

**No. 13547**

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**BELGIUM  
and  
POLAND**

**Consular Convention (with protocol and exchanges of letters). Signed at Warsaw on 11 February 1972**

*Authentic texts: French, Dutch and Polish.*

*Registered by Belgium on 19 September 1974.*

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**Convention consulaire (avec protocole et échanges de lettres). Signée à Varsovie le 11 février 1972**

*Textes authentiques: français, néerlandais et polonais.*

*Enregistrée par la Belgique le 19 septembre 1974.*

[TRANSLATION — TRADUCTION]

## CONSULAR CONVENTION<sup>1</sup> BETWEEN THE KINGDOM OF BELGIUM AND THE POLISH PEOPLE'S REPUBLIC

His Majesty the King of the Belgians and  
The Council of State of the Polish People's Republic,

Expressing the desire to continue strengthening the traditional bonds of friendship between the two States,

Wishing to regulate and develop consular relations between them and thus facilitate the protection of the rights and interests of each of the High Contracting Parties and of their nationals, whether individuals or bodies corporate, in the territories of the other,

Have decided to conclude for that purpose the present consular Convention and have appointed as their Plenipotentiaries:

His Majesty the King of the Belgians:

J. Frans Herpin, Ambassador of Belgium in Poland,

André J. Vranken, Director-General in the Ministry of Foreign Affairs in Brussels

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

Adam Willmann, Under-Secretary of State in the Ministry of Foreign Affairs,

Wladislaw Wojtasik, Director of the Consular Department of the Ministry of Foreign Affairs

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

### CHAPTER I

### DEFINITIONS

*Article 1.* For the purposes of the present Convention, the following expressions shall have the meanings hereunder assigned to them:

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

(b) "Consular district" means the territory in the receiving State assigned to a consular post for the exercise of consular functions;

(c) "Head of consular post" means any person in charge of a consular post;

<sup>1</sup> Came into force on 22 December 1973, i.e., the thirtieth day after the date of the exchange of the instruments of ratification, which took place at Brussels on 22 November 1973, in accordance with article 61(1).

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

(e) “Consular employee” means any person employed by the sending State in the administrative, technical or domestic service of a consular post;

(f) “Members of the consular post” means consular officers and consular employees;

(g) “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;

(h) “Consular archives” means all the papers, documents, correspondence, books, films, tapes, registers and ciphers and codes of the consular post, together with the card-indexes and any article of furniture intended for their protection or safekeeping;

(i) “Nationals of the sending State” means individuals and also, according to the context, bodies corporate;

(j) “Vessel of the sending State” means any vessel officially authorized to fly the flag of the sending State or registered in that State, with the exception of warships;

(k) “Aircraft of the sending State” means any aircraft registered in that State, with the exception of military aircraft.

## CHAPTER II

### ESTABLISHMENT OF CONSULAR POSTS AND APPOINTMENT OF CONSULAR OFFICERS AND EMPLOYEES

*Article 2.* 1. Each High Contracting Party shall have the right to establish and maintain consular posts in the territory of the other Party.

2. The seat and district of the consular post shall be determined by mutual agreement by the sending State and the receiving State. The same shall hold true in respect of any change in the seat and district of the consular post.

*Article 3.* 1. The head of a consular post shall be authorized to act in that capacity after presentation of his commission or similar instrument through the diplomatic channel and after obtaining the exequatur through the same channel; the exequatur shall be granted as soon as possible and free of charge. The commission or similar instrument shall show the full name and rank of the head of the consular post, as well as the seat of the post and its district; the exequatur shall show the same information.

2. Pending delivery of the exequatur, the head of a consular post may be allowed, with the consent of the receiving State, to act in that capacity on a

provisional basis. In that case, he shall be accorded provisional authorization if necessary.

3. If the head of a consular post is admitted even provisionally to the exercise of his functions, the receiving State shall immediately so notify the competent authorities of the consular district and shall also take the necessary measures to enable him to carry out his official functions and have the benefit of the provisions of the present Convention.

4. If the exequatur or the provisional authorization is refused, the receiving State is not obliged to give the sending State reasons for that decision.

*Article 4.* The diplomatic mission of the sending State shall notify the Ministry of Foreign Affairs of the receiving State of:

- (a) the full name, nationality and rank of every member of the consular post, his arrival in the receiving State, any change affecting his status, his final departure from the receiving State or the termination of his functions at the consular post;
- (b) the arrival in the receiving State and the final departure from that State of members of the families of members of the consular post forming part of their households and, where appropriate, the fact that such a person becomes or ceases to be such a member of the family.

*Article 5.* 1. Consular officers must have the nationality of the sending State.

2. Consular officers may not engage in any professional or commercial activity in the receiving State for personal profit.

*Article 6.* The receiving State may at any time notify the sending State that a consular officer is *persona non grata* or that a consular employee is an undesirable person. In that event, the sending State shall, as the case may be, either recall the person concerned or terminate his functions with the consular post. If the sending State fails to carry out its obligation within a reasonable time, the receiving State may, as the case may be, either withdraw the exequatur from the person concerned or cease to consider him as a member of the consular post. The receiving State is not obliged to give to the sending State reasons for its decision.

*Article 7.* 1. If the head of a consular post is unable for any reason to carry out his functions or if the position of head of a consular post is vacant, the sending State may designate a consular officer serving in the receiving State or a member of the diplomatic staff of its diplomatic mission in that State to act provisionally as head of the consular post. The full name of that person shall be notified in advance to the Ministry of Foreign Affairs of the receiving State.

