

No. 12772

**HUNGARY
and
CUBA**

Consular Convention. Signed at Budapest on 24 July 1969

Authentic texts: Hungarian and Spanish.

Registered by Hungary on 28 September 1973.

**HONGRIE
et
CUBA**

Convention consulaire. Signée à Budapest le 24 juillet 1969

Textes authentiques : hongrois et espagnol.

Enregistrée par la Hongrie le 28 septembre 1973.

[TRANSLATION — TRADUCTION]

CONSULAR CONVENTION¹ BETWEEN THE GOVERNMENT OF THE HUNGARIAN PEOPLE'S REPUBLIC AND THE REVOLUTIONARY GOVERNMENT OF THE REPUBLIC OF CUBA

The Government of the Hungarian People's Republic and the Revolutionary Government of the Republic of Cuba,

Desiring to regulate their consular relations and to develop them with a view to strengthening the links between the two countries,

Have decided to conclude a Consular Convention and for this purpose have appointed as their plenipotentiaries:

The Government of the Hungarian People's Republic: comrade Vencel Házi;

The Revolutionary Government of the Republic of Cuba: comrade Floreal Chomón Mediavilla;

who, having exchanged their full powers, found in good and due form,

Have agreed as follows:

Article 1. DEFINITIONS

For the purposes of this Convention, the following expressions shall have the meaning hereunder assigned to them:

(a) "Consular post" means any consulate-general, consulate, vice-consulate or consular agency;

(b) "Consular district" means the area assigned to a consular post for the exercise of consular functions;

(c) "Head of consular post" means the person charged with the duty of acting in that capacity, who may hold the rank of consul-general, consul, vice-consul or consular agent;

(d) "Consular officer" means any person, including the head of a consular post, entrusted in that capacity with the exercise of consular functions;

(e) "Consular employee" means any person employed in the administrative or technical service of a consular post;

(f) "Member of the service staff" means any person employed in the domestic service of a consular post;

(g) "Members of the consular post" means consular officers, consular employees and members of the service staff;

¹ Came into force on 8 September 1972, i.e. 30 days after the exchange of instruments of ratification, which took place on 9 August 1972 at Havana, in accordance with articles 39 and 40.

(h) "Members of the consular staff" means consular officers other than the head of a consular post, consular employees and members of the service staff;

(i) "Member of the private staff" means any person employed exclusively in the private service of a member of a consular post;

(j) "Members of the family" means the spouse, minor children and other relatives who are dependants of consular officers and employees;

(k) "Consular premises" means the buildings or parts of buildings and the land ancillary thereto, irrespective of ownership, used exclusively for the purposes of the consular post;

(l) "Consular archives" means all papers, documents, ciphers and codes, card-indexes, registers, correspondence, books, seals, stamps, rubber stamps, films, tapes, discs, and the cabinets, furniture and premises intended for their safekeeping, preservation and protection.

PART I. GENERAL PROVISIONS

Article 2. ESTABLISHMENT OF CONSULAR POSTS

(1) Each Contracting Party may establish consular posts in the territory of the other Contracting Party.

(2) The Contracting Parties shall in each case agree on the establishment of consular posts and on the classification, site and district of such posts.

(3) Any change in the site or classification of a consular post or in the consular district shall be made by agreement between the sending State and the receiving State.

Article 3. LETTER OF COMMISSION AND EXEQUATUR

(1) The head of a consular post shall be admitted to the exercise of his functions upon the granting of an exequatur by the receiving State, after the letter of commission has been presented through the diplomatic channel to the Ministry of Foreign Affairs.

(2) The letter of commission shall show the name and category of the head of the consular post, and the classification, district and site of the consular post.

(3) Pending the granting of the exequatur, the receiving State may admit the head of a consular post on a provisional basis to the exercise of his functions.

Article 4. NATIONALITY OF CONSULAR OFFICERS

A consular officer shall be a national of the sending State.

