be made in the official language of the State in which the consul resides.

Should consular action have no effect, resort shall be had to representations through diplomatic channels.

Consuls may not communicate direct with the Department of Foreign Affairs of the country in which they reside or with local authorities of that country outside their consular area.

Article 13.

Consuls shall be authorised to keep registers of nationals of their country and to furnish such nationals with passports and other identity documents, and certificates concerning official acts carried out by consuls, and also to visa passports, certificates of origin of goods and similar documents.

Article 14.

Consuls shall be entitled, in so far as they are authorised thereto by the laws of the High Contracting Party which has appointed them, to perform the following acts in their offices, in their private residences or in those of the parties concerned :

(1) To receive all statements which nationals of the State to which the consuls belong may have to make ;

(2) To draw up, attest and receive for safe custody wills and deeds-poll executed by nationals of the High Contracting Party which has appointed them ;

(3) To draw up, attest and receive for safe custody deeds the parties to which are nationals of the countries which they represent, and also deeds the parties to which are respectively nationals of the consul's own country and nationals of the country of residence. The provisions of this paragraph shall not apply to contracts which relate to the conveyance and alienation of titles to buildings and land situated in the territory of the consul's country of residence ;

(4) To draw up, receive and attest deeds the parties to which are nationals of the consul's country of residence or nationals of a third Power, or between such persons and nationals of the consul's country of residence, provided that such deeds relate exclusively to interests situated in the territory of the country which the consul represents or to transactions which must be concluded or carried out in that country ;

(5) To attest the signatures of nationals of the country which the consul represents to documents of every description, to authenticate certificates and documents of every description emanating from the authorities or officials of his own country or of his country of residence, and to authenticate copies of the said documents ;

(6) To make translations of certificates and documents of every description issued by the authorities or officials of the High Contracting Party which has appointed the consul or of the country of his official residence.

All the above certificates and documents, as also translations and copies of or extracts from them, which have been drawn up or authenticated by the consul and sealed with his official seal, shall be regarded in the consul's country of residence as authentic or legally authenticated certificates, documents, translations, copies or extracts, and shall have the same legal effect and the same authority as if they had been drawn up, authenticated, or translated by a public official or by a competent authority in the consul's country of residence.

Nevertheless, when the above-mentioned certificates and documents relate to transactions which have to be carried out in the consul's country of residence, they shall be subject to stamp and other duties and must be authenticated by the Department of Foreign Affairs of the consul's country of residence.

Article 15.

Consuls shall be entitled, if authorised thereto by the laws of the High Contracting Party which has appointed them, to receive statements relating to civil status acts (registration of births, death certificates) from the nationals of the country which has appointed them.

Nevertheless, the provisions of the previous paragraph are without prejudice to the obligation of the persons concerned to make the declarations required by the laws of the country.

Article 16.

Consuls shall be entitled, if authorised thereto by the laws of the State which has appointed them, to supervise the guardianship and trusteeship of minors, the feeble-minded and other incapable

persons who are nationals of the High Contracting Party which appointed the consul, and who reside in his consular area.

For that purpose, they shall have the right to appoint guardians or trustees and to supervise these persons in the performance of the duties entrusted to them.

The local authorities must immediately notify the consul of the other High Contracting Party of any cases where the appointment of a guardian or trustee appears to be necessary in the interests of a national of the State to which the consul belongs.

Article 17.

In the case of the decease of a national of either High Contracting Party in the territory of the other Party, the local authorities shall immediately notify the consul direct and communicate to him any information which they possess concerning the property left by the deceased and its value, the existence of heirs and other persons entitled to a share of the estate, their addresses, and the existence of a will made by the deceased ; they must also forward to the consul, as soon as possible and free of charge, a copy of the death certificate of the deceased.

If the consul receives such information before it reaches the local authorities, he shall immediately communicate the particulars mentioned in the previous paragraph to the competent local authorities.

All personality of the deceased which is in the territory of one of the High Contracting Parties shall be handed over to the consul of the other Contracting State of which the deceased was a national at the time of his death. The consul shall not, however, thereby become liable for any debts which may be chargeable against the estate.