2. The person referred to in paragraph 1 shall, during the period when he is provisionally exercising the functions of head of a consular post, have the benefit of the rights, privileges and immunities granted to the head of a consular post. If those functions are entrusted to a member of the diplomatic staff, the latter shall also enjoy the privileges and immunities to which he is entitled as a member of the diplomatic staff.

## CHAPTER III

## RIGHTS, PRIVILEGES AND IMMUNITIES

*Article 8.* The receiving State shall accord all facilities necessary for the performance of the functions of the consular post and shall take all appropriate steps to enable the members of the consular post to carry out their activities and to enjoy the rights, privileges and immunities accorded under the present Convention.

*Article 9.* 1. The coat-of-arms of the sending State and an appropriate inscription in the official language or languages of that State and of the receiving State, designating the consular post, may be displayed on the building occupied by the consular post and on the residence of the head of the post.

2. The flag of the sending State may be flown on the building of the consular post, on the residence of the head of the consular post and also on his means of transport when used on official business.

*Article 10.* 1. In the conditions laid down by the laws and regulations of the receiving State, the sending State shall have the right to:

- (a) acquire, hold or occupy, under any form provided for in the laws and regulations of the receiving State, land, buildings or parts of buildings to be used for the seat of the consular post, the residence of the head of the consular post or the residence of other members of the consular post;
- (b) construct or adapt buildings or parts of buildings for the same purposes on the land acquired or held;
- (c) dispose of the rights or property mentioned in subparagraphs (a) and (b).

2. Where necessary, the receiving State shall assist the sending State with a view to the implementation of the rights provided for in paragraph 1.

3. The provisions of paragraph 1 shall not exempt the sending State from compliance with the building and town planning laws and regulations of the receiving State applicable to the area in which the land, buildings and parts of buildings in question are situated.

*Article 11.* 1. The consular premises shall be inviolable. The authorities of the receiving State shall not enter such premises except at the request of the head of the consular post, the head of the diplomatic mission of the sending State or a person designated by one of them. The consent of the head of the consular post may, however, be assumed in case of fire or other disaster requiring prompt protective action.

2. In any event, the authorities of the receiving State must respect the principle of the inviolability of the consular archives.

3. The receiving State is 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 provisions of paragraphs 1, 2 and 3 shall also apply to the

residence of the head of the consular post and those of the other consular officers.

*Article 12.* The consular premises, the residences of members of the consular post, their furnishings and installations, the property of the consular post and its means of transport and those of its members shall be immune from any form of requisition for purposes of national defence or public utility. If expropriation is necessary for such purposes, all possible steps shall be taken to avoid impeding the performance of consular functions and prompt, adequate and effective compensation shall be paid to the sending State or to the person expropriated.

*Article 13.* 1. The sending State shall be exempt from all national, regional or municipal dues and taxes whatsoever as regards:

- (a) the acquisition, ownership, possession, occupation, construction or adaptation of land, buildings or parts of buildings destined to serve or serving exclusively the official needs of a consular post or as the residence of consular officials and consular employees employed in the administrative and technical services of the consular post, who are neither nationals nor permanent residents of the receiving State and do not carry on there any private gainful occupation;
- (b) the acquisition, ownership, possession or use of all movable property, including means of transport, destined to serve or serving exclusively the official needs of a consular post, on the understanding that exemptions from duties and taxes imposed upon importation or re-exportation shall be dealt with in article 25.

2. The exemptions referred to in paragraph 1 shall not apply to changes levied for specific services rendered.

3. The exemptions referred to in paragraph 1 shall not apply to dues and taxes which, under the laws and regulations of the receiving State, are payable by persons who contracted with the sending State and notably to the dues and taxes in respect of which those persons are legally liable as regards direct taxes and taxes assimilated thereto.

*Article 14.* 1. The consular archives shall be inviolable at all times and wherever they may be. The authorities of the receiving State may not, under any pretext, examine or seize documents or articles forming part of the consular archives.

2. Those archives must be separated from documents and articles unrelated to the performance of consular functions.

*Article 15.* 1. The receiving State shall permit and protect freedom of communication on the part of the consular post for all official purposes. In communicating with the authorities of the sending State and the diplomatic missions and other consular posts of that State, wherever situated, the consular post may employ all means of communication, including diplomatic or consular couriers, diplomatic or consular bags and messages in code or cipher.

2. The correspondence of the consular post, regardless of the means of communication used, bearing visible external marks of its official character, shall be inviolable.

3. The consular bag containing correspondence, documents and articles destined exclusively for official use may be neither opened nor detained. Nevertheless, if the competent authorities of the receiving State have serious reasons to believe that the consular bag contains articles other than those mentioned above, they may request that the bag be opened in their presence by an authorized representative of the sending State. If this request is refused, the bag shall be returned to its place of origin.

4. The consular bag may be entrusted to the captain of a ship or of an aircraft scheduled to land at or leave an authorized port of entry in the receiving State. He shall be provided with an official document indicating the character and number of packages constituting the bag. The consular post may send one of its officers to take possession of the bag directly from the captain of the ship or of the aircraft.

*Article 16.* 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 17.* 1. Members of the consular post shall not be amenable to the criminal, civil or administrative jurisdiction of the receiving State in respect of acts performed by them in their official capacity.

2. The provisions of paragraph 1 shall not apply in respect of a civil action:

- (a) arising out of the obligations of a contract concluded by a member of the consular post in which he did not contract expressly or impliedly as an agent of the sending State;
- (b) by a third party for damage caused in the receiving State by a vehicle, vessel or aircraft.

3. The sending State may waive the immunity referred to in paragraph 1. This waiver shall in all cases be express and shall be the subject of a written communication addressed to the receiving State through the diplomatic channel.

