

**No. 5091**

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**UNION OF SOVIET SOCIALIST REPUBLICS  
and  
AUSTRIA**

**Consular Treaty. Signed at Moscow, on 28 February 1959**

*Official texts: Russian and German.*

*Registered by the Union of Soviet Socialist Republics on 19 April 1960.*

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**UNION DES RÉPUBLIQUES SOCIALISTES  
SOVIÉTIQUES  
et  
AUTRICHE**

**Convention consulaire. Signée à Moscou, le 28 février 1959**

*Textes officiels russe et allemand.*

*Enregistrée par l'Union des Républiques socialistes soviétiques le 19 avril 1960.*

[TRANSLATION — TRADUCTION]

No. 5091. CONSULAR TREATY<sup>1</sup> BETWEEN THE UNION OF SOVIET SOCIALIST REPUBLICS AND THE REPUBLIC OF AUSTRIA. SIGNED AT MOSCOW, ON 28 FEBRUARY 1959

The Presidium of the Supreme Soviet of the Union of Soviet Socialist Republics and the Federal President of the Republic of Austria,

Desiring to regulate consular relations between the two States,

Have decided to conclude a Consular Treaty and for that purpose have appointed as their plenipotentiaries :

The Presidium of the Supreme Soviet of the Union of Soviet Socialist Republics :  
Grigory Ivanovich Tunkin, Chief of the Treaty and Legal Section of the Ministry of Foreign Affairs of the USSR,

The Federal President of the Republic of Austria : Dr. Rudolf Kirchschräger,  
Envoy Extraordinary and Minister Plenipotentiary,

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

PART I

ESTABLISHMENT OF CONSULATES, APPOINTMENT AND ACCEPTANCE OF CONSULS,  
CONSULAR STAFF

*Article 1*

1. Either Contracting Party shall be entitled to establish consulates in the territory of the other Contracting Party in accordance with this Treaty.

2. The places of residence and the districts of consuls shall be determined by agreement between the Contracting Parties in each individual case.

*Article 2*

Before appointing a consul, the Contracting Party concerned shall obtain, through the diplomatic channel, the consent of the other Contracting Party to such appointment.

<sup>1</sup> Came into force on 19 January 1960, thirty days after the exchange of the instruments of ratification which took place at Vienna on 19 December 1959, in accordance with article 33,

*Article 3*

1. The diplomatic mission of the sending State shall present to the Ministry of Foreign Affairs of the receiving country the consular commission setting forth the consul's surname, first name, citizenship and rank, the consular district for which he will be responsible, and his duty station.

2. The consul may not enter upon his duties until the receiving State has recognized him in that capacity. Such recognition shall be granted in the form of an exequatur issued after the consular commission has been presented.

3. After the consul has been recognized, the authorities of the receiving country shall make the necessary arrangements to enable the consul to perform his duties and to enjoy the rights, privileges and immunities to which he is entitled under this Treaty and under the laws of the receiving country.

*Article 4*

1. In the event of the consul's absence, illness or death, the sending State may authorize an employee of its diplomatic mission, a consul, or a consular officer of the consulate concerned or of another consulate to take temporary charge of the consulate; that person's name shall be communicated beforehand to the Ministry of Foreign Affairs of the receiving country.

2. A person authorized to take temporary charge of a consulate shall enjoy the rights, privileges and immunities accorded to consuls by this Treaty.

*Article 5*

For the purposes of this Treaty :

1. The term " consulate " means a consulate-general, consulate or vice-consulate;

2. The term " consul " means a consul-general, consul or vice-consul who is in charge of a consulate;

3. The term " consular officers " means persons not in charge of a consulate who perform consular functions;

4. The term " consular employees " means all other persons employed in the consulate who are not covered by paragraphs 2 and 3 above, including auxiliary personnel.

*Article 6*

Consuls and consular officers shall be citizens of the sending State.

## PART II

## RIGHTS, PRIVILEGES AND IMMUNITIES

*Article 7*

1. Consuls and consular officers shall not be subject to the jurisdiction of the receiving country in respect of acts performed in their official capacity. This shall also apply to consular employees who are citizens of the sending State.

