

No. 2097

**UNITED STATES OF AMERICA
and
POLAND**

Exchange of notes constituting an agreement relating to criminal offenses committed by members of the armed forces of the two countries. Warsaw, 5 and 29 August 1946

Exchange of notes constituting an agreement amending the above-mentioned Agreement. Warsaw, 6 February and 3 and 14 April 1947

Official texts: English and Polish.

Registered by the United States of America on 12 February 1953.

**ÉTATS-UNIS D'AMÉRIQUE
et
POLOGNE**

Échange de notes constituant un accord relatif aux actes délictueux commis par des membres des forces armées des deux pays. Varsovie, 5 et 29 août 1946

Échange de notes constituant un accord modifiant l'Accord susmentionné. Varsovie, 6 février et 3 et 14 avril 1947

Textes officiels anglais et polonais.

Enregistrés par les États-Unis d'Amérique le 12 février 1953.

No. 2097. EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT¹ BETWEEN THE UNITED STATES OF AMERICA AND POLAND RELATING TO CRIMINAL OFFENSES COMMITTED BY MEMBERS OF THE ARMED FORCES OF THE TWO COUNTRIES. WARSAW, 5 AND 29 AUGUST 1946

I

The American Ambassador to the Polish Acting Minister of Foreign Affairs

EMBASSY OF THE UNITED STATES OF AMERICA

No. 522

Warsaw, August 5, 1946

Excellency :

I have the honor to refer to Your Excellency's Ministry Note No. 21/3393/46 of April 12, 1946,² acknowledging the Embassy's Note No. 318 of March 15, 1946² acknowledging the Embassy's Note No. 318 of March 15, 1946² and submitting a counterproposal for the exchange of certain categories of military personnel accused of committing crimes, respectively, in territory of the Polish Republic or under the jurisdiction of the United States Forces, European Theater. I wish also to refer to several conversations between officers of the Embassy and of the Ministry regarding the interpretation to be placed on certain clauses of the Polish counterproposal and especially to a conversation on July 16, 1946 when Mr. Zlotowski brought to the attention of Mr. Dorsz the text of an amendment to the Polish counterproposal which the Polish Government would find acceptable.

The Embassy's translation of the Polish counterproposal of April 12, 1946, as amended on July 16, 1946, reads as follows :

Article 1

Paragraph 1. Members of the Armed forces of the United States of America who, while on the territory of the Polish Republic in an official or other character, commit an offense or common crime, subject to punishment on the strength of Polish law, will be handed over by the Polish Government to the American military authorities for judgment and punishment. Whether these persons are on the territory of the Polish Republic legally or illegally will not be taken into consideration.

Paragraph 2. Persons who have committed an act endangering the security or interests of the Polish State will not be handed over.

¹ Came into force on 29 August 1946, by the exchange of the said notes.

² Not printed by the Department of State of the United States of America.

Article 2

Paragraph 1. Members of the armed forces of the Polish Republic who, while on European territory subject to the jurisdiction of American military authorities in an official or other character, commit an offense or common crime subject to punishment on the basis of American law, will be handed over by the appropriate American military authorities to the Polish authorities for judgment and punishment. Whether the persons are on this territory legally or illegally will not be taken into consideration.

Paragraph 2. Members of Polish armed forces include Polish citizens, ex-prisoners of war remaining in German prisoner-of-war camps after September 1, 1939 as well as ex-prisoners of war, Polish citizens, whom the Germans during imprisonment, compelled to volunteer for work as civilian workers. All of such persons will be subject to the provisions of this agreement except those who refuse to return to Poland.

Paragraph 3. Persons who commit an act endangering the security or interests of the United States of America will not be handed over.

Article 3

Paragraph 1. Each party will bear the expense for the transportation of persons to be handed over, to the Polish frontier. Before carrying out a verdict, each party undertakes to advise the other of its text.

Article 4

Paragraph 1. This understanding applied to criminal acts committed after January 1, 1945.

Paragraph 2. This understanding is consummated in the form of an exchange of notes for a period of six months from the date of exchange. If notice of its termination is not given at least one month prior to expiration of this period, it is tacitly extended for a further six-months period.

I have been authorized by my Government to accept by an exchange of notes the counterproposal, as amended, which Your Excellency's Government has made and which is textually quoted above. In accepting the counterproposal, as amended, I have been instructed to endeavor to bring the reciprocal arrangement into force immediately with a view to effecting the release to United States authorities in accordance with Article 4 of the Polish counterproposal, as amended, of Privates Richard Melvin Best and Curtis Dagley, who are presently held in imprisonment at Cieszyn and Krakow, respectively.

In order that I may be able to inform my Government appropriately in the matter at the earliest date, I should be most appreciative if Your Excellency would inform me as soon as possible when Your Excellency's Government is ready to bring into operation its counterproposal, as amended, which my Government has agreed to accept.