4. The waiver of immunity from jurisdiction for the purposes of civil or administrative proceedings shall not be deemed to imply the waiver of immunity from the measures of execution resulting from the judicial decision; in respect of such measures, a separate waiver shall be necessary.

5. The initiation of proceedings by a member of the consular post in a matter where he might enjoy immunity from jurisdiction under paragraph 1 shall preclude him from invoking immunity from jurisdiction in respect of any counter-claim directly connected with the principal claim.

*Article 18.* 1. The authorities of the receiving State shall not institute any criminal, civil or administrative proceedings against the head of the consular post for acts performed by him otherwise than in an official capacity, save in the cases referred to in article 17, paragraph 2, unless the sending State waives that immunity in advance through the diplomatic channel in a specific case. No measure of execution may be taken against the head of the consular post, except in the cases referred to in article 17, paragraph 2. These measures may not, however, impair the inviolability of his person or his residence.

2. The provisions of paragraph 1 shall also apply to members of the family of the head of the consular post forming part of his household.

*Article 19.* 1. Subject to the provisions of article 18, paragraph 1, consular officers shall not be liable to arrest or detention pending trial for acts performed otherwise than in their official capacity, save in the case of an offence punishable under the legislation of the receiving State by a penalty involving deprivation of freedom for a minimum of five years or a more severe penalty and on the basis of a decision by an authority of that State competent in criminal matters.

2. With the exception of the cases referred to in paragraph 1, consular officers shall not be committed to prison or liable to any other form of restriction on their personal freedom save in execution of a judicial decision of final effect in a criminal matter.

3. Members of the families of consular officers forming part of their households shall enjoy the immunities referred to in paragraphs 1 and 2.

4. If criminal proceedings are instituted against a consular officer, they shall be conducted with the respect due to him by reason of his official position and in a manner which will hamper the exercise of consular functions as little as possible. When it has become necessary to detain a consular officer pending trial, the proceedings against him shall be conducted with the minimum of delay.

5. In the event that a member of the consular post is the object of criminal proceedings, arrest, detention or deprivation of freedom in any form, the receiving State shall promptly notify the diplomatic mission of the sending State.

*Article 20.* 1. Members of the consular post may be called upon to give evidence to the courts or other competent authorities of the receiving State. If consular officers should decline to give evidence, no coercive measure or penalty may be applied to them. Consular employees shall not decline to give evidence except concerning matters connected with the exercise of their official functions; they are under no obligation to produce documents or articles belonging to the consular archives.

2. The right to decline to give evidence and to produce documents or articles should not be invoked if the interests of justice so require and if the head of the consular post considers that the interests of the sending State are not prejudiced.

3. The courts or other competent authorities of the receiving State requiring the evidence of the persons referred to in paragraph 1 shall take all appropriate steps to ensure that the exercise of the functions of the consular post is not hampered. At the request of the head of the consular post, the evidence of consular officers may be taken, when possible, at the consular post or at the residence of the consular officer or be the subject of a statement in writing.

4. The provisions of paragraphs 1 and 2 shall apply to members of the families of members of the consular post forming part of their households.

*Article 21.* 1. Members of the consular post and members of their families forming part of their households shall be exempt from obligations



under the laws and regulations of the receiving State relating to the residence of aliens.

2. The competent authority of the receiving State shall issue an appropriate document to the persons referred to in paragraph 1.

*Article 22.* Members of the consular post and members of their families forming part of their households shall be exempt in the receiving State from all compulsory service in the armed forces or other organizations directly or indirectly concerned with national defence and from all public service. The same shall apply to all contributions in cash or in kind imposed in lieu of personal services.

*Article 23.* 1. Members of the consular post shall be exempt from all national, regional or municipal dues and taxes as regards the income, salaries, wages or allowances received from the sending State as compensation for their official functions or duties.

2. Consular officers and consular employees employed in the administrative and technical services of the consular post shall, in addition, be exempt from all other dues and taxes, personal or real, national, regional or municipal, except:

- (a) indirect taxes of a kind which are normally incorporated in the price of goods or services;
- (b) dues or taxes on private immovable property situated in the territory of the receiving State, subject to the provisions of article 13;
- (c) estate, succession or inheritance duties, duties on transfers, and similar dues and taxes, subject to the provisions of article 24;
- (d) dues and taxes on private income, including capital gains, having its source in the receiving State, and capital taxes relating to investments made in commercial or financial undertakings in the receiving State;
- (e) charges levied for specific services rendered;
- (f) registration, court or record fees, mortgage dues and stamp duties, subject to the provisions of article 13.

Exemptions from duties and taxes imposed upon importations or re-exportation are dealt with in article 25.

3. Members of the families of the consular officer or consular employees referred to in paragraph 2, forming part of their households, shall enjoy the same exemptions as those consular officers or employees.

4. The exemptions referred to in the present article shall not apply to the dues and taxes which under the laws and regulations of the receiving State are payable by persons other than members of the consular post or members of their families and notably to dues and taxes to which such persons are legally liable with regard to direct taxes and taxes assimilated thereto.

5. Members of the consular post who employ persons whose wages or salaries are not exempt from income tax in the receiving State shall observe the obligations which the laws and regulations of that State impose upon employers concerning the levying of income tax.

*Article 24.* 1. In the event of the death of a member of the consular

post or of a member of his family forming part of his household, the movable property forming part of the estate and situated in the receiving State shall be exempt in that State from estate, succession and inheritance duties and from all similar dues and taxes if the deceased was neither a national nor a permanent resident of that State and if the presence of that property in that State was due solely to the presence in the receiving State of the deceased as a member of the consular post or as a member of his family.