2. In respect of other acts, consuls and consular officers shall not be subject to detention, arrest or any other restriction of their freedom, except for the purpose of execution of a final judicial sentence or of prosecution in respect of a premeditated offence against life or personal freedom.

3. The diplomatic mission of the sending State shall be notified of the initiation of criminal proceedings against a consul or consular officer and of his detention or arrest. It shall be notified of such detention or arrest in advance unless the consul or consular officer is caught *flagrante delicto*.

*Article 8*

Consuls shall be entitled to affix to consulate buildings shields bearing the coat-of-arms of the sending State and an inscription designating the consulate. They may also fly the flag of the sending State from the said buildings and on the means of conveyance used by them.

*Article 9*

1. Consuls, consular officers and those consular employees who are citizens of the sending State shall be exempt from taxation in respect of remuneration received by them in their official capacity.

2. In addition to the exemption provided for in paragraph 1 above, consuls, consular officers and those consular employees who are citizens of the sending State shall, subject to reciprocity, be granted the same exemption from taxes in the receiving country as that granted to consuls, consular officers and consular employees of any third State. This shall also apply to members of the families of such persons who reside with them and who are citizens of the sending State.

*Article 10*

1. Immovable property of the sending State which is intended for consulate premises or for the living quarters of consuls, consular officers and

consular employees and the members of their families shall be exempt, in the receiving country, from all taxes levied in respect of the ownership, use or alienation of immovable property.

2. This exemption shall not apply to payment for special services rendered by public corporations or enterprises.

#### *Article 11*

Subject to reciprocity, consuls, consular officers and those consular employees who are citizens of the sending State shall enjoy the same exemptions with regard to customs duties as corresponding categories of the staff of diplomatic missions. This shall also apply to members of the families of such persons who reside with them.

#### *Article 12*

1. Consuls, consular officers and consular employees shall give evidence in court if requested to do so by a court of the receiving country. No measures may be taken to compel a consul or a consular officer to appear in court as a witness or to make a deposition.

2. If a consul or consular officer is prevented from appearing in court by the exigencies of his service or for reasons deemed to be valid under the law of the receiving country, he shall so notify the court and shall make a deposition in the premises of the consulate or at his residence.

3. Consuls, consular officers and consular employees shall not be required to take an oath.

4. Consuls, consular officers and consular employees may refuse to give testimony concerning matters connected with their official duties.

5. The provisions of paragraphs 1, 2 and 4 above shall also apply in proceedings conducted by administrative authorities.

#### *Article 13*

1. The official correspondence of consulates, regardless of the means of communication employed, shall be inviolable and shall not be subjected to examination.

2. In their communications with the authorities of the sending country, consulates shall be entitled to use codes and the services of diplomatic couriers. Consulates shall be charged at the same rates as diplomatic missions for the use of ordinary means of communication.

3. Consular archives shall be inviolable. Papers of an unofficial character shall not be kept in the consular archives.

4. The offices of consulates shall be inviolable. The authorities of the receiving country shall not use force in any form whatsoever, without the consent of the consul, in the offices or in the private living quarters of consuls.

### PART III

#### FUNCTIONS AND DUTIES OF CONSULS

##### *Article 14*

Consuls shall help to strengthen friendly relations between the Contracting Parties and shall further the development of economic relations between them.

##### *Article 15*

1. Consuls shall be entitled, within their consular district, to protect the rights and interests of their State, of citizens of the sending State, and of bodies corporate, including commercial firms, which are constituted in accordance with the laws of the sending State and have their head offices in that State. They may for that purpose apply direct, orally or in writing, to the courts and administrative organs of their consular district.

2. Where a consul applies to them in writing, the courts and administrative organs shall reply in writing within the stipulated period of time.

3. If the consul's representations are without effect, or if it proves to be the case that authorities outside the consular district are concerned in the matter, the diplomatic mission shall be competent to take any further action in the matter.

##### *Article 16*

1. Consuls shall be entitled to represent in the courts and before the administrative authorities of the receiving country citizens of the sending State who, owing to absence or for other valid reasons, are unable to protect their own rights and interests within the appropriate time-limits. This shall also apply to bodies corporate, including commercial firms, which are constituted in accordance with the laws of the sending State and have their head offices in that State.