Article 5. PERSONS DECLARED "NON GRATA"

The receiving State may at any time, without having to explain the reason for its decision, notify the sending State that a consular officer is *persona non grata* or that any other member of a consular post is unacceptable. The sending State shall thereupon recall the person concerned.

Article 6. TERMINATION OF THE FUNCTIONS OF A MEMBER
OF A CONSULAR POST

The functions of a member of a consular post shall be terminated in particular where:

- (a) The sending State notifies the receiving State of the termination of such functions;
- (b) The exequatur is withdrawn;
- (c) The receiving State notifies the sending State that it has ceased to consider the person concerned a member of the consular staff.

Article 7. PROVISIONAL EXERCISE OF CONSULAR FUNCTIONS

(1) In the event of the recall, death, temporary absence or any impediment affecting the head of a consular post, another consular officer or a member of the diplomatic mission of the sending State may be appointed to exercise consular functions provisionally. Notice of such appointment shall be given in advance and in writing to the competent authority of the receiving State.

(2) A person acting provisionally as head of a consular post shall enjoy the same rights, privileges and immunities as the head of a consular post.

PART II. AUTHORITY AND FUNCTIONS OF CONSULAR OFFICERS

Article 8. FOSTERING OF RELATIONS BETWEEN THE CONTRACTING PARTIES

A consular officer shall act in such a way as to further the development of commercial, economic, cultural and scientific relations between the two Contracting Parties and to strengthen the bonds of friendship between the two countries.

Article 9. PROTECTION OF THE INTERESTS OF THE SENDING STATE
AND OF ITS NATIONALS

A consular officer shall afford protection, within the consular district, to the rights and interests of the sending State and of its nationals, including bodies corporate.

Article 10. LEGAL REPRESENTATION OF NATIONALS OF THE SENDING STATE

(1) A consular officer may, within his district, and without special authorization, represent, before tribunals and other authorities, nationals of the sending State who, owing to absence or for any other reason, are unable to protect their rights and interests at the proper time and who have not appointed an agent. Such representation shall remain in effect until the person represented has appointed an agent or has personally assumed the protection of his rights and interests.

(2) The provisions of paragraph (1) of this article shall not affect the regulations of the receiving State concerning compulsory representation by counsel.

Article 11. ISSUE OF PASSPORTS AND VISAS

- (1) A consular officer may issue and renew passports and travel documents on behalf of nationals of the sending State.
- (2) A consular officer may issue and renew visas.

Article 12. CIVIL REGISTRY

- (1) A consular officer, if so authorized by the sending State, may register the birth, marriage, nationality and death of nationals of the sending State and issue the corresponding certificates.
- (2) A consular officer may also enter in the marriage register the dissolution—by virtue of a final judgement recognized as valid under the law of the sending State—of a marriage previously registered by him.
- (3) The foregoing provisions shall not exempt the persons concerned from the obligation to comply with the laws of the receiving State with regard to the notification of births, deaths and marriages.

Article 13. NOTARIAL FUNCTIONS

- (1) Provided that there is nothing contrary thereto in the laws of the receiving State, a consular officer may, within the consular district, perform the following acts:
 - (a) Receive, draw up or authenticate declarations by nationals of the sending State;
 - (b) Draw up, authenticate or accept for safekeeping wills of nationals of the sending State;
 - (c) Draw up or authenticate contracts concluded between, or unilateral declarations made by, nationals of the sending State, provided that they are not at variance with the laws of the receiving State. However, a consular officer may not record or authenticate contracts or declarations which are intended to establish or transfer property rights relating to immovable property situated in the territory of the receiving State;
 - (d) Draw up or authenticate contracts concluded between nationals of the sending State and of the receiving State if the contracts are to have legal effect or are to be executed exclusively in the territory of the sending State, provided that such contracts are not contrary to the laws of the receiving State;
 - (e) Authenticate documents and copies, extracts or translations of documents emanating from the authorities of the sending State or of the receiving State;
 - (f) Certify signatures of nationals of the sending State on any document the content of which is not contrary to the laws of the receiving State;
 - (g) Accept for safekeeping money, personal property and documents from or on behalf of nationals of the sending State, provided that the deposit thereof is not contrary to the laws of the receiving State;
 - (h) Perform other functions entrusted to him by the sending State.
- (2) Money and other personal property which is in the safekeeping of the consul may not be taken out of the receiving State except in conformity with the laws of that State.