2. The receiving State shall permit the export, exempt from customs duties and all taxes and related charges, of the property referred to in paragraph 1, with the exception of property acquired in that State the export of which is prohibited or restricted.

*Article 25.* 1. The receiving State shall permit import and re-export of, and grant for both import and export exemption from all customs duties, taxes and related charges, other than charges for storage, cartage and similar services, on:

- (a) articles, including means of transport, for the official use of the consular post;
- (b) articles, including means of transport, for the personal use of consular officers and consular employees employed in the administrative and technical services of the consular post.

2. Consular employees employed in the domestic service of the consular post shall enjoy the privileges and exemptions specified in paragraph 1 (b) in respect of articles imported at the time of first installation.

3. The privileges and exemptions specified in paragraph 1 (b) and paragraph 2 shall also be granted to members of the families of the consular officers and employees concerned who form part of their households.

4. The provisions of this article shall not apply to property the import or export of which is prohibited by the laws and regulations of the receiving State.

*Article 26.* 1. The privileges and immunities specified in articles 12, 17, 18, paragraph 2, 19, paragraph 3, 21, paragraph 1, 22, 23 and 25 shall not be accorded to persons who are nationals or permanent residents of the receiving State.

2. The provisions of article 18, paragraph 2, 19, paragraph 3, 21, paragraph 1, 23 and 25 shall not apply to persons who carry on any private gainful occupation in the receiving State.

*Article 27.* The consular post, members of the consular post and members of their families shall comply with any requirement imposed by the laws and regulations of the receiving State in respect of insurance against third party risks arising from the use of any means of transport.

*Article 28.* The sending State, the members of the consular post and members of their families forming part of their households shall comply with the formalities laid down by the administrative authorities of the receiving State with regard to the application of the provisions of chapter III of the present Convention.

*Article 29.* 1. Every member of the consular post shall enjoy the privileges and immunities provided in the present Convention from the moment he enters the receiving State on proceeding to take up his post or, if already in that State, from the moment when he enters into his duties with the consular post.

2. Members of the family of a member of the consular post forming part of his household shall receive the privileges and immunities provided in the present Convention from the date from which he enjoys privileges and immunities in accordance with paragraph 1, or from the date of their entry into the receiving State or from the date of their becoming a member of such family, whichever is the latest.

3. When the functions of a member of the consular post have come to an end, his privileges and immunities and those of a member of his family forming part of his household shall normally cease at the moment when the person concerned leaves the receiving State or on the expiry of a reasonable period in which to do so, whichever is the sooner, but shall subsist until that time. In the case of the persons referred to in paragraph 2, their privileges and immunities shall come to an end when they cease to belong to the household of a member of the consular post, provided, however, that if such persons intend leaving the receiving State within a reasonable period thereafter, their privileges and immunities shall subsist until the time of their departure.

4. However, with respect to acts performed by a member of the consular post in his official capacity, immunity from jurisdiction shall continue to subsist without limitation of time.

5. In the event of the death of a member of the consular post, the members of his family forming part of his household shall continue to enjoy the privileges and immunities accorded to them until they leave the receiving State or until the expiry of a reasonable period enabling them to do so, whichever is the sooner.

#### CHAPTER IV

### CONSULAR FUNCTIONS

*Article 30.* The functions of consular officers shall be:

- (a) to protect the rights and interests of the sending State;
- (b) to further the development of economic, commercial, cultural and scientific relations of all kinds between the sending State and the receiving State;
- (c) to promote in every other way the development of friendly relations between the sending State and the receiving State.

*Article 31.* Consular officers shall be entitled to protect the rights and interests of nationals of the sending State. To that end, they may, *inter alia*:

- (a) promote the economic, commercial, cultural and scientific interests of such nationals;

- (b) inquire into any incident which has affected or may affect the interests of such nationals;
- (c) assist such nationals in their relations with the authorities of the receiving State, *inter alia* with respect to matters concerning the exercise of their professional activities.

*Article 32.* 1. In accordance with the procedural regulations obtaining in the receiving State, consular officers shall have the right to represent nationals of the sending State, without having to obtain a power of attorney, or to arrange representation for them before the courts and other authorities of the receiving State, if, because of absence or any other reason, such nationals are unable at the proper time to assume the defence of their rights and interests;

2. The representation provided for in paragraph 1 shall cease when the persons represented appoint their own agents or themselves assume the protection of their rights and interests.

*Article 33.* 1. When it is necessary to arrange for the protection of a minor or other person lacking full capacity who is a national of the sending State and resident in the receiving State, the authorities of the latter State shall notify the consular officer of this situation as soon as they learn of it.

2. Consular officers may, if necessary, propose to the courts or other authorities of the receiving State persons to act temporarily or permanently as guardians or trustees of minors and other persons lacking full capacity who are nationals of the sending State, or as trustees of the property of such nationals where such property is not protected.

3. Consular officers shall be informed immediately by the authorities of the receiving State of the admission of any national of the sending State to an institution for the mentally ill. They shall be authorized to visit such nationals without delay and to arrange, where appropriate, for their protection in accordance with the provisions of paragraph 2.

*Article 34.* 1. The head of the consular post shall be entitled to solemnize a marriage or receive declarations concerning the contracting of a marriage, provided that both parties thereto are nationals of the sending State.

2. Consular officers shall be entitled to draw up certificates or register declarations in respect of the birth or death of nationals of the sending State and to issue documents relating thereto.

3. The provisions of paragraphs 1 and 2 shall not exempt the persons concerned from the obligation to comply with all the formalities required under the laws and regulations of the receiving State.

