

No. 4862

**POLAND
and
GERMAN DEMOCRATIC REPUBLIC**

**Consular Convention. Signed at Warsaw, on 25 November
1957**

Official texts: Polish and German.

Registered by Poland on 9 September 1959.

**POLOGNE
et
RÉPUBLIQUE DÉMOCRATIQUE ALLEMANDE**

**Convention consulaire. Signée à Varsovie, le 25 novembre
1957**

Textes officiels polonais et allemand.

Enregistrée par la Pologne le 9 septembre 1959.

[TRANSLATION — TRADUCTION]

No. 4862. CONSULAR CONVENTION¹ BETWEEN THE POLISH PEOPLE'S REPUBLIC AND THE GERMAN DEMOCRATIC REPUBLIC. SIGNED AT WARSAW, ON 25 NOVEMBER 1957

The Council of State of the Polish People's Republic and the President of the German Democratic Republic, desiring to regulate consular relations between the two States in a spirit of friendship and co-operation, have resolved to conclude this Convention and have appointed as their plenipotentiaries :

The Council of State of the Polish People's Republic :

Adam Rapacki, Minister of Foreign Affairs;

The President of the German Democratic Republic :

Dr. Lothar Bolz, Deputy President of the Council of Ministers and Minister of Foreign Affairs,

who, having communicated to each other their full powers, found in good and due form, have agreed as follows :

I. ESTABLISHMENT OF CONSULATES AND ACCEPTANCE OF CONSULS

Article 1

Either Contracting Party may establish consulates in the territory of the other Contracting Party.

Article 2

1. After he has presented his commission, the consul shall be recognized and shall be authorized, by the grant of an exequatur, to perform his duties in accordance with the laws and customs in force in the receiving State. The consular district shall be defined in the commission. The competent authorities of the receiving State shall be informed, by letter, of any subsequent changes in the consular district.

2. The exequatur, containing a definition of the consular district, shall be granted to the consul forthwith. The receiving State shall without delay inform the appropriate authorities in the consular district of the grant of the exequatur.

¹ Came into force on 31 October 1958 upon the exchange of the instruments of ratification at Berlin, in accordance with article 37.

These authorities shall take steps to enable the consul to enter upon his duties.

3. If for special reasons the granting of the exequatur is delayed, the receiving State may grant to the consul provisional permission to exercise his functions.

Article 3

The consul may appoint consular agents within his consular district. A consular agent may not take up his duties until the receiving State has given its consent. He shall perform his duties under the superintendence and responsibility of the consul. Where the consular agent is a national of the sending State, he shall enjoy the privileges and immunities of a member of the consular staff.

Article 4

Consulates may employ the number of staff necessary for the exercise of the functions specified in this Convention. The names, addresses and functions of such staff shall be communicated, in writing, to the competent authorities of the receiving State.

Article 5

In case of the death, recall, or temporary absence of the consul or when he is unable to act for any other reason, a member of the consular staff or a member of the diplomatic mission shall be entitled to perform temporarily the consul's functions, provided that the competent authorities of the receiving State have been notified, in advance, of his official status as head of the consulate. He shall enjoy all the rights, privileges and immunities guaranteed to the consul by this Convention. This arrangement shall be without prejudice to the diplomatic privileges and to the immunity enjoyed by such a member of the staff.

II. PRIVILEGES AND IMMUNITIES

Article 6

The receiving State shall guarantee that the consul and his staff will not be obstructed in the performance of their duties. The authorities of the receiving State shall grant them all necessary support in the performance of their duties.

Article 7

1. The coat-of-arms of the sending State, with the title of the consulate in the language of the sending State, may be placed on the building of the consulate and on its boundary wall.

2. The flag of the sending State may be flown from the consulate building. The consul may place the coat-of-arms and flag of the sending State on vehicles used by him in the exercise of his duties.

Article 8

1. The offices of the consulates shall be inviolable.
2. The authorities of the receiving State may enter the offices of the consulate only with the consent of the head of the consulate. Such entry into the consular offices can take place only if due regard is paid to the principle of the inviolability of consular archives.
3. The offices of the consulate shall be separate from the living quarters of the consuls and of their staffs.

Article 9

1. Consular archives shall be inviolable.
2. Private papers belonging to the consul and to his staff shall be kept separate from the consular archives.

Article 10

1. The consul may send and receive official correspondence under sealed cover. For that purpose he may use the services of the diplomatic courier.
2. Correspondence which is sent or received by a consulate shall be inviolable.
3. The consul shall be entitled to use codes.