I avail myself of this opportunity to renew to Your Excellency the assurance of my highest and most distinguished consideration.

His Excellency Jozef Olszewski
Acting Minister of Foreign Affairs
Warsaw

Arthur BLISS LANE

Artykuł III

Paragraf 1. Każda strona ponosi koszty transportu osób wydanych, do granicy polskiej. Przed wykonaniem wyroku każda strona poda do wiadomości strony drugiej jego tekst.

Artykuł IV

Paragraf 1. Porozumienie niniejsze odnosi się do czynów przestępczych popełnionych po 1-szym stycznia 1945 roku.

Paragraf 2. Porozumienie to zawiera się w formie wymiany not na okres sześciu miesięcy licząc od daty wymiany not. Jeżeli przed upływem tego terminu nie będzie ono wypowiedziane przynajmniej na miesiąc naprzód, to zostanie ono przedłużone milcząco na dalszy okres sześciu miesięcy”.

W odpowiedzi na powyższą notę mam zaszczyt zakomunikować Jego Ekscelencji, że Rząd Rzeczypospolitej Polskiej akceptuje powyższe porozumienie w całej rozciągłości.

Korzystam ze sposobności, aby zapewnić Jego Ekscelencję o moim najwyższym szacunku.

J. OLSZEWSKI

Warszawa, dnia 29 sierpnia 1946
Jego Ekscelencja Arthur Bliss Lane
Ambasador Stanów Zjednoczonych
w Warszawie

[TRANSLATION¹ — TRADUCTION²]

24/10595/46

Excellency,

I have the honor to acknowledge the receipt of Your Excellency's note No. 522 of August 5, 1946, regarding the exchange of certain categories of military personnel accused of committing an offense both in the territory of the Polish Republic and in European territory under the military jurisdiction of the United States, in which Your Excellency informs me that the Government of the United States is ready to conclude with the Government of the Republic of Poland, by means of an exchange of notes, an agreement with the following text :

[See note I]

¹ Translation by the Government of the United States of America.

² Traduction du Gouvernement des États-Unis d'Amérique.

In reply to the above note I have the honor to inform Your Excellency that the Government of the Republic of Poland accepts the foregoing agreement in its entirety.

I avail myself of this opportunity to assure Your Excellency of my highest consideration.

J. OLSZEWSKI

Warsaw, August 29, 1946
His Excellency Arthur Bliss Lane
Ambassador of the United States
Warsaw

EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT¹
 BETWEEN THE UNITED STATES OF AMERICA AND
 POLAND AMENDING THE AGREEMENT OF 5 AND
 29 AUGUST 1946² RELATING TO CRIMINAL OFFENSES
 COMMITTED BY MEMBERS OF THE ARMED FORCES
 OF THE TWO COUNTRIES. WARSAW, 6 FEBRUARY
 AND 3 AND 14 APRIL 1947

I

The Polish Ministry of Foreign Affairs to the American Embassy

[POLISH TEXT — TEXTE POLONAIS]

[TRANSLATION³ — TRADUCTION⁴]

3112/2287/47

3112/2287/47

Ministerstwo Spraw Zagranicznych przesyła wyrazy szacunku Ambasadzie Amerykańskiej w Warszawie i w związku z umową w sprawie wymiany pewnych kategorii osób wojskowych, zawartą w formie wymiany not (nota Ambasady Amerykańskiej Nr 522 z dnia 5 sierpnia 1946 r. i nota Ministerstwa Spraw Zagranicznych Nr 24/10595/46 z dnia 29 sierpnia 1946 r.) ma zaszczyt podać do wiadomości Ambasady co następuje :

W tekście polskim został użyty termin « przestępstwo lub zbrodnia pospolita ». Według wyjaśnień otrzymanych z Ministerstwa Sprawiedliwości pojęcie przestępstwa obejmuje również pojęcie zbrodni pospolitej. Należałoby użyć terminu « przestępstwo pospolite ».

Wobec powyższego i w związku z przygotowaniem do ogłoszenia tej

The Ministry of Foreign Affairs presents its compliments to the American Embassy at Warsaw and, in connection with the agreement concerning the exchange of certain categories of military personnel concluded in the form of a note (note No. 522 of the American Embassy dated August 5, 1946, and note No. 24/10595/46 of the Ministry of Foreign Affairs dated August 29, 1946), I have the honor to inform the Embassy of the following :

In the Polish text the term " offense or common crime " was used. According to explanations received from the Ministry of Justice the idea of " offense " is also contained in the idea " common crime ". The term " common offense " should be used.

In view of the foregoing and in connection with the preparation for

¹ Came into force on 14 April 1947 by the exchange of the said notes.

² See p. 12. of this volume.

³ Translation by the Government of the United States of America.