4. The competent authority of the receiving State shall provide the consular post free of charge with an extract from any civil register document relating to a national of the sending State when the consular post requests it for administrative purposes.

*Article 35.* Consular officers shall be entitled to:

- (a) keep a register of nationals of the sending State and issue to them any documents relating to them;

- (b) issue passports or other travel documents to nationals of the sending State and to renew and amend them;
- (c) issue visas.

*Article 36.* 1. Consular officers shall be entitled to:

- (a) draw up and accept for safekeeping the wills of nationals of the sending State and draw up other documents relating to unilateral legal acts of such nationals;
- (b) draw up and certify documents relating to contracts between nationals of the sending State or between nationals of the sending State and persons who are not nationals of that State, if such contracts are intended to have legal effects in the sending State;
- (c) certify documents issued by authorities or public agents of the sending State or of the receiving State or legalize the signatures on such documents;
- (d) legalize the signatures of nationals of the sending State on all documents;
- (e) certify copies of and extracts from documents drawn up by authorities, public agents or nationals of the sending State;
- (f) translate documents and certify the translation thereof;
- (g) receive and certify declarations by nationals of the sending State and issue the appropriate certificates and documents;
- (h) receive at the request of courts and other authorities of the sending State voluntary depositions of nationals of that State and transmit to them all relevant judicial and extra-judicial documents emanating from such courts and authorities, and execute letters rogatory at the request of such courts in accordance with the agreements in force between the High Contracting Parties;
- (i) issue certificates of origin and other similar documents in respect of goods;
- (j) receive, with a view to restoring them to the owner, articles lost by nationals of the sending State during a temporary stay in the receiving State;
- (k) display in the consular premises notices concerning any matter relating to the rights, obligations or interests of nationals of the sending State.

2. The provisions of paragraph 1 shall not apply to acts or contracts concerning the creation, transfer or extinction of rights to real estate situated in the receiving State.

3. Acts and documents drawn up, authenticated or certified by consular officers of the sending State and bearing the official seal shall be authentic and shall have the same evidential value as though they had been drawn up, authenticated or certified by the authorities or public agents of the receiving State. However, the authorities of the latter State shall be obliged to recognize the validity of such acts and documents if they have been drawn up in the forms required by the laws and regulations of the sending State and have, as appropriate, been stamped, registered and legalized and if all the other for-

malities applicable to the matter in the State where such acts are to be executed have been observed.

*Article 37.* Consular officers shall be entitled to communicate with any national of the sending State, to meet with him, to render him assistance and to advise him. If necessary, they shall be entitled to render him assistance in his relations with the courts or other authorities of the receiving State and help him in proceedings before such courts or other authorities. The receiving State shall do nothing to restrict the access of nationals of the sending State to the consular post.

*Article 38.* 1. Where a national of the sending State has been arrested, detained or otherwise deprived of freedom, the competent authorities of the receiving State shall notify the consular post of the sending State.

2. Consular officers shall be entitled to visit any national of the sending State who has been arrested, detained or otherwise deprived of freedom or who is serving a term of imprisonment, to communicate and converse with him in the languages of the sending State and the receiving State and to arrange for his legal defence. The rights referred to in the present paragraph shall be exercised in conformity with the laws and regulations of the receiving State, including the regulations of the prison, subject to the proviso that such laws and regulations shall allow the full realization of the purposes for which the rights in question are accorded.

3. The authorities of the receiving State shall, as quickly as possible, notify any national of the sending State who has been arrested, detained or otherwise deprived of freedom of the possibility of communication accorded him under paragraph 2.

*Article 39.* The competent authorities of the receiving State shall notify the consular post without delay of the death of a national of the sending State. At the same time, the said authorities shall provide the consular post free of charge with an extract from the death certificate.

*Article 40.* 1. When the competent local authorities of the receiving State learn that there is an estate existing of a result of the death in that State of a national of the sending State, they shall notify the consular officer of the sending State without delay.

2. When the competent local authorities of the receiving State learn of the death of a person of whatever nationality who has left an estate in the receiving State in which a national of the sending State may have an interest in his capacity as a beneficiary, they shall notify the consular officer of the sending State without delay.

3. The competent local authorities of the receiving State in whose territory estates as referred to in paragraphs 1 and 2 have been left shall take appropriate measures, in conformity with the laws and regulations of that State, to protect such estates and shall transmit to the consular officer of the sending State without delay, in so far as possible, all available information concerning beneficiaries, their domicile and their whereabouts, the content and value of the estate, including arrears of pensions and sums due in respect of compensation, social insurance or insurance policies, the existence of a will, an estate left by the deceased in a third State and the status of the proceedings relating to the succession.

*Article 41.* With respect to questions relating to estates as referred to in article 40, the consular officer of the sending State may assist the competent authorities of the receiving State, particularly with regard to the following:

- (a) drawing up an inventory of the estate;
- (b) taking all necessary steps to prevent any damage to the estate, including the sale of movable goods if such sale is in the interest of the beneficiaries;
- (c) designating an administrator or trustee of the estate and settling other questions concerning the administration of the estate.

*Article 42.* 1. If a national of the sending State has an interest in an estate left in the receiving State and if such national lacks full capacity or does not reside in the receiving State and is not represented there, the consular officer is authorized to represent him *ex officio* before the courts and other competent authorities of the receiving State, without being required to produce a power of attorney.

2. A consular officer acting as representative of the interested persons cannot be personally implicated before the courts and other competent authorities with respect to any matter concerning the estate.

*Article 43.* 1. A consular officer of the sending State shall be authorized to receive, with a view to transmitting them, in conformity with the laws and regulations of the receiving State, to a national of the sending State who does not reside in the receiving State, funds or other property acquired by such nationals following proceedings in respect of an estate, including arrears of pensions and sums due in respect of compensation, social insurance or insurance policies.