Article 14. MATTERS OF SUCCESSION

(1) If a national of the sending State dies in the territory of the receiving State, the competent authority of the latter State shall notify the consular post without delay and provide it with all available information concerning: heirs, persons having or claiming a legal interest in the estate, or legatees; the address, domicile or place of residence of the aforementioned persons; the nature of the estate; and the existence of a will. The said authority shall also notify the consular post of the sending State of any knowledge it receives that the deceased left property in a third State.

(2) The competent authority of the receiving State shall notify the consular post of the sending State without delay, where, with regard to an estate situated in the territory of the receiving State, the heir, the person having a legal interest in the estate or the legatee is a national of the sending State.

(3) (a) The competent authority of the receiving State shall notify the consular post of the sending State without delay concerning all measures it has taken for the safeguarding and administration of assets which remain in the territory of the receiving State as a result of the death of a national of the sending State;

(b) A consular officer may co-operate, either personally or through a representative, in the execution of the measures referred to in subparagraph (a);

(c) The measures referred to in subparagraph (a) may be modified, abrogated or postponed on the proposal of the consular officer.

(4) If, upon the conclusion of succession proceedings instituted in the territory of the receiving State, the estate or the proceeds of the sale of the immovable or movable estate are to be delivered or remitted to an heir, a legatee or a person having a legal interest in the estate who is resident or present in the territory of the sending State and has not appeared in the proceedings or appointed a representative, the estate or the proceeds of the sale thereof shall be placed at the disposal of the consular post of the sending State, provided that:

(a) All claims of creditors of the testator presented within the period prescribed by the law of the receiving State have been satisfied or secured;

(b) The estate duties have been paid or secured;

(c) The competent authorities have granted permission for the delivery of the assets of the estate or for the remittance of the proceeds of the sale thereof.

(5) If a national of the sending State dies while he is temporarily in the territory of the receiving State, his personal effects shall be delivered to the consular post of the sending State without any formal proceedings, subject to the regulations concerning the export of goods and the remittance of sums of money.

(6) The provisions of article 10 of this Convention shall also apply, *mutatis mutandis*, to matters of succession.

Article 15. APPOINTMENT OF A GUARDIAN OR TRUSTEE

(1) A consular officer shall be entitled to appoint a guardian or trustee on behalf of nationals of the sending State.

(2) A consular officer shall be entitled to supervise the activities of the guardian or trustee appointed on behalf of nationals of the sending State.

(3) If it comes to the knowledge of a consular officer that property of a national of the sending State is not being cared for, the said officer shall be entitled, if the law of the sending State so permits and subject to the laws of the receiving State, to appoint a person to administer the said property.

Article 16. FUNCTIONS RELATING TO THE MERCHANT MARINE

(1) A consular officer shall be entitled to render assistance to vessels showing the nationality of the sending State.

(2) A consular officer shall be informed in advance of any intention on the part of the courts or other authorities of the receiving State to carry out any procedural measure or confiscate any goods on board a vessel of the sending State or to interrogate the master or any member of the crew of such vessel.

(3) In a case of urgency or where the proceedings are initiated at the request of the master, the consular officer shall be notified in the course of the proceedings or as soon as possible.

(4) The authorities of the receiving State shall provide the consular officer, at his request, with information concerning procedural measures carried out in his absence.

(5) The provisions of the preceding paragraphs shall not apply to inspections carried out by the authorities of the receiving State in connexion with customs, passport or health matters.

