

No. 21606

**CZECHOSLOVAKIA
and
AFGHANISTAN**

Consular Convention. Signed at Prague on 22 April 1981

Authentic texts: Czech, Dari and English.

Registered by Czechoslovakia on 24 February 1983.

**TCHÉCOSLOVAQUIE
et
AFGHANISTAN**

Convention consulaire. Signée à Prague le 22 avril 1981

Textes authentiques: tchèque, dari et anglais.

Enregistrée par la Tchécoslovaquie le 24 février 1983.

CONSULAR CONVENTION¹ BETWEEN THE CZECHOSLOVAK SOCIALIST REPUBLIC AND THE DEMOCRATIC REPUBLIC OF AFGHANISTAN

The Czechoslovak Socialist Republic and
The Democratic Republic of Afghanistan,

Animated by the desire to continue to strengthen the ties of friendship between both countries;

Wishing to regulate the consular relations between the two States and thus to facilitate the protection of the interests of the two States and the protection of the interests and rights of their respective nationals;

Have decided to conclude this Consular Convention and for this purpose The President of the Czechoslovak Socialist Republic has appointed: Ing. Bohuslav Chňoupek, Minister of Foreign Affairs, and

The President of the Presidium of the Revolutionary Council of the Democratic Republic of Afghanistan has appointed: Shah Mohammad Dost, Minister of Foreign Affairs,

as their plenipotentiaries;

Who, having communicated to each other their respective full powers, which were found in good and due form, have agreed upon the following provisions:

PART I. DEFINITIONS

Article 1. For the purpose of this Convention the terms listed below shall have the following meanings:

a) "Consulate" is any consulate-general, consulate, vice-consulate or consular agency;

b) "Consular district" is the area assigned to the consulate for the performance of consular duties;

c) "Head of a consulate" is any person charged by the sending State with the performance of duties connected with this post;

d) "Consular officer" is any person, including the head of a consulate, who has been charged with the performance of consular duties;

e) "Consular employee" is any person employed to perform administrative, technical or domestic services of a consulate;

f) "Members of a consulate" are consular officers and consular employees;

¹ Came into force on 8 November 1982 by the exchange of the instruments of ratification, which took place at Kabul, in accordance with article 41 (1).

g) “Consular premises” are buildings or parts of buildings and land connected with them, which are used exclusively for the purposes of a consulate, irrespective of who is their owner;

h) “Consular archives” include all papers, documents, correspondence, books, films, recording tapes and registers of a consulate, together with ciphers and codes, card files and any equipment used for their protection and safekeeping;

i) “Aircraft of the sending State” means any aircraft with the exception of the military airplanes, registered in this State according to its legislation and bearing its insignia;

j) “Family members” are husband/wife, children and parents of the member of the consulate who share his/her common household.

PART II. ESTABLISHMENT OF CONSULATES AND APPOINTMENT OF CONSULAR OFFICERS AND CONSULAR EMPLOYEES

Article 2. 1. The establishment of a consulate in the territory of the receiving State shall be subject to the consent of such State.

2. The sending and receiving States shall determine by agreement the seat of the consulate and the limits of the consular district.

Article 3. 1. The sending State shall request in advance through the diplomatic channel the agreement of the receiving State to the appointment of a head of the consulate.

2. After such agreement has been obtained the diplomatic mission of the sending State shall transmit to the Ministry of Foreign Affairs of the receiving State the consular commission or other document of appointment. The commission or other document shall specify the full name of the head of the consulate, his nationality, his class, the seat of the consulate and the consular district.

3. Upon the presentation of the consular commission or other document of appointment of a head of the consulate, the exequatur or other authorization shall be granted as soon as possible by the receiving State.

4. The head of a consulate may enter upon the performance of his duties as soon as the consular commission or other document of appointment has been presented and the receiving State has granted him an exequatur or other authorization.

5. As soon as an exequatur or other authorization has been granted in conformity with this Article, the respective authorities of the receiving State shall take all necessary measures to ensure that the head of consulate is enabled to enter upon the performance of his duties and is accorded the rights, privileges and immunities due to him under this Convention and the laws of the receiving State.

Article 4. Pending the granting of an exequatur or other authorization the receiving State may grant the head of a consulate a provisional authorization to the performance of consular duties.