2. A consular officer may receive the funds or property referred to in paragraph 1 after settling or guaranteeing payment of all dues or taxes payable to the competent authorities of the receiving State and after settling or guaranteeing payment of the debts of the deceased.

3. When, in conformity with the provisions of the present article, a consular officer receives funds or other property from a court, establishment or person, he shall comply with the conditions of proof prevailing in the receiving State for the purpose of establishing that the funds or property have been transmitted to the recognized heirs; failing such proof, the funds or property shall be returned.

*Article 44.* If a national of the sending State dies while travelling in the receiving State, without being permanently resident there, the personal effects and other property which were in the possession of the deceased shall be transmitted to the consular officer of the sending State without the application of any special procedure. The consular officer to whom such effects and such property have been transmitted shall pay the debts contracted by the deceased during his stay in the receiving State to an amount not exceeding the value of such effects and such property.

*Article 45.* 1. Consular officers shall be entitled to extend assistance to vessels of the sending State while they are in the territorial or internal waters of the receiving State, including ports. If they request the assistance of the competent authorities of the receiving State in connexion with any matter

relating to the performance of their duties, such assistance shall be granted them.

2. Consular officers shall be entitled to interview the master and members of the crew of a vessel of the sending State and to proceed personally on board the vessel as soon as it has received *pratique*.

3. The master and members of the crew of a vessel of the sending State may communicate with consular officers and proceed to the consular post, subject to compliance with the legislation of the receiving State.

*Article 46.* Consular officers shall be entitled to:

- (a) question the master and any other member of the crew of a vessel of the sending State, examine and stamp the ship's papers, take statements regarding its voyage and destination and in general facilitate the arrival, stay and departure of the vessel;
- (b) make all arrangements for the engagement and discharge of the master or any member of the crew;
- (c) settle disputes of any kind between the master and members of the crew, particularly disputes relating to contracts of service and conditions of work;
- (d) make arrangements for the treatment in hospital and the repatriation of the master or any member of the crew;
- (e) request the delivery to them of any certificates of or declarations in respect of births or deaths which the master has drawn up on board the vessel during the sea voyage, as well as any wills which he has received;
- (f) render aid and assistance to the master or to any member of the crew of a vessel of the sending State in their relations with the courts and other competent authorities of the receiving State and, to that end, to provide them with the services of a lawyer or other person, and to act as interpreters on their behalf or designate an interpreter to assist them;
- (g) take all necessary steps to ensure the maintenance of order and discipline on board the vessel;
- (h) receive, draw up or sign any declaration or other document prescribed by the law of the sending State concerning the nationality of, ownership of and other real rights in, and condition and operation of a vessel of that State;
- (i) ensure the application on board vessels of the sending State of the legislation of that State concerning maritime matters.

*Article 47.* The courts and other authorities of the receiving State having competence with respect to judicial matters shall not exercise their jurisdiction either on land or on board a vessel of the sending State in respect of any offence committed on board except in the case of the following:

- (a) offences committed by or against a national of the receiving State or by or against any person other than the master or a member of the crew;
- (b) offences jeopardizing the tranquillity or safety of a port or of the territorial or internal waters of the receiving State;



- (c) offences against the laws and regulations of the receiving State concerning the security of the State, public health, the safety of life at sea, immigration, customs or marine pollution;
- (d) offences punishable under the provisions of the legislation of the receiving State by a penalty involving deprivation of freedom for a minimum of five years or a more severe penalty.

In other cases, the said authorities shall act only at the request or with the consent of the consular officer.

*Article 48.* 1. Where the authorities of the receiving State referred to in article 47 intend to arrest or otherwise detain on board a vessel of the sending State the master or a member of the crew or a passenger, to seize or detain the vessel or property which is on board or to institute an official investigation on board the vessel, they shall so notify a consular officer in advance so as to enable him to be present at the proceedings. If because of the urgency of the matter it has not been possible to notify a consular officer, or if no consular officer has been present at the proceedings, the authorities of the receiving State shall inform the consular officer fully and without delay of the measures which they have taken.

2. The provisions of paragraph 1 shall not apply to any routine examination carried out by the authorities of the receiving State with regard to public health, passports and customs.

*Article 49.* If a member of the crew who is not a national of the receiving State leaves a vessel of the sending State in the receiving State without the authorization of the master, the competent authorities of the latter State shall render assistance, at the request of the consular officer, in searching for the person in question and shall take all necessary measures to have him taken on board the vessel or another vessel of the sending State.

*Article 50.* Subject to the authorization of the master of the vessel, consular officers of the sending State shall be entitled to visit vessels of any nationality destined to a port of that State in order to procure the information which will enable them to prepare and sign the documents required under the legislation of the sending State as a condition of entry of the vessel into the ports of that State and to give the competent authorities of the sending State all information requested by them.

*Article 51.* 1. Where a vessel of the sending State has been damaged, has run aground or has been wrecked in the territorial or internal waters of the receiving State, the competent authorities of the latter State shall notify the consular officer of the occurrence without delay.

2. In the cases referred to in paragraph 1, the authorities of the receiving State shall take all necessary measures to save and protect the vessel and its equipment, the crew, the passengers, the cargo, the supplies and any other objects on board, and to prevent plunder or disorder on the vessel or put an end to it. Such measures shall extend to articles forming part of the vessel or its cargo which have become separated from the vessel. The authorities of the receiving State shall notify the consular officer of the measures taken. They shall also accord the consular officer the necessary assistance in taking any measures required as a result of the damage, running aground or wreck. The consular officer shall be entitled to request the authorities of the receiving

State to take and continue to take the necessary measures to save and protect the vessel and its equipment, the crew, the passengers, the cargo, the supplies and the other articles on board. Such measures shall, where appropriate, be taken in collaboration with the master of the vessel.