(6) In the event of a vessel of the sending State being wrecked in the waters of the receiving State, the consular officer shall be notified thereof as soon as possible by the competent authorities of the receiving State and shall at the same time be informed of the measures taken, or intended to be taken, for the purpose of safeguarding the lives of the persons on board, the damaged vessel and the cargo.

Article 17. FUNCTIONS RELATING TO CIVIL AVIATION

The provisions of article 16 shall also apply, *mutatis mutandis*, to civil aviation, provided that they are not in conflict with international agreements binding on the Contracting Party.

Article 18. OTHER CONSULAR FUNCTIONS

A consular officer may be empowered by the sending State to perform other functions, provided that such functions are not prohibited by the laws of the receiving State and no objection thereto is taken by the competent authorities of that State.

PART III. FACILITIES, PRIVILEGES AND IMMUNITIES RELATING
TO A CONSULAR POST

Article 19. FACILITIES FOR THE WORK OF THE CONSULAR POST

The receiving State shall accord full facilities for the performance of the functions of the consular post.

Article 20. USE OF NATIONAL FLAG AND COAT OF ARMS

(1) The sending State shall have the right to the use of its national flag and coat of arms in the receiving State in accordance with the provisions of this article.

(2) The flag of the sending State may be flown and its coat of arms displayed on the building occupied by the consular post and at the entrance door thereof, on the residence of the head of the consular post and on his means of transport when used on official business.

(3) In the exercise of the rights accorded by this article, regard shall be had to the laws, regulations and usages of the receiving State.

Article 21. ACCOMMODATION

(1) The receiving State shall either facilitate the acquisition on its territory, in accordance with its laws and regulations, by the sending State of such premises necessary for its consular post or assist the latter in obtaining accommodation in some other way.

(2) The receiving State shall also, where necessary, assist the consular post in obtaining suitable accommodation for its members.

Article 22. INVIOABILITY OF THE CONSULAR PREMISES

(1) Consular premises shall be inviolable.

(2) The authorities of the receiving State shall not enter that part of the consular premises which is used exclusively for the purpose of the work of the consular post except with the express consent of the head of the consular post or of his designee or of the head of the diplomatic mission of the sending State.

(3) Subject to the provisions of paragraph 2 of this article, the receiving State shall be under a special duty to take all appropriate steps to protect the consular premises against any intrusion or damage and to prevent any disturbance of the peace of the consular post or impairment of its dignity.

(4) The consular premises, their furnishings, the property of the consular post and its means of transport shall be immune from any form of requisition for purposes of national defence or public utility.

Article 23. EXEMPTION FROM TAXATION OF CONSULAR PREMISES

(1) Consular premises and the residence of the head of consular post of which the sending State or any person acting on its behalf is the owner or lessee shall be exempt from all national, regional or municipal dues and taxes whatsoever, other than such as represent payment for specific services rendered.

(2) The exemption from taxation referred to in paragraph 1 of this article shall not apply to such dues and taxes if, under the law of the receiving State, they are payable by the person who contracted with the person acting on behalf of the sending State.

Article 24. INVIOIABILITY OF THE CONSULAR ARCHIVES AND DOCUMENTS

The consular archives and documents shall be inviolable at all times and wherever they may be.

Article 25. FREEDOM OF COMMUNICATION

(1) The receiving State shall permit and protect freedom of communication on the part of the consular post in respect of all official business. In communicating with the Government the diplomatic missions and other consular posts, wherever situated, of the sending State may employ all appropriate means, including diplomatic ciphers, the diplomatic or consular bag and messages in code or cipher. However, the consular post may install and use a wireless transmitter only with the consent of the receiving State.

(2) The official correspondence of the consular post shall be inviolable. Official correspondence means all correspondence relating to the consular post and its functions.

(3) The consular bag shall be neither opened nor detained.

(4) The packages constituting the consular bag shall bear visible external marks of their character and may contain only official correspondence and documents or articles intended exclusively for official use.

