

N° 247.

ALLEMAGNE ET POLOGNE

Convention additionnelle à la Convention germano-polonaise du 1^{er} octobre 1919, sur la mise en liberté des personnes détenues et l'octroi d'une amnistie (convention d'amnistie germano-polonaise), signée à Berlin le 12 février 1921.

GERMANY AND POLAND

Supplementary Convention to the German - Polish Convention of October 1, 1919, concerning the release of persons in custody and the granting of amnesty (German-Polish Amnesty Treaty), signed at Berlin, February 12, 1921.

¹ TRANSLATION.

No. 247. — SUPPLEMENTARY CONVENTION TO THE GERMAN-POLISH CONVENTION OF OCTOBER 1, 1919, CONCERNING THE RELEASE OF PERSONS IN CUSTODY AND THE GRANTING OF AMNESTY (GERMAN-POLISH AMNESTY TREATY), SIGNED AT BERLIN ON FEBRUARY 12, 1921.

The German Government and the Polish Government, being desirous that the existing differences should be settled, have agreed to come to an arrangement supplementing, both in point of time and content, the provisions of the Treaty of October 1, 1919, regarding the release of persons in custody and the granting of amnesty, and have for this purpose appointed as their Plenipotentiaries :

THE GERMAN GOVERNMENT :

M. Gustav BEHRENDT, Director at the Foreign Office, and
M. Ernst SCHMIDT, " Hilfsreferent " at the Foreign Office.

THE POLISH GOVERNMENT :

Dr. Alfred VON WYSOCKI, Councillor of Legation, Chargé d'Affaires of the Polish Republic, and
Captain Kasimir Stanislaus SZCZEPANIK.

The Plenipotentiaries, having exchanged their full powers, found in good and due form, have agreed as follows :

Article 1.

The Contracting Parties shall without delay release all persons not yet liberated who were interned on the occasion of the recent Polish disturbances in the frontier territory of Upper Silesia or in connection with the advance of the Russian Soviet troops in Polish territory or who were arrested as hostages, and shall forthwith permit them to return to their homes or to any place of residence chosen by them. There shall be excepted persons awaiting trial in custody or serving a sentence to whom the provisions of Articles 6 to 9 concerning the granting of amnesty do not apply.

Poland shall in like manner immediately release those German nationals who are being retained in the Polish army against their will.

Article 2.

On the coming into force of this Treaty all disciplinary penalties imposed on persons to be released under Article 1 shall forthwith be remitted.

¹ Translated by the Secretariat of the League of Nations.

Article 3.

All persons who are to be released shall be allowed to take with them the articles in their possession, or which had been taken from them, unless there is reason to suspect they have acquired them unlawfully. Military firearms and ammunition shall be excepted.

Article 4.

The arrangements for the transport and care of the persons who, according to Article 1, are to be released from the territory of one of the Contracting Parties and to proceed to the territory of the other shall be effected by the releasing State until they are handed over to their competent home authorities. This State shall also arrange for sending home persons who remain in its own territory.

Article 5.

Each of the Contracting Parties shall be at liberty to verify the execution of the provisions of Articles 1 to 4 on the spot by its own representatives or by the mixed Commissions provided for in Article 11.

Article 6.

Each of the Contracting Parties shall grant full amnesty in respect of acts calling for judicial punishment or other disciplinary measures committed before December 1, 1920, in particular during the Polish disturbances in the ceded or plebiscite areas, or on the occasion of the advance of the Russian Soviet troops in Polish territory, which may be attributed to military, political or national manifestations in favour of the other party or of a third power. Under this category shall be included all acts which may be described as high treason, or the betrayal of military secrets, and attempts to influence the allocation of areas whose attribution to the one or other State is to be determined by the Commission for the delimitation of the Polish-German frontier. There shall not be included under this category criminal acts calculated or intended to affect the plebiscite in Upper Silesia by influencing individual voters or the whole proceedings. (Treaty of Peace, Article 88, Annex, Section 3, Paragraph 6.)

Article 7.

In so far as amnesty is granted, penalties already imposed shall be remitted, legal proceedings which are pending shall cease, new proceedings shall not be instituted, and costs shall not be collected.

Article 8.