Article 5. A consular officer shall be only a national of the sending State.

Article 6. 1. The sending State shall, in advance, notify in writing the receiving State of the full name, nationality, rank and class of each consular officer appointed to a consulate.

2. The sending State also shall, in advance, notify in writing the receiving State of the full name, nationality and function of a consular employee appointed to a consulate.

Article 7. 1. The sending State may in conformity with Articles 3, 5 and 6 charge one or more members of its diplomatic mission in the receiving State with the performance of consular duties. A member of the diplomatic mission, charged with the performance of consular duties, shall continue to enjoy the privileges and immunities to which he is entitled as a member of the diplomatic mission.

2. A consular department, charged with the performance of consular duties, may be established by the sending State at its diplomatic mission.

Article 8. The receiving State shall issue to each consular officer a document confirming his right to perform consular duties in the territory of the receiving State.

Article 9. 1. The receiving State shall accord all privileges and immunities to the consulate to perform consular duties and shall take all necessary measures to enable the members of the consulate to perform their official duties and to enjoy privileges and immunities due to them under this Convention.

2. The receiving State shall deal with consular officers with due respect and shall take all proper measures to prevent any attack on their person, liberty and dignity.

Article 10. 1. If the head of the consulate is unable for any reason to act as such or if the post is temporarily vacant, the sending State may appoint a consular officer belonging to the same consulate or to another consulate of the sending State in the receiving State or a member of the diplomatic staff of its diplomatic mission in that State to act temporarily as head of a consulate. The full name of the person concerned shall be notified in advance in writing to the Ministry of Foreign Affairs of the receiving State.

2. A person acting temporarily as head of a consulate shall be entitled to perform all duties of a head of a consulate and to enjoy all rights, privileges and immunities as a head of a consulate appointed under Article 3.

3. Member of the diplomatic staff of the diplomatic mission, temporarily acting as head of a consulate, shall continue to enjoy the privileges and immunities accorded to him by virtue of his diplomatic status.

Article 11. 1. The receiving State may, at any time and without having to explain the reason for its decision, notify the sending State through the diplomatic channel that a consular officer is *persona non grata* or that a consular employee is unacceptable.

The sending State shall thereupon recall the person concerned.

2. If the sending State fails to carry out within a reasonable period this obligation under paragraph 1, the receiving State may decline to continue to recognize such person as a member of the consulate.

Article 12. 1. The sending State may, in accordance with the laws of the receiving State, acquire, hold or use under any other form of tenure which may exist under that law, land, buildings or parts of buildings for the purpose of providing a consulate or a residence for the members of the consulate who are nationals of the sending State.

2. The receiving State shall provide every necessary assistance to the sending State in acquiring land, buildings or parts of buildings for the purposes mentioned under paragraph 1.

3. The sending State is not relieved of the obligation to observe legal regulations on construction and territorial planning or other restrictions applied to the area where such land, buildings or parts of buildings are located.

PART III. PRIVILEGES AND IMMUNITIES

Article 13. 1. The coat of arms of the sending State together with an inscription designating the consulate in the language of that State and of the receiving State may be affixed to the building in which a consulate is installed as well as to the building which is the residence of the head of a consulate.

2. The flag of the sending State may be flown at the building in which a consulate is installed and also at the residence of the head of a consulate and on his means of transport used for official duties.

[3. The laws, regulations and practises of the receiving State shall be given due consideration when implementing the provisions of the present article.]¹

Article 14. Consular premises shall be inviolable. The authorities of the receiving State shall not enter the said premises, as well as the residence of the head of a consulate and the residence of consular officers and employees of the consulate who are not nationals or permanent residents of the receiving State, except with the consent of the head of the consulate, or of the head of the diplomatic mission or of a person nominated by one of them.

Consular premises shall not be used in a way incompatible with the performance of consular duties.

Article 15. The consular archives shall be inviolable at all times and wherever they may be.

¹ The paragraph within brackets does not appear in the authentic English text of the Convention. It has been translated by the Secretariat on the basis of the authentic Czech text.

Article 16. 1. A consulate shall be entitled to exchange communications with its Government, with the diplomatic missions of the sending State and with other consulates of the sending State wherever they may be. For this purpose the consulate may employ all suitable means of communication, as also diplomatic or consular couriers, diplomatic and consular bags and codes or ciphers. Radio transmitters can be installed by a consulate only with the consent of the receiving State.