2. Such representation shall continue until the persons represented appoint their own agents or themselves assume the protection of their rights and interests.

3. The foregoing shall be without prejudice to legislative provisions of the receiving country reserving to specified persons the right of representation or defence in the courts or before administrative authorities.

#### *Article 17*

Consuls shall be entitled :

1. To keep a register of citizens of the sending State and to issue or renew their passports and other identity documents;
2. To issue, to their own and to foreign citizens and to stateless persons, visas for entry into, exit from and transit through the sending State.

#### *Article 18*

1. Consuls shall, where authorized to do so by the laws of the sending State, be entitled :

- (a) To issue certificates of the birth or death of citizens of their country;
- (b) To register marriages and the dissolution of marriages where both parties are citizens of the sending State;
- (c) To carry out adoptions where the adopter and the person being adopted are citizens of the sending State.

2. The validity in the receiving country of instruments enumerated in paragraph 1 above which have been executed by a consul shall be determined exclusively by the laws of the receiving country.

#### *Article 19*

Consuls shall be entitled to carry on the following activities at consulates, at their residences, at the residences of citizens of the sending State, where such citizens so request, and on board vessels sailing under the flag of that State :

1. To receive and certify declarations from citizens of the sending State;
2. To draw up, attest and accept for safekeeping the wills and other unilateral instruments and declarations of citizens of the sending State;
3. To draw up or certify agreements concluded between citizens of the sending State, provided that such agreements are not contrary to the laws of the receiving country. Consuls may not draw up or certify any agreement concerning the establishment, alteration or alienation of rights to immovable property situated in the receiving country;
4. To draw up or certify agreements between citizens of the sending State, on the one hand, and citizens of the receiving country or of third countries, on

the other hand, provided that such agreements relate exclusively to property and rights situated in the territory of the sending State or to transactions in respect of which the authorities of the sending State are competent, and provided that such agreements are not contrary to the laws of the receiving country;

5. To certify the signatures, on documents of any kind, of citizens of the sending State;

6. To legalize documents issued by the authorities or officials of the sending State or the receiving country, and to certify copies of such documents;

7. To translate instruments and documents of any kind and to certify such translations;

8. To accept for safekeeping from citizens of the sending State documents, money, valuables and other property belonging to such citizens;

9. To perform other official consular acts, provided that they are not contrary to the laws of the receiving country.

#### *Article 20*

1. The instruments and documents mentioned in article 19 above, which have been drawn up or certified by a consul and to which he has affixed his official seal, and also copies and translations of such instruments and documents and extracts therefrom which have been certified by him and to which he has affixed his official seal, shall be regarded in the receiving country as official or officially attested instruments, documents, copies, translations and extracts and shall have the same juridical force as if they had been drawn up or certified by the competent authorities and officials of the receiving country.

2. The instruments, documents, copies, translations and extracts mentioned in paragraph 1 shall, where they are submitted to the authorities of the receiving country, be subject to such legalization as the law of the receiving country may require.

#### *Article 21*

1. The competent civil registry authority of the receiving country shall transmit to the consul, free of duties and other charges, certificates of the death of citizens of the sending State.

2. The court dealing with the estate of a citizen of the sending State or the other competent authority shall inform the consul regarding the property comprising the estate, the existence of a will, if any, and such heirs as there may be.

3. The courts or other competent authorities of the receiving country shall be competent to take the inventory of the estate, to preserve it and to affix the seals thereto.



*Article 22*

1. Consuls shall have the following rights with respect to estates left by citizens of the sending State and to the protection of the rights of heirs who are citizens of the sending State :

(a) The right to participate in taking the inventory of the estate;

(b) The right to communicate with the courts or other competent authorities of the receiving country concerning the measures necessary to preserve the estate, protect it from damage and deterioration, or, where necessary, ensure its sale.

