

No. 4832

**UNION OF SOVIET SOCIALIST REPUBLICS
and
FEDERAL REPUBLIC OF GERMANY**

Consular Treaty. Signed at Bonn, on 25 April 1958

Official texts: Russian and German.

Registered by the Union of Soviet Socialist Republics on 23 July 1959.

**UNION DES RÉPUBLIQUES SOCIALISTES
SOVIÉTIQUES**

et

RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE

Convention consulaire. Signée à Bonn, le 25 avril 1958

Textes officiels russe et allemand.

Enregistrée par l'Union des Républiques socialistes soviétiques le 23 juillet 1959.

[TRANSLATION — TRADUCTION]

No. 4832. CONSULAR TREATY¹ BETWEEN THE UNION OF SOVIET SOCIALIST REPUBLICS AND THE FEDERAL REPUBLIC OF GERMANY. SIGNED AT BONN, ON 25 APRIL 1958

The Presidium of the Supreme Soviet of the Union of Soviet Socialist Republics and the President of the Federal Republic of Germany,

Desiring to regulate consular relations between the Union of Soviet Socialist Republics and the Federal Republic of Germany,

Have decided to conclude a Consular Treaty and for that purpose have appointed as their plenipotentiaries :

The Presidium of the Supreme Soviet of the Union of Soviet Socialist Republics :

Anastas Ivanovich Mikoyan, First Deputy Chairman of the Council of Ministers of the USSR, and Vladimir Semenovitch Semenov, Deputy Minister of Foreign Affairs of the USSR;

The President of the Federal Republic of Germany :

Dr. Heinrich von Brentano, Federal Minister of Foreign Affairs, and Ambassador Rolf Lahr, head of the delegation of the Federal Republic of Germany for negotiations with the delegation of the Union of Soviet Socialist Republics,

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

PART I

ESTABLISHMENT OF CONSULATES AND ACCEPTANCE OF CONSULS

Article 1

1. The provisions of this Treaty shall apply to consular activities carried on by the consular divisions of the Embassies of the Contracting Parties and to the activities of such consulates as the Parties may establish in each other's territory on a reciprocal basis. If each Party deems it necessary to establish consulates in the territory of the other Party, the Parties shall enter into negotiations for the purpose of coming to an agreement on the establishment of such consulates.

¹ Came into force on 24 May 1959, the thirtieth day following the exchange of the instruments of ratification at Moscow, in accordance with article 37.

2. The places in which consuls are stationed and their consular districts shall be determined by agreement between the Contracting Parties in each individual case.

Article 2

Before appointing a consul, the State sending the consul shall obtain, through the diplomatic channel, the consent of the receiving State to such appointment. If a Contracting Party finds a person proposed as consul unacceptable, it shall so notify the other Party through the same channel.

Article 3

1. The Embassy of the State sending the consul shall present to the Ministry of Foreign Affairs of the State in whose territory the consul is to perform his duties the consular commission setting forth the consul's surname and first name, his consular rank, the consular district for which he will be responsible and his place of residence.

2. The consul may not enter upon his duties until the Government of the receiving State has accepted him. Such acceptance shall be granted in the form of an exequatur issued after the consular commission has been presented.

3. The function of a consul shall terminate on recall, by withdrawal of his exequatur or in case of his death.

4. The Embassy shall communicate to the Ministry of Foreign Affairs of the receiving State, before these persons enter upon their consular duties, the names of Embassy staff who are entrusted with the performance of consular functions in the Embassy.

Article 4

1. In the event of the consul's absence, illness, recall or death, his deputy, whose name shall be communicated through the diplomatic channel, shall be deemed to have been accepted as being in temporary charge of the consulate. The sending State may, through the same channel, authorize a member of the staff of its Embassy or a consular officer serving in the receiving State to take temporary charge of the consulate. Such person shall, provided that the receiving State makes no objection, be deemed to have been accepted by that State as being in temporary charge of the consulate.

2. A person deemed to have been accepted as being in temporary charge of a consulate shall enjoy, during the period in question, the rights and privileges accorded to consuls by this Treaty.

Article 5

1. For the purposes of this Treaty, the term "consulate" means a consulate-general, consulate or vice-consulate, and the term "consul" means a consul-general, consul or vice-consul who is in charge of a consulate.

2. The term "consular officers" means :

- (a) Persons not in charge of a consulate who perform consular functions in a consulate and hold the official title of "consul" or "vice-consul" and who are indicated by name, in that capacity, to the receiving State. Persons assigned to a consulate for training in consular duties (trainees) shall be assimilated to the persons mentioned above;
- (b) Secretaries and advisers who are authorized to perform specified consular functions and who are indicated by name, in that capacity, to the receiving State.