Before handing over the estate to the heirs-at-law, the consul shall be obliged to pay or provide for the payment of succession duties and all claims against the estate, in so far as the latter is adequate to meet such charges.

Should the estate be sent out of the country by the consul, he must hand over to any heirs-at-law that may be domiciled in the country of his residence their share of the estate, whatever the nationality of such heirs-at-law may be. These obligations of the consul towards claimants to the succession or towards creditors to the estate shall cease to have effect if the consul has not been informed, within six months from the date of death, that the claim on the inheritance or the debt has been admitted or is still *sub judice*.

The consul shall be authorised, in so far as the laws of his country allow, immediately to approach the competent authorities of the country in which he resides in order to arrange for the winding up of the estate and to settle disputes and claims with regard to the estate which have been brought before him in a regular manner.

In all cases connected with succession which are settled in the territory of one of the High Contracting Parties, the consul of the other Party shall have the right, without producing full powers, to represent the interests of absent heirs-at-law, inless the latter have appointed special representatives for that purpose.

It shall be understood that, under the laws of their countries, the local authorities shall be obliged to give the consul effective assistance in order to enable him to carry out the duties provided for by the present Article.

Article 18.

Consuls, in so far as authorised to do so by the laws of their country and the laws of the country in which they reside, shall have the right to give all necessary assistance to aircraft of their country which may be in the territory of the other country.

Article 19.

All the provisions of the present Convention concerning the powers of consuls shall *ipso facto* apply to diplomatic missions in so far as they exercise consular functions in the country in which they reside.

Article 20.

The consuls of each of the High Contracting Parties shall enjoy in the territory of the other Party, subject to reciprocity, in the performance of their ordinary international consular duties, all the rights, facilities, privileges and immunities which are or may hereafter be granted to consuls of the most-favoured nation.

Article 21.

The present Convention shall be ratified and the exchange of the instruments of ratification shall take place at Prague as soon as possible.

It shall come into force 15 days after the date of the exchange of the instruments of ratification.

It shall cease to have effect on the expiry of one year from the date of denunciation notified by either High Contracting Party.

In faith whereof the above-mentioned Plenipotentiaries have signed the present Convention and have thereto affixed their seals.

Done at Moscow, the 16th day of November, 1935.

(L. S.) Bohdan PAVLŮ.

(L. S.) Maxime LITVINOFF.

FINAL PROTOCOL.

Ad Article 1.

1. The High Contracting Parties agree that nationals of third countries may not be employed on the office staff of their consulates.

2. The High Contracting Parties further agree that among that staff they will not employ persons who formerly possessed the nationality of the State in which the consulate is situated.

Ad Article 2.

1. In the case of withdrawal of an exequatur it is understood that the communication provided for in Article 2, paragraph 6, shall precede the actual withdrawal of the exequatur.

2. Consuls and all the consular officials mentioned in Article 1, paragraph 2, shall be provided by the Department of Foreign Affairs of the State in which they reside with a special identity card bearing the holder's photograph, attesting his official status and recommending him to the protection of the local authorities.

Ad Article 7.

The right of the consuls of both Parties to correspond in cipher shall be regulated by the legislative provisions of the country in which they reside.

Ad Article 10.

1. As regards the importation of personal property and household effects brought in on first establishment of residence, the consuls of both Parties shall enjoy the rights in this respect granted by the laws and regulations of the country in which the consul resides.

2. The articles provided for in Article 10 of the Convention and in point 1 above may be re-exported and shall not be liable to any tax on re-export.

Ad Article 15.

The two High Contracting Parties agree that the question of consular powers in respect of the declaration of marriages before their consuls may be settled later by an agreement between the Parties.

Ad Article 17.

The question of the conclusion of a special agreement concerning succession may be settled later by an agreement between the Parties if they are of opinion that circumstances so require.

Done at Moscow, the 16th day of November, 1935.

Bohdan PAVLŮ.

Maxime LITVINOFF.