⁴ Traduction du Gouvernement des États-Unis d'Amérique.

umowy w Dzienniku Ustaw R. P. Ministerstwo Spraw Zagranicznych prosi o poczynienie w tekście polskim (art. 1, par. 1 i art. 2 par. 1) poprawki przez wykreślenie terminu « przestępstwo lub zbrodnia pospolita » i wstawienie w te miejsca terminu « przestępstwo pospolite ».

Termin « przestępstwo pospolite » odpowiadałby angielskiej terminologii « offense and common crime », wobec czego tekst angielski umowy pozostałby bez zmian.

Warszawa, dnia 6 lutego 1947

[SEAL]

Ambasada Amerykańska
w Warszawie

publication of this agreement in the Journal of Laws of the Republic of Poland, the Ministry of Foreign Affairs requests that corrections be made in the Polish text (art. 1, par. 1 and art. 2, par. 1) by crossing out the term "offense or common crime" and substituting in those places the term "common offense."

The term "common offense" would correspond to the English terminology "offense and common crime," in virtue of which the English text of the agreement would remain unchanged.

Warsaw, February 6, 1947

[SEAL]

American Embassy
Warsaw

II

The American Chargé d'Affaires ad interim to the Polish Minister of Foreign Affairs

EMBASSY OF THE UNITED STATES OF AMERICA

No. 955

Warsaw, April 3, 1947

Excellency :

I have the honor to refer to Your Excellency's Ministry's Note No. 3112/2287/47 and to the Embassy's Note No. 938 of March 20, 1947¹ concerning the Ministry's suggestion that a minor change be made in the language of the military exchange agreement concluded in August, 1946 between the American and Polish Governments. The English text of the agreement was communicated in the Embassy's Note No. 522 of August 5, 1946 and accepted in the Ministry's Note No. 24/10595/46 of August 29, 1946.

The Department of State has informed the Embassy that it perceives no objection to the suggested change in the Polish text of the agreement by deleting the Polish expression « przestępstwo lub zbrodnia pospolita », wherever it appears in the agreement, and substituting the Polish expression « przestępstwo pospolite ». If this change is considered necessary, the Department of State

¹ Not printed by the Government of the United States of America.

expresses the belief that the English text should also be changed in order to correspond exactly to the revised Polish version. The expression "offense or common crime" in the English text of the agreement under consideration would accordingly be deleted in the two places where it appears and the term "common offense" would be substituted.

It is hoped that this change in the English text of the Agreement made to conform to the suggested changes in the Polish text will be agreeable to the Polish Government. Should such be the case, the Embassy on behalf of the United States Government accepts the Polish Government's proposal. In order that the Embassy may appropriately inform the interested American authorities, I should very much appreciate Your Excellency's informing me whether the Polish Government agrees to changing the expressions under consideration in both the English and Polish texts. If agreeable, the Embassy will make the necessary changes in the English text of paragraphs One of Articles One and Two of the military exchange agreement communicated in the Embassy's Note No. 522 of August 5, 1946.

I avail myself of this opportunity to renew to Your Excellency the assurances of my highest and most distinguished consideration.

Gerald KEITH
Chargé d'Affaires, ad interim

His Excellency Zygmunt Modzelewski
Minister of Foreign Affairs
Warsaw

III

The Polish Ministry of Foreign Affairs to the American Embassy

[POLISH TEXT — TEXTE POLONAIS]

[TRANSLATION¹ — TRADUCTION²]

2612/1/47.

2612/1/47.

Ministerstwo Spraw Zagranicznych przesyła wyrazy szacunku Ambasadzie Amerykańskiej w Warszawie i w związku z notą Nr 955 z dnia 3 kwietnia 1947 r. ma zaszczyt podać do wiadomości Ambasady, że Rząd Polski wyraża zgodę na zmianę tekstu umowy w sprawie wymiany pewnych kategorii

The Ministry of Foreign Affairs presents its compliments to the American Embassy at Warsaw and, in connection with note No. 955 of April 3, 1947, has the honor to inform the Embassy that the Polish Government expresses its consent to a change in the text of the agreement regarding the

¹ Translation by the Government of the United States of America.

² Traduction du Gouvernement des États-Unis d'Amérique.

osób wojskowych zarówno w tekście polskim jak i angielskim przez wykreślenie terminów: « przestępstwo lub zbrodnia pospolita » i « offense or common crime » i zastąpienie ich terminami « przestępstwo pospolite » i « common offense ».

Warszawa, dnia 14 kwietnia 1947

[SEAL]

Ambasada Amerykańska
w Warszawie

exchange of certain categories of military persons by the deletion from the Polish and English texts of the terms: “ przestępstwo lub zbrodnia pospolita ” and “ offense or common crime ”, and by the substitution for them of the terms “ przestępstwo pospolite ” and “ common offense.”

Warsaw, April 14, 1947

[SEAL]

American Embassy
Warsaw