

N° 1043.

LETTONIE ET POLOGNE

Convention consulaire, signée à Riga,
le 3 janvier 1924.

LATVIA AND POLAND

Consular Convention, signed at Riga,
January 3, 1924.

¹ TRADUCTION. — TRANSLATION.No. 1043. — CONSULAR CONVENTION² BETWEEN LATVIA AND POLAND, SIGNED AT RIGA, JANUARY 3, 1924.

French official text communicated by the Latvian Ministry of Foreign Affairs. The registration of this Convention took place December 28, 1925.

LATVIA, of the one part, and POLAND, of the other part, being desirous of concluding an agreement regarding the admission to their respective territories of consular officials and of determining the reciprocal rights, privileges and immunities, and of defining the powers, of Consuls-General, Consuls, Vice-Consuls and Consular Agents, have resolved to conclude a Consular Convention and for this purpose have appointed as their Plenipotentiaries :

THE PRESIDENT OF THE LATVIAN REPUBLIC :

M. Jānis VESMANS, Secretary of the Diet, a former Envoy Extraordinary and Minister Plenipotentiary ;

THE PRESIDENT OF THE POLISH REPUBLIC :

M. Aleksander ŁADOŚ, Envoy Extraordinary and Minister Plenipotentiary at Riga ;
Dr. Karol POZNAŃSKI, Chief of a Department at the Ministry of Foreign Affairs,

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

Article 1.

For the purposes of this Convention, the terms " Consul " and " Consular Official " shall include all officers of the Consular Service who are called upon to perform the duties imposed by the consular regulations of the respective Parties.

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

Either of the Contracting Parties may appoint Consuls-General, Consuls, Vice-Consuls or Consular Agents in the ports, cities and towns of the other Party. The Contracting Parties reserve the right, however, 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.

¹ Traduit par le Secrétariat de la Société des Nations.

¹ Translated by the Secretariat of the League of Nations.

² The exchange of ratifications took place at Warsaw, December 16, 1925.

Article 2.

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

When a Consul presents his credentials, the area within which he is to perform his duties shall be fixed ; any subsequent change in this area shall be communicated to the Government of the other Contracting Party.

The " *exequatur* " necessary for the free exercise of his functions shall be delivered to the Consul without delay or charge, and on the production of the said " *exequatur* " the higher authorities of his consular area shall immediately take the necessary steps to enable him to perform his duties and to give him the benefit of the immunities and exemptions to which he is entitled.

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

Article 3.

In the case of the absence, serious illness or decease of Consuls or Consular Agents, the Vice-Consuls, Secretaries or Consular Attachés shall be entitled as of full right to perform the duties of the consular office *ad interim*.

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

Article 4.

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

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

Article 5.

Consuls and Consular Agents of the Contracting Parties shall enjoy in the territory of the other Party exemption from military billeting, payments and obligations and from any direct taxation imposed by any authority of the State in question which is in the nature of a personal tax, provided that they are nationals of the Contracting Party which appointed them and that they do not engage in commerce or industry or any other occupation ; if they do so occupy themselves, they shall be subject to the same taxes, charges and dues in respect of their commerce or industry as private persons.

It is understood that exemption from direct taxation shall only apply to permanent officials of the Consular Service who are nationals of the State which appointed them and that such exemption shall in no case be more extensive than that accorded to the diplomatic representatives of the Contracting Parties.

The privileges and exemptions mentioned in the first paragraph of the present article shall also be granted, subject to reciprocity, to other consular officials, provided that they are permanent officials and that they are nationals of the State which appointed them.

It is understood that no consular official shall be exempt from taxes on any immovable property which he may possess or on any capital which he may have invested in industrial or commercial undertakings in the country in which he exercises his functions.

Consuls and Consular Agents who are nationals of the State which appointed them may not be subjected to arrest or preventive detention except for offences which, under the local legislation of any part of the country in which they reside, are punishable with imprisonment or similar deprivation of liberty for a period exceeding one year, or with a more severe penalty.

In the case of the arrest or prosecution of a Consul, Consular Agent, Secretary or other consular official, the Government of the State in the territory of which the arrest or prosecution takes place shall immediately inform the diplomatic representative of the State which appointed the said consular official.

Article 6.

Consuls and Consular Agents shall be asked to accede to requests to appear as witnesses which may be addressed to them in the form of official correspondence, and without any threat of penalties in the event of their non-appearance by the Courts of the State in which they reside ; but, if they are nationals of the State which appointed them, they may adduce as legitimate motives for non-attendance hindrances resulting from illness or the urgent necessities of the service. In the event of the said consular officials failing to appear before the Courts for the reasons mentioned above, the judicial authorities shall proceed to their offices or residences and ask them for a written statement in the form provided for by the legislation of the country, or take their evidence.

