

No. 19752

**CZECHOSLOVAKIA
and
AUSTRIA**

**Agreement on consular relations. Signed at Prague on
14 March 1979**

Authentic texts: Czech and German.

Registered by Czechoslovakia on 20 April 1981.

**TCHÉCOSLOVAQUIE
et
AUTRICHE**

**Accord sur les relations consulaires. Signé à Prague le
14 mars 1979**

Textes authentiques : tchèque et allemand.

Enregistré par la Tchécoslovaquie le 20 avril 1981.

[TRANSLATION — TRADUCTION]

AGREEMENT¹ BETWEEN THE CZECHOSLOVAK SOCIALIST REPUBLIC AND THE REPUBLIC OF AUSTRIA ON CONSULAR RELATIONS

The President of the Czechoslovak Socialist Republic and the Federal President of the Republic of Austria,

Considering that the two States have ratified the Vienna Convention on Consular Relations of 24 April 1963,²

Desiring to confirm, supplement and amplify the provisions of that Convention in accordance with its article 73, paragraph 2, and thereby also contribute to the further development of friendly relations between the two States in conformity with the provisions of the Final Act of the Conference on Security and Co-operation in Europe,

Acknowledging that the Vienna Convention on Consular Relations shall continue to apply with regard to questions not expressly dealt with in this Agreement,

Have decided, in accordance with article 73, paragraph 2, of the Vienna Convention on Consular Relations, to conclude this Agreement, and have for that purpose appointed as their plenipotentiaries:

The President of the Czechoslovak Socialist Republic: Mr. Bohuslav Chňoupek, Minister for Foreign Affairs,

The Federal President of the Republic of Austria: Mr. Willibald Pahr, Federal Minister for Foreign Affairs,

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

Article 1. 1. The definitions listed in article 1, paragraph 1, of the Vienna Convention on Consular Relations (hereinafter referred to as "the Convention") shall be applied in the same manner in this Agreement.

2. For the purposes of this Agreement, the expression "member of the family" means the spouse of a member of a consular post, the children and parents of the member of a consular post and of his spouse, provided that such persons form part of the household of the member of a consular post.

3. The provisions of this Agreement relating to nationals of the sending State shall apply, *mutatis mutandis*, to legal persons and partnerships under mercantile law deriving their status from the legislation of the sending State or have their head office in that State.

Article 2. In the exercise of the functions referred to in 5 (d) of the Convention, consular officers shall, in particular, have the right:

(a) To issue passports and other travel documents to nationals of the sending State and to extend, alter, broaden or revoke them;

¹ Came into force on 1 February 1981, i.e., the first day of the third month following the month of the exchange of the instruments of ratification, which took place at Vienna on 17 November 1980, in accordance with article 27 (2).

² United Nations, *Treaty Series*, vol. 596, p. 261.

- (b) To issue entry, entry and return and transit visas to persons wishing to travel to the sending State, to leave it or pass in transit through it.

Article 3. 1. In the exercise of the functions referred to in article 5 (f) of the Convention, consular officers shall, in particular, have the right:

- (a) To keep a register of the nationals of the sending State who are domiciled or resident in the consular district;
- (b) In accordance with the legislation of the sending State, to accept applications and declarations and to issue documents relating to nationality;
- (c) To register births and deaths of nationals of the sending State; this does not, however, relieve nationals of the sending State of their obligation to observe the relevant legislation in force in the receiving State;
- (d) To authenticate documents issued by the competent authorities of the receiving State and destined for use in the sending State;
- (e) To authenticate the signature of nationals of the sending State on documents, as well as copies of and extracts from documents;
- (f) To authenticate the signature of nationals of the accepting State on documents, as well as copies of and extracts from documents destined for the authorities and institutions of public law of the sending State.

2. In so far as required by the legislation of the receiving State, consular officers shall notify the competent authorities of the receiving State of actions taken in accordance with paragraph 1 (c).

Article 4. Consular officers shall also have the right to draw up or authenticate in notarial form in the receiving State the following legal acts and contracts, provided that they are not contrary to the legislation of the receiving State:

- (a) Legal acts or contracts between nationals of the sending State, as well as unilateral legal acts of such persons, provided that such legal acts and contracts do not result in the establishment, alteration or abrogation of rights in respect of immovable property situated in the receiving State;
- (b) Testamentary dispositions of nationals of the sending State or other declarations relating to the estates of such nationals;
- (c) Legal acts or contracts relating exclusively to property situated in the sending State or to business being conducted in that State, irrespective of the nationality of the parties.