2. In respect of public means of communication the same conditions shall be applied in the case of a consulate as are applied in the case of the diplomatic mission.

3. The official correspondence of a consulate and courier containers and bags shall, provided that they bear visible external marks of their official character, be inviolable and may not be examined or detained. They may contain only official correspondence and articles determined for official use.

4. A consular courier shall be provided with an official document indicating his position and specifying the number of containers forming the consular luggage. The consular courier shall enjoy the same rights, privileges and immunities as the diplomatic courier of the sending State.

5. The commander of a civil aircraft of the sending State may also be charged with the conveyance of consular bags. In such a case the commander shall be provided with an official document indicating the number of containers entrusted to him; he shall not, however, be considered to be a consular courier. By arrangement with the appropriate authorities of the receiving State, the consulate may send a member of the consulate to take possession of the bag directly and freely from the commander, or to deliver such bag to him.

Article 17. 1. Consular officers and members of their families, provided that the person concerned is not a national or a permanent resident of the receiving State, shall be immune from the criminal, civil and administrative jurisdiction of the receiving State.

2. Consular employees and members of their families, provided in each case that a person concerned is not a national or a permanent resident of the receiving State, shall be immune from the criminal jurisdiction of that State. They shall also be immune from the civil and administrative jurisdiction of the receiving State in respect of any act performed in their official capacity.

3. Provisions of paragraph 1 and 2 shall not apply to civil proceedings:

- a) Resulting from agreements that have not been concluded by the consular officer or employee on behalf of the sending State;
- b) Concerning inheritance in which the consular officer or consular employee does not represent the sending State but appears as a private person;
- c) Concerning the liability for damage caused in the receiving State by a means of transport;

d) Relating to any private or commercial activity engaged in by a consular officer or consular employee in the receiving State outside his official functions.

4. The sending State may waive any of the immunities provided for in this Article. The waiver shall be expressive and shall be communicated in writing to the receiving State.

5. Waiver of immunity from jurisdiction in respect of civil and administrative proceedings shall not be held to imply waiver of immunity in respect of execution of the judgement for which a separate waiver shall be required.

Article 18. 1. Members of a consulate may be requested to give evidence as witnesses in court or administrative proceedings. If a consular officer declines to give evidence, no coercive measure shall be taken against him. Employees of a consulate are not entitled to decline to give evidence with the exception of cases referred to in paragraph 3.

2. Appropriate provisions of paragraph 1 in respect of consular officers and consular employees shall also apply to members of their families.

3. Members of a consulate are entitled to decline to give evidence as witnesses with regard to matters falling within the performance of their duties, or to produce any official document and official correspondence. They are also entitled to decline to give evidence as experts on the legal regulations of the sending State, their interpretation and application.

4. The authorities of the receiving State requesting evidence from consular officers or from consular employees shall take all steps to avoid interference with the performance of the duties of a consulate and to avoid violation of the performance of the duties. Where it is possible, the evidence can be given at the consulate or at the residence of the consular officer or consular employee, or it can be given in a written form.

Article 19. Members of a consulate and members of their families, provided in each case that the person concerned is not a national or permanent resident of the receiving State, shall be exempt in the receiving State from public service and obligations of any kind.

Article 20. Members of a consulate and members of their families, shall be exempt from all requirements under the laws and regulations of the receiving State relative to the registration of aliens, permission to reside and other regulations concerning the residence of aliens.

Article 21. 1. The sending State shall be exempt in the receiving State from all taxes, charges and fees in respect of:

- a) Land, buildings and parts of buildings used for consular purposes or as a residence of the members of a consulate provided that the premises in question are owned or leased in the name of the sending State;
- b) Contracts and instruments relating to the acquisition of the immovable property, mentioned under paragraph 1, letter a);

c) The performance of consular duties, including payments for consular services.

2. The sending State shall also be exempt in the receiving State from all taxes, charges and fees in respect of movable property which is in the ownership of the sending State or which is in its possession or use and which is used exclusively for consular purposes.

3. Exemption provided for in this Article shall not apply to charges and fees for the service rendered.

Article 22. Members of a consulate and their family members provided they are not nationals or permanent residents of the receiving State, shall be exempt in the receiving State from taxes and charges in respect of their service income.