3. The term "consular employees" means clerks, translators, typists, shorthand typists, bookkeepers, housekeepers, chauffeurs and appropriate service personnel.

4. The term "consular staff" means the consul, consular officers and consular employees.

Article 6

Consuls and consular officers shall be citizens of the sending State.

PART II

RIGHTS AND PRIVILEGES OF CONSULAR STAFF

Article 7

The authorities of the consular district shall ensure the protection of the consul and consular officers and shall assist them in entering upon and performing their official duties.

Article 8

1. The consul and consular officers shall not be subject to the jurisdiction of the receiving State in respect of acts performed in their official capacity.

2. In respect of other acts, the consul and consular officers shall not be subject to arrest or to any other restriction of their freedom in the territory of the receiving State, except for the purpose of execution of a final judicial sentence

or of prosecution in respect of an offence against life or personal freedom, where the offender is caught *flagrante delicto*.

3. If a consul or a consular officer is to be arrested or is to be the subject of a judicial investigation, the receiving State shall give the Embassy of the sending State advance notice to that effect. If, however, a consul or a consular officer is caught in the act and detained, the receiving State shall so advise the Embassy of the sending State immediately upon his detention.

Article 9

A consul shall be entitled to affix to consulate buildings shields bearing the coat-of-arms of his State and an inscription designating the consulate, and to fly the flag of his State from the said buildings and place it on vehicles used by him (motor cars, launches, etc.).

Article 10

1. Consular staff who are citizens of the sending State shall be exempt in the receiving State from all taxes on remuneration received by them in their capacity as consular staff.

2. In addition to the exemption provided for in paragraph 1 above, consular staff who are citizens of the sending State shall, subject to reciprocity, be granted exemption from taxes in the receiving State to the same extent as consular staff of any third State. This shall apply to spouses and minor children of consular staff who reside with them and are citizens of the sending State.

3. Land and buildings used by consular staff as official premises or living quarters shall be exempt from direct taxes and charges.

Article 11

1. Subject to reciprocity, consular staff and their spouses and minor children residing with them shall, provided they are citizens of the sending State, enjoy the same exemptions with regard to customs duties and other charges on imports as Embassy staff of the sending State in the corresponding categories.

2. Articles intended for the official use of the consulate, including motor vehicles, shall be exempted from customs duties and other charges on imports in the same manner as articles intended for the official use of the Embassy of the sending State.

Article 12

1. Consular staff and their spouses and minor children residing with them shall, provided they are citizens of the sending State, be exempt in the receiving State from liability to military and other personal or material service.

2. Land and buildings shall be exempt from military and other contributions only if they are used as official premises or living quarters by consular staff who are citizens of the sending State.

Article 13

1. Consular staff shall give evidence before the judicial organs of the receiving State if requested to do so by the courts or the procurator's offices.

2. If a consul is prevented by the exigencies of his service, by illness or for other reasons from appearing before the judicial organs, he shall so inform the said organs and, if they so require, shall make a deposition in writing.

3. Consular staff who are citizens of the sending State may refuse to make a deposition concerning matters connected with their official duties.

Article 14

1. The archives and official correspondence of consulates, including telegraphic communications, shall be inviolable and shall not be subject to examination. However, the official papers to which this provision applies must be kept separate from the personal property and private correspondence of the consular staff.

2. In his communications with the authorities of the sending State, a consul shall be entitled to use codes and the diplomatic pouch. Consuls shall be charged at the same rates as diplomatic representatives for the use of ordinary means of communication (post, telegraph, telephone, radio).

3. The offices of consulates shall be inviolable; the authorities of the receiving State shall not use force, in any form whatsoever, in the private living quarters of a consul.

Article 15

Consular staff who are not citizens of the receiving State shall not be permitted to engage in other than consular activities in that State.

PART III

FUNCTIONS AND DUTIES OF CONSULS

Article 16

1. A consul shall, within his consular district, protect the rights and interests of his State and its citizens and of legal persons which have their head offices in the sending State and are constituted in accordance with its laws.

2. Consuls shall further the development of economic relations and navigation between the Contracting Parties and shall help to strengthen friendly relations between them.

Article 17

1. In the performance of his official duties, a consul may apply to the competent local authorities of his consular district and may make representations to them concerning violations of the rights and interests of his State and its citizens and of legal persons which have their head offices in the sending State and are constituted in accordance with its laws.