Article 5. 1. Consular officers shall have the right:

- (a) To accept for safekeeping documents, cash, valuables and other articles belonging to nationals of the sending State;
- (b) To accept from the authorities of the receiving State, for return to their owners, documents, cash, valuables and other articles lost by nationals of the sending State during their sojourn in the receiving State.

2. The articles accepted for safekeeping in accordance with paragraph 1 may be exported from the receiving State only where such export is not contrary to the legislation of that State.

Article 6. In the exercise of the functions referred to in article 5 (j), of the Convention, consular officers may, in particular:

- (a) Issue extracts and ordinary or certified copies of any document which they have drawn up within the scope of their authority;
- (b) Translate instruments and documents or certify their translation;
- (c) Accept and register declarations by nationals of the sending State;
- (d) Issue certificates indicating the source or origin of goods, as well as other similar certificates;
- (e) Transmit judicial and extra-judicial documents and to execute applications for legal assistance in civil cases, provided that such action is in conformity with valid international agreements or, if such agreements do not exist, provided that it is in accordance with the legislation of the receiving State.

Article 7. In the exercise of the functions referred to in article 5 (*h*) of the Convention, consular officers shall, in particular, have the right to intercede with the authorities of the receiving State for the purpose of protecting the rights and interests of minors or other persons requiring trusteeship, or of absent persons, who are nationals of the sending State. Where the need arises to appoint officially a guardian, trustee or other representative for a national of the sending State, the authorities of the receiving State shall so inform the consular officer. The consular officer shall have the right to submit appropriate proposals in respect of the person to be appointed.

Article 8. 1. If a national of the sending State dies in the receiving State, the competent authority of the receiving State shall promptly notify the consular officer of the sending State and transmit to him free of charge the death certificate or other document certifying death.

2. If the authority of the receiving State learns of the existence of an estate in that State to which a national of the sending State who is not a permanent resident of the receiving State is entitled, that authority shall promptly notify the consular officer of the sending State and shall communicate whatever information is available concerning the heirs, legatees or persons entitled to a statutory portion of the estate, their domicile or residence and the existence of a testamentary disposition. The consul shall notify the authority of the receiving State if he has received information in this regard from another source.

3. In the case provided for in paragraph 2, the competent authorities of the receiving State shall, provided that the property belonging to the estate is situated in the territory of that State, take measures to safeguard and protect the estate, and shall transmit to the consular officer, in accordance with the legislation of the receiving State, whatever information is available concerning the estate. Consular officers may participate in the conduct of these measures directly or through a representative.

4. If, after the completion of succession formalities in the territory of the receiving State, movable property belonging to the estate or the proceeds of the sale of movable or immovable property are to descend to an heir or legatee who is a national of the sending State, is not permanently resident in the territory of the receiving State and has not appointed a representative, the said property or proceeds shall be delivered to the consular officer of the sending State for transmittal to the person so entitled, provided that:

- (a) It has been proven that that person is the heir or legatee;

- (b) The competent authorities have, where necessary, consented to the transmittal of the property of the estate or the proceeds from its sale;
- (c) All claims presented within the period prescribed by the legislation of the receiving State have been paid or secured;
- (d) Any inheritance dues or taxes have been paid or secured.

5. If a national of the sending State who is not a permanent resident of the receiving State dies while residing in the territory of that State, his personal articles, his movable property and his valuables which have not been claimed by an heir who is present or by the representative of the persons laying claim to them, shall be delivered without special proceedings to the consular officer of the sending State, provided that claims of creditors of the deceased in the receiving State have been satisfied or secured.

6. Subject to the legislation of the receiving State, the consular officer shall have the right to export the property of the estate referred to in paragraphs 4 and 5.

7. The consular officer, in his capacity as representative of the persons involved, shall not for that reason be personally prosecuted by the competent authorities in connection with any matter concerning the estate.

Article 9. The right to represent nationals of the sending State before the tribunals and other authorities of the receiving State referred to in article 5 (i) of the Convention shall cease to have effect as soon as the persons represented appoint a representative or themselves undertake the defence of their rights.

Article 10. In the exercise of the functions referred to in article 5 (l) of the Convention, consular officers shall, in particular, have the right to board a vessel as soon as the vessel has received pratique. From that moment, the master of the vessel and members of the crew may communicate with the consular officer. Consular officers shall also have the right to request assistance from the authorities of the receiving State in all matters relating to vessels of the sending State and members of the crew of such vessels.