Article 23. 1. Members of a consulate and their family members provided they are not nationals or permanent residents of the receiving State shall be exempt in the receiving State from all nationwide, regional and local taxes and charges, including taxes and charges imposed on movable property of which they are owners.

2. The exemptions of paragraph 1 shall not apply in respect to:

- a) Indirect taxes that are, as a rule, contained in the price of goods or services;
- b) Without prejudice to the provisions of Article 21, charges and taxes on private immovable property situated within the receiving State;
- c) Inheritance taxes or taxes on transactions of property collected by the receiving State;
- d) Taxes and charges on private incomes the source of which is situated within the receiving State;
- e) Without prejudice to the provisions of Article 21, court, registration, mortgage, administrative and stamp charges;
- f) Charges collected for services actually rendered.

Article 24. If a member of a consulate or his family member dies and leaves movable property in the receiving State, no inheritance taxes and charges or taxes and charges on transactions of property shall be imposed, provided that the person concerned is not a national of the receiving State or permanent resident of that State and that the presence of the property in the territory of the receiving State was due solely to the presence of the deceased in his capacity as a member of a consulate or as his family member residing with him.

Article 25. 1. All articles, including motor vehicles, imported for the official use of a consulate shall be in conformity with the legal regulations of the receiving State exempt from customs duties and charges imposed upon or by reason of importation to the same extent as if they were imported by the diplomatic mission.

2. Consular officers and their family members, provided that they are not nationals of the receiving State or permanent residents in that State, shall be exempt from all customs duties and charges imposed upon or by reason of importation of all articles designed for their personal use, including articles for the initial equipment of their households. Consular employees shall enjoy the exemptions provided for in this paragraph only in respect of articles imported by them on their first arrival at the consulate.

3. The articles designed for personal use shall not exceed the quantity required for the direct use by the persons concerned.

4. The personal luggage of consular officers and members of their families, provided they are not nationals of the receiving State and are not permanent residents in that State, shall be exempt from a customs inspection. They may be inspected only in cases when there are serious reasons to believe that they contain other articles than stated in paragraph 2 or articles the importation or exportation of which is prohibited by the legal regulations of the receiving State or which are subject to the legal provisions on quarantine. Such an inspection must be undertaken in the presence of the consular officer concerned or a member of his family or a person representing him.

Article 26. All persons to whom privileges and immunities are accorded under this Convention shall, without prejudice to the said privileges and immunities, be under an obligation to respect the laws and regulations of the receiving State, including those relative to the control of traffic and to insurance of motor vehicles concerning damages caused to third persons by the operation of motor vehicles.

Article 27. Subject to the laws and regulations of the receiving State with regard to areas entry into which is prohibited or restricted for reasons of national security, a consular officer or consular employee, as also members of his family shall be permitted to travel freely in the territory of receiving State.

The provisions of this Article shall be without prejudice to any requirements with regard to the obtaining of visas or other travel documents laid down under the laws and regulations of the receiving State.

PART IV. CONSULAR FUNCTIONS

Article 28. 1. A consular officer shall be entitled to perform duties specified in this Part in keeping with the law of the receiving State. He may perform other consular duties only under provision that they are not contrary to the law of the receiving State.

2. A consular officer shall be entitled to represent, in his consular district and in keeping with the law of the receiving State, the rights and interests of the sending State and of its nationals, of both natural and juridical persons.

3. In connection with the performance of his duties, a consular officer shall be entitled to apply, in writing as well as orally, to the competent local authorities within his consular district, as well as to the competent central

authorities of the receiving State to such extent as the laws and usages of that State permit.

4. A consular officer shall be entitled, subject to the consent of the receiving State, to perform consular duties also outside his consular district.

Article 29. A consular officer shall further the development of economic, commercial, cultural and scientific contacts between the two States and contribute to the strengthening of friendly relations between them.

Article 30. 1. A consular officer shall be entitled within the consular district:

- a) To keep a register of nationals of the sending State;
- b) To receive applications and declarations relative to nationality of citizens of the sending State and to issue respective documents;
- c) In accordance with the law of the sending State, to receive declarations on the conclusion of marriages, provided that both persons are nationals of the sending State;
- d) To receive declarations pertaining to the family relationships of a national of the sending State in accordance with the law of that State;
- e) To register the birth or death of a national of the sending State;
- f) To complete, verify, confirm and legalize legal acts and documents and otherwise validate legal acts and documents as may be necessary for their validity upon request by a national of the sending State for use outside the territory of the receiving State or upon request by any person for use in the receiving State, provided that it is not at variance with the law of that State;
- g) To translate legal acts and documents and to certify the accuracy of the translation.