2. If the consul's representations are not taken into account or if it proves to be the case that authorities outside the consular district are concerned in the matter, the question shall be settled through the diplomatic channel.

Article 18

A consul shall be entitled to represent in the courts, including arbitration tribunals, and before other authorities of the receiving State citizens of the sending State and legal persons which have their head offices in the sending State and are constituted in accordance with its laws, where such natural or legal persons are, owing to absence or for other valid reasons, unable to protect their own rights and interests within the appropriate time-limits; such representation shall continue until the persons represented appoint their own agents or themselves assume the protection of their rights and interests. The provisions of this article shall be without prejudice to legislative provisions of the receiving State relating to compulsory representation by counsel.

Article 19

Consuls shall be entitled to carry on the following activities at their offices and private living quarters, at the residences of citizens of their State where such citizens give their consent, and on board vessels sailing under the flag of the sending State :

1. To receive declarations from citizens of the sending State and to draw up and attest such declarations;

2. To draw up and attest the wills and other unilateral instruments and declarations of citizens of the sending State;
3. To draw up and attest agreements concluded between citizens of the sending State, provided that such agreements are not contrary to the laws of the receiving State. Consuls may not, however, draw up or attest any agreement concerning the establishment, alienation or termination of property rights to buildings and land situated in the receiving State;
4. To draw up and attest agreements between citizens of the sending State and other persons and to certify the signatures of the persons taking part in the consummation of the agreement, provided that such agreements relate exclusively to property or rights situated in the territory of the sending State and are to be carried out in the territory of that State, and provided that such agreements are not contrary to the laws of the receiving State;
5. To certify the signatures, on documents of any kind, of citizens of the sending State;
6. To legalize instruments and documents issued by the authorities or officials of the sending State or the receiving State, and to certify copies of such instruments and documents;
7. To translate instruments and documents of any kind and to certify such translations;
8. To accept for safekeeping documents, money, valuables and other property from or for citizens of the sending State and legal persons which have their head offices in the sending State and are constituted in accordance with its laws;
9. To perform such other consular acts as may be required, provided that they are not contrary to the laws of the receiving State.

Article 20

1. The instruments and documents mentioned in article 19 above, which have been drawn up or certified by a consul and to which he has affixed his official seal, and also copies and translations of such instruments and documents and extracts therefrom which have been certified by him and to which he has affixed his official seal, shall be regarded in the receiving State as official or officially attested instruments, documents, copies, translations and extracts and shall have the same juridical force and the same validity as evidence as if they had been drawn up or certified by the competent authorities and officials of the receiving State.

2. The instruments, documents, copies, translations and extracts mentioned in paragraph 1 above, where they relate to matters in respect of which

execution is to be effected in the receiving State, shall be subject to such legalization as the law of the receiving State may require.

Article 21

A consul shall be entitled to keep a register of citizens of the sending State who are permanently or temporarily resident in his consular district.

Article 22

1. A consul shall be entitled to issue passports and other identity documents to citizens of the sending State, and also to renew and deliver them.

2. A consul shall be entitled to issue visas for entry into, exit from and transit through his country.

Article 23

1. A consul shall be entitled to register marriages, in accordance with the law of the sending State, where both parties to the marriage are citizens of the sending State.

2. Where a marriage has been registered, the consul shall so notify the authorities of the receiving State within three months.

3. A consul shall be entitled, in accordance with the law of the sending State, to register the dissolution of a marriage where such dissolution is effected by a court and relates to a citizen of the sending State.

Article 24

1. A consul shall be entitled, in accordance with the law of the sending State, to issue certificates of the birth or death of citizens of that State.

2. This article shall be without prejudice to legislative provisions of the receiving State requiring the persons concerned to notify the authorities of that State of births and deaths.

Article 25

1. A consul shall, if a citizen of the sending State dies within his consular district, ensure that all necessary measures are taken to protect the legitimate interests of the heirs.

2. The authorities in the consular district shall inform the consul of the deaths of any citizens of the sending State and also of any measures that have been taken or are contemplated to settle the estate.

Article 26

The local authorities shall be competent to take the inventory of the estate, to preserve it and to affix the seals thereto. At the request of the consul, they shall take the necessary measures to protect the estate.

Article 27

A consul shall have the following rights with respect to estates left by citizens of his State who resided in his consular district and may exercise these rights personally or through duly authorized representatives :

1. The right to participate in taking and signing the inventory of the estate;
2. The right to communicate with the competent authorities of the receiving State with a view to protecting the estate from damage and deterioration and, where necessary, ensuring its sale.