Article 26. COMMUNICATION WITH NATIONALS OF THE SENDING STATE

(1) With a view to facilitating the exercise of consular functions relating to nationals of the sending State:

- (a) Consular officers shall be free to communicate with nationals of the sending State and to have access to them. Nationals of the sending State shall have the same freedom with respect to communication with and access to consular officers of that State;
- (b) The competent authorities of the receiving State shall, without delay, inform the consular post of the sending State if, within its consular district, a national of the sending State is arrested or is detained in any other manner. Any communication addressed to the consular post by the person arrested or detained in any other manner shall also be forwarded by the said authorities without delay. The said authorities shall inform the persons concerned without delay of his rights under this subparagraph;
- (c) Consular officers shall have the right to visit a national of the sending State who has been arrested or has been detained in any other manner, to talk with him privately, to correspond with him and to arrange for his legal representation.

(2) The rights referred to in paragraph 1 of this article shall be exercised only in conformity with the laws and regulations of the receiving State.

Article 27. INFORMATION IN CASES OF GUARDIANSHIP OR TRUSTEESHIP,
WRECKS AND AIR ACCIDENTS

If the relevant information is available to the competent authorities of the receiving State, such authorities shall have the duty:

- (a) To inform the competent consular post without delay of any case where the appointment of a guardian or trustee appears to be in the interests of a minor or

other person lacking full capacity who is a national of the sending State. The giving of this information shall however, be without prejudice to the operation of the laws and regulations of the receiving State concerning such appointments;

- (b) If a vessel, having the nationality of the sending State, is wrecked or runs aground in the territorial sea or internal waters of the receiving State, or if an aircraft registered in the sending State suffers an accident on the territory of the receiving State, to inform without delay the consular post nearest to the scene of the occurrence.

Article 28. COMMUNICATION WITH THE AUTHORITIES
OF THE RECEIVING STATE

In the exercise of their functions, consular officers may address:

- (a) The competent local authorities of their consular district;
(b) The competent central authorities of the receiving State.

Article 29. CONSULAR FEES AND CHARGES

(1) The consular post may levy in the territory of the receiving State the fees and charges provided by the laws and regulations of the sending State for consular acts.

(2) The sums collected in the form of the fees and charges referred to in paragraph 1 of this article shall be exempt from all dues and taxes in the receiving State.

PART IV. FACILITIES, PRIVILEGES AND IMMUNITIES RELATING TO CONSULAR OFFICERS AND OTHER MEMBERS OF A CONSULAR POST

Article 30. PROTECTION OF CONSULAR OFFICERS

The receiving State shall treat consular officers with due respect and shall take all appropriate steps to prevent any attack on their person, freedom or dignity.

Article 31. IMMUNITY FROM JURISDICTION

(1) Consular officers shall not be amenable to the jurisdiction of the receiving State in respect of acts performed in the exercise of consular functions. The provisions of this paragraph shall also apply to consular employees who are not nationals of the receiving State.

(2) If, otherwise than in the exercise of his official functions, a consular officer commits an act contrary to the laws of the receiving State, no coercive measure may be taken against him except by prior agreement between the Contracting Parties.

(3) The sending State may waive, with regard to the members of the consular post, the immunities provided for in the foregoing paragraphs. The waiver shall in all cases be express and shall be communicated to the receiving State in writing.

Article 32. LIABILITY TO GIVE EVIDENCE

(1) Members of a consular post may be called upon to attend as witnesses in the course of judicial or administrative proceedings. A consular employee or a member of

the service staff shall not, except in the case mentioned in paragraph 3 of this article, decline to give evidence. If a consular officer should decline to do so, no coercive measure or other penalty may be applied to him.

(2) The authority requiring the evidence of a consular officer shall avoid interference with the performance of his functions. It may, when possible, take such evidence at his residence or at the consular post or accept a statement from him in writing.

(3) Members of a consular post shall be under no obligation to give evidence concerning matters connected with the exercise of their functions or to produce official and correspondence documents relating thereto. They shall also be entitled to decline to give evidence as expert witnesses with regard to the law of the sending State.