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

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

Article 7.

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 objects forming part thereof. These books, papers, and objects shall always be kept completely separate from books and papers relating to the commerce or industry in which the respective Consular officials may be engaged, and from their private documents and other papers.

The official premises of Consuls and Consular Agents shall at all times be inviolable. The local authorities may not under any pretext, except in the case of proceedings in respect of an offence of the kind mentioned in Article 5, paragraph 5, of the present Convention, enter the official premises, and may not under any circumstances whatever examine or seize the official papers which are kept there.

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

If a Consul or Consular Agent who is called upon by the local judicial or administrative authorities to hand over documents in his possession or to produce them refuses to do so, the judicial or administrative authorities shall nevertheless refrain from employing any measure of coercion against the said Consular official, and shall leave all difficulties of this nature to be settled through the diplomatic channel.

Article 8.

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

To this end they may appeal to any of the authorities of their district against any breach of Conventions or Treaties existing between the two countries and against any abuses of which their nationals may have to complain.

Article 9.

Consuls and Consular Agents of the Contracting Parties, in so far as they are authorised to do so by the authorities of the State which appointed them, shall be entitled :

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

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

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

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

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

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

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

Article 10.

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

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

Article 11.

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

Article 12.

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

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

Article 13.

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

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

Paragraph 2. The estate of Poles in Latvia and of Latvians in Poland shall not be taxed with death duties other or higher than the estate of nationals.

Paragraph 3. If a national of one of the Contracting Parties dies leaving the whole or part of his estate in the territory of the other Party, the authorities of the latter State shall in principle confine themselves to preserving intact the property belonging to the estate and to safeguarding the succession rights and the claims of their own nationals, of the inhabitants of the country and of the Treasury.

Paragraph 4. The authorities of the State of which the deceased was a national shall be competent to take decisions concerning succession rights in respect of the movable property.

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

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

Paragraph 5. All questions relating to succession to immovable property shall be decided by the authorities of the State in which such property is situated.

Paragraph 6. Property of which the deceased was not able to dispose *mortis causa* (property in trust) shall be dealt with according to the laws of the State in which it is situated.

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

Paragraph 7. If the property left by the deceased is escheatable according to the laws of the State of which he was a national, it shall be subject, as an escheatable estate, to the laws of the State in the territory of which it is situated at the time of the death of the *de cuius*.

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

Paragraph 8. In the case of the opening of a succession relating to an estate left by a national of one of the Contracting Parties in the territory of the other Party, the local authorities shall be required to notify immediately the nearest Consular authority of the deceased's country. Whenever possible, the local authorities shall communicate at the same time, to the consular authority, any particulars that may be available regarding the heirs and their place of residence, the existence of a *mortis causa* deed and the measures with regard to the preservation of the estate which have been taken by the said authorities.

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

In the case of movable property, the consular authority shall affix the seals, draw up an inventory of the movable property and arrange for the administration and liquidation of the estate; this does not preclude the intervention of the local authorities, however, in so far as they may be called upon under Section 3 of the present article to take measures for the safeguarding of succession claims and rights.

Paragraph 9. The property of the deceased shall not be handed over to the lawful heirs, or sent abroad, until the liabilities in respect of death duties, claims put forward against the estate, and indisputable succession rights of nationals of the State in which the property is situated, and of persons domiciled therein, have been discharged or the discharge thereof sufficiently guaranteed.

The Consular authority may, however, advance out of the estate the expenses of the last illness and of the funeral of the deceased, the wages of his servants, the rent due for the last half-year, the legal, consular and similar fees and, in cases of urgency, the necessary maintenance expenses of the family of the deceased.

Nevertheless, the creditors of the estate cannot oppose the handing over of the property concerned if, within nine months from the decease of the *de cuius*, they have not been able to prove that their claims have been recognised by the heirs, or admitted by a binding judicial decision or at least been duly submitted to the competent judicial authority.

Paragraph 10. In all questions arising out of the passing, administration and liquidation of estate left by the nationals of one of the Contracting Parties in the territory of the other, the respective consular officials shall have full power to represent the absent heirs, and shall be recognised as their legal representatives, without being obliged to prove their title by a special authority, provided that the said heirs have not appointed other representatives and are nationals of the State which appointed the consular officials.

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

Paragraph 11. The consular officials of the Contracting States shall possess exclusive competence in respect of the taking of inventories and other acts involved in the preser-

vation and liquidation of the estates of seamen, passengers and other travellers of their nation dying in the course of their journey, in port, on land, or on board ship.

Article 14.

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

Article 15.

The Consuls and Consular Agents of each of the Contracting Parties shall be entitled to render all help and assistance to merchant ships and warships of their nation, calling at the ports of their consular area.