Article 11

1. The consul shall not be subject to the jurisdiction of the receiving State. Members of his staff who are nationals of the sending State shall not be subject to the jurisdiction of the receiving State in respect of acts performed in their official capacity.
2. The immunity from jurisdiction prescribed in paragraph 1 includes the right to refuse to give evidence, and to refuse to submit documents, regarding official matters to the courts and other authorities of the receiving State.
3. Summonses addressed to the persons mentioned in paragraph 1, requiring them to give evidence in matters not connected with their official duties, must contain no threat of penalties or of other coercive measures. The summonses shall be in written form. If the consul is prevented from appearing, he shall be interrogated at his residence or he may make a written deposition.

Article 12

Consuls and their staffs, together with their spouses and minor children residing with them, shall, if nationals of the sending State, not be subject to the regulations of the receiving State under which aliens are required to register, to obtain residence permits and to report to the authorities.

Article 13

1. Land and buildings, or portions thereof, used for official or residential purposes by the consul and his staff who are nationals of the sending State shall be exempt from military and other contributions.

2. The land and buildings, or portions thereof, mentioned in paragraph 1 shall not be exempt from such measures of expropriation or temporary requisition in the public interest as are permitted under the laws of the receiving State. In the event of any such measure being necessary, the competent authorities shall ensure that no interference with the activities of the consulate takes place.

3. The land and buildings, or portions thereof, mentioned in paragraph 1 shall be exempt from taxation.

4. Vehicles, radio and television receivers, and other movable property belonging to the sending State and used in the service of the consulate shall be exempt from fees, taxes, and military and other contributions.

Article 14

The consul and his staff who are nationals of the sending State shall, together with their personal property, be exempt from fees and direct taxes and from military and other contributions, in the receiving State. The exemption from military and other contributions shall also apply to the spouses and minor children of such persons when residing with them.

Article 15

All articles required for the use of the consulates may be imported and exported free of customs duty.

III. FUNCTIONS OF THE CONSUL

Article 16

The consul may, in conformity with international law and usage, attend to the nationals of the sending State and look after their rights and interests. For that purpose he may apply direct to the courts and other authorities of the State in his consular district.

Article 17

If a national of the sending State is placed under provisional arrest or imprisoned, the consul must immediately be informed to that effect by the competent authorities of the receiving State.

Article 18

The consul may :

- (a) Register nationals of the sending State;
- (b) Issue passports to nationals of the sending State;
- (c) Issue other travel documents;
- (d) Grant visas.

Article 19

The consul may, at the request of the authorities of the sending State, hear its nationals as parties, witnesses or experts and serve writs on such persons in accordance with the law of the sending State.

Article 20

1. The consul may, if the laws of the sending State so provide, register the births and deaths of nationals of the sending State.

2. The provisions of paragraph 1 shall not affect the obligation, under the laws and regulations of the receiving State, to register births and deaths with the competent authorities of the receiving State.

Article 21

The consul may perform marriages in accordance with the laws of the sending State, provided that both parties to the marriage are nationals of the sending State. If at least one of the parties to such marriage has his or her permanent residence in the receiving State, the consul shall notify the competent authorities of that State of the performance of the marriage.

Article 22

1. The consul may perform notarial acts which are provided for by the laws of the sending State, if such acts relate to nationals of that State and can produce legal effects in it.

2. The consul may prepare and certify translations of documents from his own language into that of the receiving State, and vice versa.

3. The consul may legalize documents drawn up or certified in the receiving State or in the sending State, as well as documents relating to nationals of the sending State which have been drawn up or certified in a third State.

4. The documents mentioned in paragraphs 2 and 3, which have been drawn up, certified or legalized by the consul in the form prescribed by the laws of the sending State, shall have in the receiving State the same legal validity and validity as evidence as documents drawn up, certified or legalized by the competent bodies or official personnel (*Amtspersonen*) of the receiving State.

Article 23

The consul may accept, for safe keeping, money, documents and other articles belonging to nationals of the sending State.

Article 24

The functions of the consul in matters of succession, guardianship and trusteeship relating to nationals of the sending State shall be regulated by the provisions of the Treaty of 1 February 1957¹ between the Polish People's Republic and the German Democratic Republic concerning legal relations in civil, family and criminal cases.

Article 25

1. The consul may communicate with the master, the other members of the crew and the passengers of a ship calling at a port in his consular district and may go on board such ship after it has been cleared by the competent authorities of the receiving State.