*Article 33. INVIOIABILITY OF THE RESIDENCE OF THE HEAD
OF THE CONSULAR POST*

(1) The residence of the head of the consular post shall be inviolable.

(2) The authorities of the receiving State shall not enter the premises used as the residence of the head of the consular post except with the express consent of the head of the consular post or of his designee or of the sending State.

*Article 34. EXEMPTION FROM REGISTRATION OF ALIENS
AND RESIDENCE PERMITS*

(1) Consular officers and consular employees and members of their families forming part of their households shall be exempt from all obligations under the laws and regulations of the receiving State in regard to the registration of aliens and residence permits.

(2) The provisions of paragraph 1 of this article shall not, however, apply to any consular employee who is not a permanent employee of the sending State or who carries on any private gainful occupation in the receiving State or to any member of the family of any such employee.

Article 35. SOCIAL SECURITY EXEMPTION

(1) Subject to the provisions of paragraph 3 of this article, members of the consular post with respect to services rendered by them for the sending State, and members of their families forming part of their households, shall be exempt from social security provisions which may be in force in the receiving State.

(2) The exemption provided for in paragraph 1 of this article shall apply also to members of the private staff who are in the sole employ of members of the consular post, on condition:

- (a) That they are not nationals of or permanently resident in the receiving State; and
- (b) That they are covered by the social security provisions which are in force in the sending State or a third State.

(3) Members of the consular post who employ persons to whom the exemption provided for in paragraph 2 of this article does not apply shall observe the obligations which the social security provisions of the receiving State impose upon employers.

(4) The exemption provided for in paragraphs 1 and 2 of this article shall not preclude voluntary participation in the social security system of the receiving State, provided that such participation is permitted by that State.

Article 36. EXEMPTION FROM TAXATION AND CUSTOMS DUTIES

(1) Members of the consular post and members of their families forming part of their households shall be exempt from all taxes and other monetary contributions payable by nationals of the receiving State, provided that the employees of diplomatic missions in the receiving State who belong to the same or a similar category are also exempt therefrom.

(2) Members of the consular post and members of their families forming part of their households shall enjoy the same customs facilities as the employees of diplomatic missions who belong to the same or a similar category.

*Article 37. RESPECT FOR THE LAWS AND REGULATIONS
OF THE RECEIVING STATE*

(1) Without prejudice to their privileges and immunities, it shall be the duty of all persons enjoying such privileges and immunities to respect the laws and regulations of the receiving State. They shall also have a duty not to interfere in the internal affairs of that State.

(2) The consular premises shall not be used in any manner incompatible with the exercise of consular functions.

PART V. FINAL AND MISCELLANEOUS PROVISIONS

*Article 38. EXERCISE OF CONSULAR FUNCTIONS
BY DIPLOMATIC MISSIONS*

(1) The provisions of the present Convention shall apply also to the exercise of consular functions by a diplomatic mission.

(2) The names of members of a diplomatic mission assigned to the consular section or otherwise charged with the exercise of consular functions shall be notified to the Ministry of Foreign Affairs of the Receiving State.

(3) The privileges and immunities of the members of a diplomatic mission referred to in paragraph 2 of this article shall continue to be governed by the rules of international law concerning diplomatic relations.

Article 39. RATIFICATION

This Convention shall be ratified, and the exchange of the instruments of ratification shall take place at Havana.

Article 40. ENTRY INTO FORCE

This Convention shall enter into force thirty days after the exchange of instruments of ratification and shall remain in force for an indefinite period.

Article 41. TERMINATION OF THE CONVENTION

This Convention shall cease to have effect one year after the date on which it is denounced by either Contracting Party.

DONE at Budapest on 24 July 1969, in duplicate in the Hungarian and Spanish languages, both texts being equally authentic.

For the Government
of the Hungarian People's
Republic:

[VENCEL HÁZI]

For the Revolutionary Government
of the Republic of Cuba:

[FLOREAL CHOMÓN MEDIAVILLA]