Germany and Poland respectively undertake, in so far as their own nationals are concerned, to permit all persons to return to their former domiciles who :

(a) Were compelled to leave the territory of one of the two States on account of one of the offences specified in Article 6 ;

(b) Fled from the territory of one of the two States in consequence of the war between Poland and Soviet Russia, or of an agitation directed against Germans or against Poles ;

(c) are released in accordance with Article 7.

Such persons shall be subject to no other restrictions than those imposed on the rest of the population.

Article 9.

In so far as amnesty is granted, property seized in the course of legal proceedings in which a final decision has not yet been given shall be restored. Bail and similar payments which were given or made to avoid internment, arrest or removal shall be refunded even if they are legally forfeited by the failure of the person on whose behalf they were given to carry out the obligations imposed upon him.

Article 10.

Neither of the Contracting Parties shall in future subject any person to exceptional treatment on account of any activity of a political or national character engaged in before December 1st, 1920.

Article 11.

In order to ensure the release by both sides of persons in custody in accordance with the provisions of Article 1 to 5 of this Treaty, and to remove any doubt as to the legal interpretation of the Treaty, mixed Commissions shall be set up as required, which shall consist of a national of each of the Contracting Parties. The Commissions shall in particular have the right to visit for this purpose all prisons and prison camps in the territories of the two Contracting Parties, and to examine all material papers and documents concerning such release.

Failing agreement between the two members of a Commission, a decision shall be given by a neutral arbitrator whom the President of the Swiss Confederation shall be asked to appoint.

The decision of the Commissions and arbitrators shall be binding on the authorities of both Parties.

Article 12.

The provisions of this Treaty shall not apply to such persons as have been guilty of

- (a) taking up arms and assisting the Russian Soviet troops against the Polish Army ;
- (b) acting as administrative agents in the Russian Soviet administration of the territory occupied by the Red Army.

Article 13.

The provisions of this Treaty shall not affect :

- (a) The German-Polish Agreement concluded in the Protocol of October 13, 1920, at Allenstein, regarding the regulations for the return of persons who fled to Germany from the district of Soldau in consequence of hostilities.

(b) The German-Polish Agreement regarding the exchange of prisoners laid down in the Protocol of November 23, 1920, which is still valid.

(c) The German-Polish Agreement concluded in the Protocol of December 13, 1920, at Marienwerder, regarding the regulations for the return of persons who fled from the Strasburg district to Germany in consequence of hostilities.

Article 14.

This Treaty, the German and Polish texts of which are both authentic, shall be ratified and the instruments of ratification shall be exchanged at Warsaw as soon as possible.

The Treaty shall come into force on the day of the exchange of the instruments of ratification.

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

Done in duplicate at Berlin on February 12, 1921.

(L. S.) (Signed) GUSTAV BEHRENDT.

(L. S.) (Signed) ERNST SCHMIDT.

(L. S.) (Signed) Dr. ALFRED WYSOCKI.

(L. S.) (Signed) KAZIMIERZ STANISLAW SZCZEPANIK.

FINAL PROTOCOL.

The undersigned Plenipotentiaries of the Polish Government and of the German Government :

For the POLISH GOVERNMENT :

Dr. Alfred von WYSOCKI, Councillor of Legation, Chargé d'Affaires of the Polish Republic; and
Captain Kasimir Stanislaus SZCZEPANIK.

For the GERMAN GOVERNMENT :

Herr Gustav BEHRENDT, Chief of Department at the Ministry for Foreign Affairs; and
Herr Ernst SCHMIDT, Assistant Reporter at the Ministry for Foreign Affairs,

in signing the present Treaty make the following declaration :

The release by both Parties, in accordance with the provisions of Articles 1 to 5 of this Treaty, of persons who have been detained shall be effected immediately without waiting for the day laid down in Article 14 as the official date of the coming into force of the Treaty. In accordance with Article 11, mixed Commissions shall immediately be appointed for this purpose.

Done in duplicate in Polish and in German at Berlin on February the twelfth, 1921.

(Signed) Dr. ALFRED WYSOCKI.

KAZIMIERZ STANISLAW SZCZEPANIK.

GUSTAV BEHRENDT.

ERNST SCHMIDT.