Article 11. In the exercise of the functions referred to in article 5 (k) and (l) of the Convention, consular officers, without prejudice to the powers of the authorities of the receiving State, shall, in particular, have the right:

- (a) To investigate any incident in connection with a vessel of the sending State occurring during its voyage, in port or anchorage, question the master of the vessel and the members of its crew, examine the vessel's papers, receive information concerning the destination of the vessel, and provide assistance in connection with the vessel's entry into the port of anchorage, its stay in port or at the anchorage and its departure from port or anchorage;
- (b) To settle disputes between the master of a vessel of the sending State and the members of the crew, including disputes relating to working conditions, if such settlement is not contrary to the laws of the Contracting States;
- (c) To make arrangements for the medical treatment or repatriation of the master or any member of the crew of a vessel of the sending State;
- (d) To receive, draw up or authenticate any declaration or other document prescribed by the sending State in connection with vessels.

Article 12. 1. Where an authority of the receiving State intends to take any coercive measures or institute an investigation on board a vessel of the sending State, the authorities of the receiving State shall so notify the consular officer. Such notification shall be made before the measure is begun, in order that the consular officer may be present when the measure is carried out. If, in urgent cases, the consular officer cannot be notified and he is not present when the measure is carried out, the authorities of the receiving State shall inform the consular officer of the measures which have been taken.

2. Paragraph 1 shall also apply if the master or a member of the crew of a vessel of the sending State is taken ashore.

3. This article shall not apply to customs, passport or sanitary inspection or to actions taken at the request or with the consent of the master of the vessel.

Article 13. 1. Where a vessel of the sending State is wrecked, runs aground or is otherwise damaged in the receiving State or where any article which is the property of a national of the sending State, including part of the cargo of a damaged vessel of a third State, is found on or near the coast of the receiving State, the authorities of the receiving State shall promptly notify the consular officer. The authorities of the receiving State shall also inform the consular officer of the measures they have taken for the preservation of human lives of the vessel, or the cargo and other property on board and of articles belonging to the vessel or forming part of its cargo, which have become separated from the vessel.

2. The consular officer may render every assistance to the damaged vessel referred to in paragraph 1, its passengers and members of its crew; for that purpose he may request assistance from the authorities of the receiving State.

3. The consular officer shall have the right to take part in the investigation of the causes of the damage, stranding or shipwreck, provided that such action is not contrary to the legislation of the receiving State.

Article 14. Articles 10 to 13 shall also apply *mutatis mutandis* to civil aircraft of the sending State.

Article 15. 1. The sending State may, under the conditions and in the form provided for by the legislation of the receiving State:

- (a) Acquire as property or for use or possess immovable property, buildings or parts of buildings for use by the consular post or as living quarters for members of a consular post who are nationals of the sending State;
- (b) For those purposes erect buildings or parts of buildings;
- (c) Sell the rights or property referred to in sub-paragraphs (a) and (b).

2. The sending State is not exempt from the obligation to observe the legislation of the receiving State which are valid for the territory in which the immovable property is situated, and which relate to construction, urban planning and preservation of monuments.

Article 16. 1. The consular premises and the accommodation of the head of the consular post shall be inviolable. The authorities of the receiving State shall not enter the said premises except with the consent of the head of the consular post or the head of the diplomatic mission of the sending State in the receiving State or of persons designated by them.

2. Subject to the provisions of paragraph 1, 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.

3. 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 17. The receiving State shall in no way restrict access of nationals of the sending State to the consular post.

Article 18. 1. In the implementation of article 36, paragraph 1 (b) and (c), of the Convention, the competent authorities of the receiving State shall, at the request of the person concerned, notify the consular post of the sending State promptly, or at the latest within five days, of the preventive detention, arrest or other restriction of the personal freedom of a national of the sending State, in order that the consular officer may take the necessary measures to protect the rights and interests of the person concerned and that the person concerned may avail himself of the protection of the consular officer. Such measures shall also include the right to propose, in accordance with the legislation of the receiving State, that feasibility of conducting criminal proceedings be conducted in the sending State.

2. The competent authorities of the receiving State shall transmit promptly any communications addressed by the person concerned to the consular officer. The receiving State shall also ensure that letters from the consular officer to detained nationals of the sending State shall be transmitted to the addresses without undue delay.

3. Consular officers shall also have the right to communicate with nationals of the sending State who have been taken into preventive detention or arrested, who are serving a term of imprisonment or who have been subjected to any other form of deprivation of personal freedom, to visit them and speak with them regarding all matters relating to the performance of consular functions in that case, in particular the protection of the rights and interests of the persons concerned, as well as the circumstances of their detentions. Consular officers shall also have the right to assist the persons concerned in appointing a legal representative. The competent authorities of the receiving State must accord the said right to the consular officer, at the latest one week after the date of preventive detention, arrest or other deprivation of personal freedom and thereafter at appropriate intervals. Without prejudice to his other rights under the Convention and this Agreement, the consular officer must, however, refrain from intervening in accordance with this paragraph if the person concerned expressly objects thereto in the presence of the consular officer and a representative of the competent authorities of the receiving State.