2. A consular officer shall inform the competent authorities of the receiving State of legal acts carried out under subparagraphs c) and e) of paragraph 1 if this is required by the law of that State.

Article 31. Legal acts and documents issued, translated or certified by a consular officer in accordance with Article 30 shall have equal legal effect and evidentiary value in the receiving State as documents issued, translated or certified by the competent authorities of the receiving State, provided that they had been issued in a manner not contradicting the legal regulations of the receiving State.

Article 32. 1. A consular officer shall be entitled to issue, extend, amend and revoke the validity of travel documents of nationals of the sending State, in accordance with the legal regulations of the sending State.

2. He shall also be entitled to issue, revoke and extend the validity of respective visas to persons wishing to travel to the sending State.

Article 33. A consular officer shall be entitled, in accordance with the law of the sending State, to take over the guardianship of a minor of that State

living in the territory of the receiving State, provided that such competence is recognized by that State.

Article 34. 1. The competent authorities of the receiving State shall, without delay, inform the respective consular officer of the death of a national of the sending State in the territory of the receiving State.

2. Where it comes to the knowledge of the competent authorities of the receiving State that there is an estate after a national of the sending State or an estate of a person of any nationality deceased in that State which estate may concern a national of the sending State, they shall equally inform the respective consular officer.

3. The competent authorities of the receiving State shall take necessary measures, in cases under paragraph 2 and provided that the estate is situated on the territory of that State, to secure the estate in conformity with the law of the receiving State and shall convey to the respective consular officer a copy of the testament, if it had been made, as well as all available information in respect of the heirs, the content and the value of the estate and shall advise him of the date on which proceedings concerning the inheritance will be opened.

4. A consular officer shall be entitled, in accordance with the legal regulations of the receiving State, to represent, directly or through a representative, the interests of a national of the sending State who has a claim to the estate situated in the receiving State and who is not a permanent resident in that State.

5. A consular officer shall be entitled, on behalf of a national of the sending State who is not a permanent resident in the receiving State, to receive money or other property to which the national concerned may be entitled as a consequence of the inheritance of any person, including payments made in pursuance of workmen's compensation laws, within a pensions and social security scheme and the proceeds from insurance policies.

6. Movable property and money derived from the liquidation of an estate belonging to a national of the sending State may be handed over to the respective consular officer, provided that the claims of a creditor of the deceased person have been settled or secured and that the taxes and charges in respect of the estate have been paid.

7. A consular officer shall be entitled to co-operate with the competent authorities of the receiving State in securing the estate pursuant to this Article.

Article 35. 1. A consular officer shall have the right to represent, in the consular district in accordance with the law of the receiving State, nationals of the sending State before the authorities of the receiving State, if they are unable, for reasons of absence or for other serious reasons, to protect their rights and interests in time. The representation shall continue till the represented person appoints his plenipotentiary or assumes himself the protection of his rights and interests.

2. A consular officer shall have the right, within his consular district, to establish and maintain contact with any national of the sending State, to

provide him with counsel and all necessary assistance and, if need be, to take steps to secure legal help for him. The receiving State shall in no way infringe upon the right of a national of the sending State to contact his consulate or to visit it.

Article 36. 1. The competent authorities of the receiving State shall without delay notify the respective consular officer of the detention or any other restriction of personal freedom of a national of the sending State.

2. The consular officer shall be entitled to visit, as soon as possible, and to maintain contact with a national of the sending State, who has been deprived of personal freedom or whose personal freedom has been restricted. The competent authorities of the receiving State shall also without delay convey to the consular officer any written communication from the national of the sending State who has been deprived of personal freedom or whose personal freedom has been restricted in any way.

3. Upon request, the consular officer shall be immediately informed of the reason for the deprivation or restriction of the personal freedom of a national of the sending State.

4. The rights of the consular officer under paragraphs 2 and 3 shall be applied in accordance with the law of the receiving State, provided that this law does not infringe upon these rights.