3. Where the wrecked vessel of the sending State, its equipment, cargo or supplies or other articles which were on board are found on or near the coast of the receiving State or brought into a port of that State and neither the master nor the owner of the vessel or of the cargo, nor his agent, nor the underwriters are present or are in a position to make arrangements for their custody or disposal, the consular officer shall be authorized to make, in his capacity as representative of the owner of the vessel, the same arrangements as the owner could have made for such purposes, in conformity with the legislation of the receiving State, had he been present.

4. Consular officers may likewise take the measures provided for in paragraph 3 with respect to any articles belonging to a national of the sending State and coming from, or forming part of the cargo of, a vessel of any nationality which has been brought into a port or found on or near the coast or on the vessel which has been damaged, has run aground or has been wrecked. The competent authorities of the receiving State shall inform the consular officer without delay of the existence of such articles.

5. A consular officer shall be entitled to attend the inquiry held to determine the causes of the damage, running aground or wreck unless precluded from doing so by the legislation of the receiving State.

*Article 52.* 1. If the master or a member of the crew of a vessel of the sending State dies or disappears in the receiving State, either on board the vessel or ashore, the master or his substitute and the consular officers of the sending State shall have exclusive competence to draw up an inventory of the effects, valuables and other property left by the person who has died or disappeared and to take any other steps necessary for the custody and delivery of such property, with a view to settlement of the estate.

If, however, the person who has died or disappeared is a national of the receiving State, the master or his substitute shall, when the death or disappearance is discovered, draw up the inventory, a copy of which shall be delivered to the authorities of the receiving State, who shall be competent to take all other steps necessary for the custody of the property and, as appropriate, settlement of the estate. Those authorities shall notify the consular post of the sending State of any such steps taken.

2. When a consular officer exercises the rights in respect of succession referred to in paragraph 1, he shall comply with the laws and regulations of the receiving State.

*Article 53.* Consular officers shall exercise the powers provided for in articles 45 to 52 in an appropriate manner with regard to aircraft of the sending State, provided that such powers are not contrary to the provisions of other conventions in force between the High Contracting Parties.

*Article 54.* 1. When exercising consular functions, the consular post may levy in the receiving State the duties and taxes provided for by the laws and regulations of the sending State.

2. The sending State shall be exempt in the receiving State from dues and taxes of any kind on the sums levied in conformity with paragraph 1 and on the receipts relating thereto.

## CHAPTER V

### GENERAL AND FINAL PROVISIONS

*Article 55.* 1. Consular officers shall be entitled to exercise their functions only within their consular districts. However, they may exercise them outside their consular districts with the consent of the receiving State.

2. In the exercise of their functions, consular officers shall be entitled to address themselves to any competent authority of their district and likewise, if the receiving State raises no objection to the central authorities of that State.

*Article 56.* The provisions of the present Convention relating to consular functions are not exhaustive. Consular officers shall also be authorized to exercise other functions, provided that:

- (a) they have been assigned by the sending State;
- (b) they are not contrary to the provisions of the laws and regulations of the receiving State;
- (c) the authorities of the receiving State raise no objection to their exercise.

*Article 57.* After appropriate notification to the receiving State, and provided that it does not object, the consular post of the sending State may exercise consular functions in the receiving State on behalf of a third State.

*Article 58.* 1. Without prejudice to their privileges and immunities, it is the duty of all persons enjoying the privileges and immunities established by the present Convention to respect the laws and regulations of the receiving State.

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

*Article 59.* 1. The provisions of the present Convention shall also apply, to the extent that the context allows, to the exercise of consular functions by a diplomatic mission. The assignment of members of a diplomatic mission to exercise consular functions at the mission shall be carried out in conformity with the provisions of article 3 or article 4, as the case may be.

2. The exercise of consular functions by the persons referred to in paragraph 1 shall be without prejudice to the privileges and immunities which they enjoy in their capacity as members of the diplomatic mission.

*Article 60.* On the date of its entry into force, the present Convention shall replace and supersede the Consular Convention between Belgium and Poland signed at Brussels on 12 June 1928.<sup>1</sup>

<sup>1</sup> League of Nations, *Treaty Series*, vol. CXXIII, p. 25.

*Article 61.* 1. The present Convention shall be ratified and shall enter into force on the thirtieth day after the date of the exchange of the instruments of ratification, which shall take place at Brussels.

2. The present Convention shall continue in force until six months from the date on which either High Contracting Party shall have given to the other High Contracting Party notice of termination of the Convention in writing.

3. Each High Contracting Party may propose to the other High Contracting Party that certain provisions of the present Convention should be modified. If there is agreement on such modification, it shall be set forth in a Protocol which shall constitute an integral part of the present Convention.

IN WITNESS WHEREOF the Plenipotentiaries of the High Contracting Parties have signed the present Convention and have thereto affixed their seals.

DONE at Warsaw, on 11 February 1972, in duplicate in the French, Dutch and Polish languages, the three texts being equally authentic.