To this end they may proceed personally or send representatives on board merchant ships and warships of their nation after these ships have been admitted to free *pratique*.

In the case of merchant ships they may also interrogate the captains and crews, examine the ship's papers, take cognisance in conformity with Article 9 of the present Convention of declarations regarding their voyage, their destination and the events of the journey ; draw up manifests and facilitate the departure of their vessels ; and accompany the captains or crews before the Courts and administrative offices of the country and assist them in any business they may have to transact.

In ports in which there resides a Consul or Consular Agent of one of the Contracting Parties, the judicial and administrative officials and the Customs officers and agents of the country may not make visits or searches on board merchant ships, other than ordinary Customs and medical visits, or arrest or imprison any person or effect any other official act necessitating constraint, without notifying previously, or, in urgent cases at the moment 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 visit. They must also give the Consul or Consular Agent sufficient notice 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 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, proceedings shall be taken in his absence. The competent local authorities shall nevertheless be obliged to inform the Consul or Consular Agent without delay of any visit or other official proceedings of the nature referred to in the previous paragraph effected in their absence, and, at the same time, to state the reasons which necessitated urgent action ; they shall do so even if the Consul or Consular Agent does not reside in the port.

Article 16.

In all that concerns harbour regulations, the loading and unloading of merchant ships, and the safeguarding of merchandise, goods and chattels, the laws, decrees and regulations of the country shall be observed, subject to the express conditions that any privilege or advantage which may be granted in a given port by one of the Contracting Parties to the merchant ships of a third Power 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 the State which appointed them,

disputes of all kinds which may arise between the captains, officers and seamen of such ships, especially those relating to pay and the execution of contracts entered into between them.

The local authorities shall only be entitled to intervene when the disturbances occurring on board ship are of a nature to endanger public tranquillity on land or in the harbour, or when a person not belonging to the crew is involved. Even in this event, the local authorities shall notify the competent Consul or Consular Agent, if possible before taking action.

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

Article 17.

Consuls and Consular Agents may cause to be arrested and sent back to their ships or to their country, officers, seamen or any other persons belonging, in whatever capacity, to the crew of warships or merchant ships of their nation who have deserted on the territory of either of the Contracting Parties.

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 wanted really belong to the crew. In localities in which there is no Consul or Consular Agent, a request for extradition may be addressed to the local authorities by the captain or person in command of the vessel, who shall observe the formalities laid down in the present paragraph.

On the receipt of such a duly authenticated request, the handing over of deserters cannot be refused unless it is proved that the person wanted is a national of the country or that the deserter has committed some crime or offence on land; in the latter case the local authority may postpone handing over the offender until the competent court has delivered its sentence and until such sentence has been fully carried out.

The said consular officials shall, moreover, be given every help and assistance in seeking and arresting such deserters, who shall be conducted 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, the said 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 that the officers and seamen or other members of the crew who are nationals of the country in which they have deserted shall be exempted from the provisions of the present article.

Article 18.

When a vessel belonging to the Government or to nationals of one of the Contracting Parties is wrecked or runs aground on the coast of the other, the local authorities shall notify without delay the Consul or Consular Agent stationed in the area in which the mishap has occurred.

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

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

In the absence and until the arrival of the Consuls, Consular Agents or their representatives, the local authorities shall take all necessary measures for the protection of the persons and preservation of the effects which have been saved from the wreck.

No charges of any kind shall be made in respect of the intervention of the local authorities in these cases except those necessitated by the salvage operations and the preservation of the salvaged effects and those to which the warships or merchant ships of the most-favoured nation would be subject in similar circumstances.

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

Salvaged goods and merchandise shall not be subject to any Customs duty unless they come on the market for internal consumption.

Article 19.

Whenever no provisions to the contrary have been agreed upon by the shipowners, freighters or underwriters, questions relating to damage suffered at sea by warships or merchant ships of the two countries, whether they enter the respective ports of their own free will or by compulsion, shall be settled by the Consuls or Consular Agents of their nation, unless nationals of the country in which the said Consuls or Consular Agents reside or those of a third Power are concerned in such damage; in this case, and in the absence of a friendly agreement between all the parties concerned, they shall be settled by the local authorities.

Article 20.

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

Article 21.

Whenever reference is made in the present Convention to "Consuls", this term shall be taken to mean Consuls-General, Consuls and Vice-Consuls; similarly, the term "Consulates" shall be taken to mean Consulates-General, Consulates and Vice-Consulates.

Article 22.

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

Article 23.

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

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

Done in duplicate at Riga, January 3, 1924.

(Signed) J. VESMANS.

(Signed) A. ŁADOŚ.

(Signed) K. POZNAŃSKI.