2. The master, the other members of the crew and the passengers may communicate with the consul, provided that they comply with the regulations in force in the receiving State.

Article 26

1. The consul may ask the master and the other members of the crew for information, and may take depositions, concerning the ship, its cargo and the purpose and progress of the voyage. He may examine the papers of the ship and take steps to facilitate its arrival and departure.

2. The consul may, in so far as is permitted by the laws of the sending State, settle disputes between the master and the other members of the crew, appoint or discharge the master and the other members of the crew, and take steps to ensure order and discipline on board the ship.

Article 27

1. The authorities of the receiving State may intervene with regard to occurrences on board the ship only if the consul requests or approves such intervention.

¹ United Nations, *Treaty Series*, Vol. 319, p. 115.

2. The authorities of the receiving State may intervene with regard to occurrences on board the ship without obtaining the consent of the consul, if such occurrences are prejudicial to public order and security in the port or if the customs, passport and health regulations of the receiving State have been infringed.

3. If the competent authorities of the receiving State intend to carry out any measures of constraint on board a ship, they shall notify the consul about them in good time, so that he may be present at such action. Should it be impossible for the consul to arrive in time, the competent authorities of the receiving State shall provide him with full information about the application of the measures of constraint. The provisions of this paragraph shall not apply in the case of the normal customs, passport and health control of the ship, the crew or the passengers.

Article 28

If a member of a ship's crew has fled from the ship to the territory of the receiving State, the consul may request the competent authorities of the receiving State to deliver such member to the ship or to the sending State. The competent authorities of the receiving State shall take the necessary steps to comply with the consul's request. These provisions shall not apply to nationals of the receiving State.

Article 29

The consul may, in ports of his consular district, go on board a ship of any flag which proposes to call at a port in the sending State, for the purpose of exchanging information regarding navigation and trade.

Article 30

1. The competent authorities of the receiving State shall immediately notify the consul of any disaster or damage (*Havarie*) suffered by a ship.

2. In the event of such disaster or damage, the consul may extend every assistance to the ship, the members of the crew and the passengers, and may take, or request the competent authorities of the receiving State to take, steps to ensure the protection of the cargo and the repair of the ship. The competent authorities of the receiving State shall, in such circumstances, give the necessary assistance to the consul.

Article 31

The provisions of this Convention which relate to shipping shall apply, *mutatis mutandis*, to air transport, unless international agreements binding on both Contracting Parties provide otherwise.

Article 32

The consul may levy the fees prescribed under the law of the sending State.

Article 33

In correspondence with the authorities and institutions of the receiving State, the consul shall use the language of the receiving State.

IV. FINAL PROVISIONS

Article 34

The provisions of this Convention shall apply, *mutatis mutandis*, to the head of the consular department of the diplomatic mission if notice of his functions has been given in writing to the competent authorities of the receiving State. This provision shall not affect the diplomatic privileges and the immunity enjoyed by him.

Article 35

For the purposes of this Convention :

1. The term "consulate" shall mean consulate-general, consulate or vice-consulate.
2. The term "consul" shall mean any person holding an exequatur or temporary permission to act as consul-general, consul or vice-consul.
3. The term "consular agent" shall mean any person appointed by the superintending consul with the consent of the receiving State.
4. The term "consular staff" (*konsularischer Mitarbeiter*) shall mean any person, except the consul, who exercises consular functions and is a national of the sending State. Technical staff and domestic servants are not covered by this term.
5. The term "staff" (*Mitarbeiter*) shall mean any person employed in a consulate, regardless of his nationality, unless otherwise specified in this Convention.
6. The term "nationals" shall mean individuals, as well as bodies corporate established under the laws of one of the Contracting Parties and having their head offices in the territory of that Contracting Party.
7. The term "ship" shall mean any ship entitled to fly the flag of the sending State.

Article 36

This Convention is concluded for a period of five years. Unless denounced by one of the Contracting Parties six months before the expiry of that period, it shall be extended, under the same condition, for further periods of five years.

Article 37

This Convention shall be ratified. It shall enter into force upon the exchange of the instruments of ratification.

DONE in duplicate at Warsaw, on 25 November 1957, in the Polish and German languages, both texts being equally authentic.

IN WITNESS WHEREOF the above-mentioned plenipotentiaries of the two Contracting Parties have signed this Convention and have affixed thereto their seals.

For the Council of State
of the Polish People's
Republic :
Adam RAPACKI

For the President
of the German Democratic
Republic :
Dr. Lothar BOLZ