Article 28

1. The consul shall be entitled to request the local authorities to hand over to him any property from the estate, including the deceased person's papers, if the heirs are citizens of the sending State and are not present in the territory of the receiving State.

2. Before the property of an estate is transmitted to the heirs by the consul or is transferred abroad, the duties payable on the value of the estate shall be paid and other claims against the estate presented and substantiated by other persons residing in the receiving State shall be satisfied. This obligation on the part of the consul shall lapse unless within six months after the death of the deceased the claims are shown to have been recognized as valid or to be under the consideration of the competent authorities.

3. In the case of immovable property belonging to an estate, the applicable law shall be the law of the State in which the property is situated.

Article 29

1. A consul may propose suitable persons to the competent organs of the receiving State for appointment as guardians or curators for citizens of the sending State. The said organs shall accept the consul's proposal unless particularly serious reasons exist for not doing so. In the latter case, the consul shall be advised of such reasons.

2. If a consul learns that the property of a citizen of the sending State is without an administrator, he may propose a suitable person to the competent

organs of the receiving State for appointment as a trustee. The said organs shall accept the consul's proposal unless particularly serious reasons exist for not doing so. In the latter case, the consul shall be advised of such reasons.

Article 30

1. A consul may, personally or through his agents and without hindrance from the authorities of the receiving State, extend all lawful assistance and co-operation to vessels which sail under the flag of the sending State and which enter a port in his consular district, and may also visit such vessels.

2. If a search, inspection, arrest, interrogation or any other judicial or administrative measure of constraint is to be carried out in a port of the receiving State on board a vessel sailing under the flag of the sending State, the appropriate consul shall be notified in advance so that he may be present when the said measures are carried out. This shall also apply where members of the vessel's, crew are to be interrogated on shore by the local authorities.

3. The provisions of paragraph 2 above shall not apply to normal measures of customs, health and passport control carried out in accordance with the laws and administrative regulations in force in the receiving State.

Article 31

1. If a vessel sailing under the flag of the sending State is wrecked, or runs aground or is stranded on the coast of the receiving State, or suffers other damage in the latter's territory, the competent authorities shall immediately so notify the consul of the State under whose flag the vessel is sailing and shall inform him of the measures they have taken to save lives, the vessel and the cargo. The competent authorities shall extend the necessary co-operation to the consul in his action in connexion with the damage to the vessel.

2. Unless other arrangements are made among the shipowners, charterers and insurers, matters relating to the damage suffered by a vessel sailing under the flag of the sending State shall, if the vessel enters a port in the receiving State, be settled by the consul. Such settlement shall, however, be made by the authorities of the receiving State if one of the persons concerned is not a citizen of the sending State and final agreement is not reached.

Article 32

A consul shall be entitled to engage and discharge members of the crew of vessels sailing under the flag of the sending State; such action must not, however, violate the laws of the receiving State.

Article 33

The term "vessels" shall not, for the purposes of this Treaty, include military vessels.

Article 34

The provisions of articles 30, 31 and 33 of this Treaty shall apply *mutatis mutandis* to aircraft.

PART IV

FINAL PROVISIONS

Article 35

The provisions of this Treaty concerning the rights and duties of consuls shall apply to Embassy staff of the two Contracting Parties who perform consular functions in the State in which they are stationed. The performance of consular functions by such persons shall not affect the diplomatic privileges and immunities which they enjoy as Embassy staff.

Article 36

Any questions that may arise between the Contracting Parties in connexion with the interpretation and application of this Treaty shall be settled through the diplomatic channel.

Article 37

1. This Treaty is subject to ratification and shall enter into force on the thirtieth day following the date of the exchange of the instruments of ratification, which shall take place at Moscow.

2. The Treaty is concluded for a period of five years. If notice of its termination is not given by one of the Contracting Parties at least six months before the expiry of that period, it shall remain in force until one year after the date on which such notice is given.

IN WITNESS WHEREOF the plenipotentiaries of the two Contracting Parties have signed this Treaty and affixed thereto their seals.

DONE in duplicate at Bonn, on 25 April 1958, in the Russian and German languages, both texts being equally authentic.

For the Presidium
of the Supreme Soviet
of the Union of Soviet
Socialist Republics :

A. MIKOYAN
V. SEMENOV

• For the President
of the Federal Republic
of Germany :

VON BRENTANO
LAHR