For His Majesty  
the King of the Belgians:

[J. F. HERPIN]  
[A. J. VRANKEN]

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

[A. WILLMANN]  
[W. WOJTASIK]

## PROTOCOL

### TO THE CONSULAR CONVENTION BETWEEN THE KINGDOM OF BELGIUM AND THE POLISH PEOPLE'S REPUBLIC

At the time of signing the Consular Convention of today's date between the Kingdom of Belgium and the Polish People's Republic, hereinafter referred to as "the Convention", the Plenipotentiaries of the High Contracting Parties have agreed as follows:

1. The notification provided for in article 38, paragraph 1, of the Convention shall take place within three days from the date on which the national of the sending State is arrested, detained or otherwise deprived of freedom.

2. The rights of visiting and communication of a consular officer, provided for in article 38, paragraph 2, of the Convention, shall be accorded within four days from the date on which the national of the sending State is arrested, detained or otherwise deprived of freedom.

3. The rights of a consular officer, provided for in article 38, paragraph 2, of the Convention, to visit and communicate with a national of the sending State who has been arrested, detained or otherwise deprived of freedom or who is serving a term of imprisonment, shall be accorded at reasonable intervals.

4. The present Protocol shall constitute an integral part of the Convention.

IN WITNESS WHEREOF the Plenipotentiaries of the High Contracting Parties have signed the present Protocol and have thereto affixed their seals.

DONE at Warsaw on 11 February 1972, in duplicate in the French, Dutch and Polish languages, the three texts being equally authentic.

For His Majesty  
the King of the Belgians:

[J. F. HERPIN]  
[A. J. VRANKEN]

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

[A. WILLMANN]  
[W. WOJTASIK]

## EXCHANGES OF LETTERS

### *Ia*

#### EMBASSY OF BELGIUM AT WARSAW

Warsaw, 11 February 1972

Sir,

On the occasion of the signing of the Consular Convention between our two countries, I have the honour, on behalf of my Government, to submit the following proposal to you:

The provisions of article 13, paragraph 1 (*b*), and article 25 of the Convention shall be so applied as to accord consular posts and their members treatment identical to that afforded to diplomatic missions and their members.

If the Government of the Polish People's Republic is in a position to signify its agreement to this proposal, this letter and your reply shall constitute an agreement forming an integral part of the Convention between our two countries.

Accept, Sir, etc.

[J. F. HERPIN]

His Excellency Mr. Stefan Olszowski  
Minister for Foreign Affairs  
Warsaw

## IIa

## MINISTER OF FOREIGN AFFAIRS

Warsaw, 11 February 1972

Sir,

I have the honour to acknowledge receipt of your letter of 11 February 1972, reading as follows:

[See letter Ia]

I have the honour to inform you that the Government of the Polish People's Republic signifies its agreement to this proposal and that your letter and my reply constitute an agreement that will form an integral part of the Convention between our two countries.

Accept, Sir, etc.

[S. OLSZOWSKI]

His Excellency Mr. J. Frans Herpin  
Ambassador of Belgium  
Warsaw

## Ib

## EMBASSY OF BELGIUM AT WARSAW

Warsaw, 11 February 1972

Sir,

On the occasion of the signing of the Consular Convention between our two countries, I have the honour, on behalf of my Government, to submit the following proposal to you:

The consular functions referred to in article 45, paragraphs 1 and 2, and article 48, paragraph 1, of the Convention may be exercised by a consular employee from the administrative and technical services of the consular post, duly designated by the consular officer.

If the Government of the Polish People's Republic is in a position to signify its agreement to this proposal, this letter and your reply will constitute an agreement forming an integral part of the Convention between our two countries.

Accept, Sir, etc.

[J. F. HERPIN]

His Excellency Mr. Stefan Olszowski  
Minister for Foreign Affairs  
Warsaw

## IIb

## MINISTER OF FOREIGN AFFAIRS

Warsaw, 11 February 1972

Sir,

I have the honour to acknowledge receipt of your letter of 11 February 1972, reading as follows:

[See letter Ib]

I have the honour to inform you that the Government of the Polish People's Republic signifies its agreement to this proposal and that your letter and my reply constitute an agreement that will form an integral part of the Convention between our two countries.

Accept, Sir, etc.

[S. OLSZOWSKI]

His Excellency Mr. J. Frans Herpin  
Ambassador of Belgium  
Warsaw

## Ic

## EMBASSY OF BELGIUM AT WARSAW

Warsaw, 11 February 1972

Sir,

On the occasion of the signing of the Consular Convention between our two countries, I have the honour, on behalf of my Government, to inform you that the Kingdom of Belgium and the Grand Duchy of Luxembourg signed at Brussels on 30 September 1965 a Convention concerning co-operation in consular matters.<sup>1</sup>

Accordingly, I venture to propose to you that, on the basis of article 57 of the Consular Convention between our two countries, the Government of the Polish People's Republic should accord to Belgian consular officers the right to protect Luxembourg rights and interests in accordance with chapter IV of the aforesaid Convention.

If the Government of the Polish People's Republic is in a position to signify its agreement to this proposal, this letter and your reply shall constitute

<sup>1</sup> United Nations, *Treaty Series*, vol. 590, p. 35.

an agreement forming an integral part of the Convention between our two countries.

Accept, Sir, etc.

[J. F. HERPIN]

His Excellency Mr. Stefan Olszowski  
Minister for Foreign Affairs  
Warsaw

IIc

MINISTER OF FOREIGN AFFAIRS

Warsaw, 11 February 1972

Sir,

I have the honour to acknowledge receipt of your letter of 11 February 1972, reading as follows:

[*See letter Ic*]

I have the honour to inform you that the Government of the Polish People's Republic signifies its agreement to this proposal and that your letter and my reply constitute an agreement that will form an integral part of the Convention between our two countries.

Accept, Sir, etc.

[S. OLSZOWSKI]

His Excellency Mr. J. Frans Herpin  
Ambassador of Belgium  
Warsaw

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