2. These rights of consuls may also be exercised by a duly authorized representative of the consul.

*Article 23*

1. Where a citizen of the sending State had his last domicile in the receiving country, the authorities of that country shall apply the legislative provisions of the receiving country to such of his movable estate as is situated in that country, provided that legal heirs, testamentary heirs or legatees domiciled in the receiving country or in a third State so request within six months after the death of the owner

2. In other cases, the movable estate shall be delivered to the consul in accordance with the provisions of article 24 below. The consul shall take such action with respect to the said estate as is prescribed by the law of the sending State.

*Article 24*

1. The time-limit indicated in article 23, paragraph 1, shall also apply with respect to the presentation of claims to the estate by heirs in respect of whom the provisions of article 23, paragraph 1, have not been applied, by creditors and by other interested persons domiciled or resident in the receiving country or in a third State.

2. That part of the estate which within three months after the expiry of the time-limit indicated in article 23, paragraph 1, has not been used for the purpose of satisfying or securing the claims presented, and in respect of which no proceedings have been initiated for the recognition of claims, shall be delivered to the consul.

3. The delivery of the estate under the provisions of paragraph 2 or its transfer abroad by the consul shall take place in accordance with the laws of the receiving country relating to foreign exchange.

*Article 25*

1. If a citizen of the sending State not domiciled in the receiving country dies while travelling in that country, his personal effects shall be delivered to the consul without any formal proceedings.

2. The consul to whom the effects are delivered shall, within the limits of their value, settle any debts contracted by the deceased during his stay in the receiving country.

3. The provisions of article 24, paragraph 3, shall apply *mutatis mutandis* in the implementation of paragraphs 1 and 2.

*Article 26*

Where immovable property, which is situated in the receiving country, has been left by a deceased person who was a citizen of the sending State, the courts or other competent authorities of the receiving country shall apply the law of that country.

*Article 27*

A consul may propose suitable persons to the courts or other competent authorities of the receiving country for appointment as guardians or curators for citizens of the sending State or for the property of such citizens, where the said property is without an administrator. The said courts and authorities shall accept the consul's proposal unless serious reasons exist for not doing so. In the latter case, the consul shall be advised of such reasons.

*Article 28*

1. Consuls may, personally or through their agents, extend assistance and co-operation to vessels sailing under the flag of the sending State which enter a port or other landing place in their consular district.

2. If the courts or other competent authorities of the receiving country intend to carry out any measures of constraint on board such vessels, the consul shall be so notified; he shall have the right to be present when the said measures are carried out. This shall not apply to cases where the measures referred to are carried out at the request or with the consent of the master of the vessel.

3. The provisions of paragraph 2 shall not apply to customs, passport and health control.

*Article 29*

If a vessel sailing under the flag of the sending State is wrecked, runs aground, is stranded or is otherwise damaged in the receiving country, the

competent authorities shall without delay notify the consul of the occurrence and inform him of the measures they have taken to save lives, the vessel and the cargo. They shall extend the necessary co-operation to the consul in his action in connexion with the damage to the vessel.

*Article 30*

The term "vessels" shall not, for the purposes of this Treaty, include military vessels.

*Article 31*

The provisions of articles 28, 29 and 30 shall also apply *mutatis mutandis* to aircraft.

PART IV

FINAL PROVISIONS

*Article 32*

1. The provisions of this Treaty concerning the rights and duties of consuls and consular officers shall also apply to members of diplomatic missions of the Contracting Parties who are entrusted with the performance of consular functions and whose names are notified by the diplomatic mission to the Ministry of Foreign Affairs of the receiving country.

2. The performance of consular functions by such persons shall not affect the diplomatic privileges and immunities accorded to them.

*Article 33*

1. This Treaty shall be ratified and shall enter into force on the expiry of thirty days after the exchange of the instruments of ratification, which shall take place at Vienna.

2. The Treaty shall remain in force until six months after the date on which either Contracting Party informs the other Contracting Party that it wishes to terminate the Treaty.

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

DONE in duplicate at Moscow, on 28 February 1959, in the Russian and German languages, both texts being equally authentic.

For the Presidium  
of the Supreme Soviet of the Union  
of Soviet Socialist Republics :

G. TUNKIN

For the Federal President  
of the Republic of Austria :

Rudolf KIRCHSCHLÄGER