Article 37. 1. A consular officer shall be entitled, within the consular district, to render every assistance and aid to an aircraft of the sending State which has come to an airport or to the air space of the receiving State, as well as to its crew and passengers.

2. A consular officer may invoke the aid of the competent authorities of the receiving State in any matter relating to the performance of his duties with respect to an aircraft of the sending State or members of the crew or the passengers of such an aircraft.

3. A consular officer may proceed on board of the aircraft. Members of the crew may establish contact with the consular officer.

4. A consular officer shall be entitled within the consular district:

- a) To investigate, without prejudice to the rights of the authorities of the receiving State, any incident occurring on board of an aircraft, question any member of the crew, examine the aircraft's papers, take statements with regard to its voyage and destination and generally facilitate the arrival to, stay in and departure from, an airport of the aircraft;
- b) To make arrangements for medical treatment or for the repatriation of any member of the crew or any passenger of the aircraft;
- c) To receive, draw up or certify any declaration or other document prescribed by the law of the sending State in connection with aircrafts.

Article 38. 1. Where there is the intention of the competent authorities of the receiving State to take any coercive action or to institute any formal

enquiry on board of an aircraft of the sending State, they shall so inform the appropriate consular officer through the competent authorities of the receiving State. Except where this is impossible on account of the urgency of the matter, such notification shall be made in time to enable the consular officer or his representative to be present. If the consular officer has not been present or represented, he shall be provided by the authorities concerned with full information with regard to what has taken place.

2. The provisions of paragraph 1 shall apply also in any case where it is the intention of the competent authorities to question members of the crew.

The provisions of this Article shall not, however, apply to any routine examination by the authorities with regard to customs, immigration or public health.

Article 39. 1. If an aircraft of the sending State is wrecked or otherwise sustains damage in the receiving State or if any article forming part of the cargo of a wrecked aircraft of the sending, receiving or a third State, being the property of a national of the sending State, is found in the territory of the receiving State, the competent authorities of the receiving State shall as soon as possible notify the appropriate consular officer accordingly. They shall also inform him of measures already taken for the preservation of the lives of persons on board of the aircraft, of the aircraft, of the cargo and other property on board and of articles belonging to the aircraft or forming part of its cargo, which have become separated from the aircraft.

2. The consular officer may render every assistance to the aircraft, its passengers and members of its crew. For this purpose he may invoke the assistance of the competent authorities of the receiving State. He may take the measures referred to in paragraph 1 of this Article as also measures for the repair of the aircraft, or may request the competent authorities of the receiving State to take, or continue to take, such measures.

3. Where the aircraft or any article belonging thereto has been found in the territory of the receiving State and neither the owner, his agent nor the underwriters concerned is in a position to make arrangements for the custody or disposal of the aircraft or article, the consular officer shall be deemed to be authorized to make, on behalf of the owner of the aircraft, the same arrangements as the owner himself could have made for such purposes.

4. Where any article forming part of the cargo of a wrecked aircraft of a third State is the property of a national of the sending State and is found in the territory of the receiving State, and the owner of the article, his agent nor the underwriters concerned is in a position to make arrangements for the custody or disposal of the article, the consular officer shall be deemed to be authorized to make, on behalf of the owner, such arrangements as the owner himself could have made for such purposes.

Article 40. A consulate shall be entitled to levy in the receiving State the fees and charges for the performance of consular services prescribed under the laws and regulations of the sending State.

PART V. FINAL PROVISIONS

Article 41. 1. This Convention shall be subject to ratification and shall enter into force on the day of the exchange of instruments of ratification which shall take place in Kabul.

2. This Convention shall remain in force until the expiry of six months from the date on which one of the High Contracting Parties shall give the other High Contracting Party a written notice of its intention to terminate the Convention.

IN WITNESS THEREOF, the respective plenipotentiaries of the two High Contracting Parties have signed this Convention and affixed thereto their seals.

DONE in duplicate in Prague this 22nd day of April 1981 in the Czech, Dari and English languages with the English text being decisive in the event of varying interpretations.

On behalf of the President
of the Czechoslovak Socialist
Republic:

Ing. BOHUSLAV CHŇOUPEK

On behalf of the Revolutionary
Council of the Democratic Re-
public of Afghanistan:

SHAH MOHAMMAD DOST