4. The competent authorities of the receiving State must inform the person concerned without delay in an unmistakable and clear manner of his rights arising from paragraphs 1, 2 and 3, as well as from article 36, paragraph 1 (b) and (c) of the Convention.

Article 19. In the exercise of their functions, consular officers shall have the right to deal directly with the local competent authorities.

Article 20. 1. The head of the consular post shall enjoy immunity from criminal jurisdiction in the receiving State. He shall enjoy personal inviolability and therefore may not be arrested or detained or subjected to any other restriction of his personal freedom.

2. The head of the consular post shall also enjoy immunity from the jurisdiction of the civil courts and administrative authorities of the receiving State; the following cases shall be exceptions:

- (a) Civil actions relating to private immovable property situated in the territory of the receiving State, except where the head of the consular post uses it on behalf of the sending State for consular purposes;
- (b) Actions relating to succession in which the head of the consular post is acting as executor, administrator, heir or legatee in a private capacity and not as a representative of the sending State;
- (c) Actions relating to a professional or commercial activity in which the head of the consular post engages in addition to his official functions;
- (d) Actions instituted by a third party for damage arising from an accident in the receiving State caused by a vehicle, vessel or aircraft;
- (e) Actions relating to contracts concluded by the head of the consular post in which he did not contract expressly or tacitly as an agent of the sending State.

3. Measures of execution may be taken against the head of the consular post only in the cases specified in paragraph 2, items (a) to (e), and only where they can be taken without infringing the inviolability of his person or his living quarters.

Article 21. 1. Consular officers other than the head of a consular post and members of the administrative or technical personnel shall not be amenable to the jurisdiction of the receiving State in respect of acts performed in the exercise of their official functions. The same shall apply in respect of members of the service staff for acts carried out by them in the exercise of their official duties.

2. Consular officers other than the head of a consular post may not be arrested or detained or subjected to any other restriction of their personal freedom except in cases involving a deliberately committed offence which, under the legislation of the receiving State, is punishable with imprisonment for five years or with a more severe penalty, or in the execution of a final judicial decision which has been taken with regard to such an offence.

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

- (a) Arising out of a contract concluded by one of the persons referred to in paragraph 1 in which he did not contract expressly or tacitly as an agent of the sending State; or
- (b) Instituted by a third party for damage arising from an accident in the receiving State caused by a vehicle, vessel or aircraft.

4. If criminal proceedings are instituted against a person referred to in paragraph 1 or if he is arrested, detained or subjected to any other restriction of his personal freedom, the authorities of the receiving State shall promptly notify the head of the consular post.

5. If criminal proceedings are instituted against a consular officer other than the head of a consular post, such proceedings shall be conducted with the respect due him by reason of his official position and in a manner which will hamper the exercise of consular functions as little as possible. If, in the case of an accusation of a particularly serious crime, it becomes necessary to commit the consular officer for trial, proceedings shall be instituted against him within the shortest possible time.

Article 22. Article 20 and article 21, paragraphs 2, 4 and 5, shall also apply, *mutatis mutandis*, to members of the family of the head of the consular post or of a consular officer, provided that they are not nationals or residents of the receiving State.

Article 23. 1. The immunity arising from article 44, paragraph 1, of the Convention in respect of refusal to give evidence shall also apply to members of the administrative or technical personnel.

2. The provisions of article 44, paragraph 3, of the Convention shall also apply to members of the families of members of the consular post, including such of the latter as are nationals or permanent residents of the receiving State.

Article 24. The provisions of article 45 of the Convention relating to the waiver of privileges and immunities shall also apply, *mutatis mutandis*, to the privileges and immunities accorded under articles 20 to 23 of this Agreement.

Article 25. The receiving State shall issue to every member of the consular post and every member of his family, provided that they are not nationals or permanent residents of the receiving State, a card containing a photograph, confirming their identity and status either as a member of the consular post or as a family member.

Article 26. This Agreement shall not affect the provisions of other agreements which are binding upon one or both of the Contracting Parties at the time this Agreement enters into force.

Article 27. 1. This Agreement shall be ratified. The exchange of the instruments of ratification shall take place as soon as possible at Vienna.

2. This Agreement shall enter into force on the first day of the third month following the month in which the instruments of ratification were exchanged.

3. This Agreement may be denounced by either Contracting Party on one year's written notice through the diplomatic channel.

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

DONE at Prague on 14 March 1979, in duplicate in the Czech and German languages, both texts being equally authentic.

For the Czechoslovak Socialist
Republic:

BOHUSLAV CHŇOUPEK

For the Republic of Austria:

WILLIBALD PAHR