Chapter 3

Expansion of Diplomatic and Consular Actors under Polish Law

Łukasz Konrad Piebiak

Abstract

This article analyses the expansion of the categories of persons entitled to perform diplomatic and consular functions under Polish law, particularly given the 2015 Consular Law Act and subsequent legislative reforms. Traditionally, the sphere of external representation has been reserved for career diplomats. However, Polish legislation progressively includes actors of a different professional or institutional character. This study begins with a detailed examination of the institution of the honorary consul, whose roots reach back to ancient Greece. Its modern Polish regulation, notably Arts. 120–134 of the Consular Law Act, grants a broad scope of functions including limited notarial powers. This article critically evaluates these provisions, identifying potential risks for legal certainty and state prestige. It then explores new models of economic and trade diplomacy following the 2017 reform introducing the Polish Investment and Trade Agency, and its foreign trade offices, emphasising the tension between corporate efficiency and the need for diplomatic legitimacy. Subsequently, it analyses proposals for involving judges, prosecutors, and notarial professionals in consular and diplomatic support roles, particularly in sensitive family and criminal cases involving Polish citizens abroad. The discussion continues with cultural diplomacy, outlining the role of Polish Institutes and the Adam Mickiewicz Institute, and concludes with an examination of uniformed service representatives (military attachés, police, and border liaison officers) who combine operational duties with diplomatic representation. Finally, it outlines *de lege ferenda* postulates aimed at strengthening professionalism, coherence, and constitutional guarantees within Poland's foreign representation system.

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1. Introductory Remarks

The basic normative act regulating diplomatic and consular activities in Poland is the Law of 25 June 2015, the Consular Law (hereinafter, pr.kons).[1] In this study, I deliberately leave out of its scope the regulations contained in the Foreign Service Act of 21 January 2021 (hereinafter, u.sł.zagr).[2] While also referring to the issues of performing activities for the Republic of Poland and its citizens abroad, u.sł. zagr focuses on the service and diplomatic relations performed by professional diplomats comprising the foreign service corps. Rather, this article aims to familiarise the reader with the legal environment that allows the use, in the diplomatic and consular service, of persons other than those traditionally associated with it who perform the functions of an ambassador or professional consul. Further, it seeks to signal the need to change the legal status in this regard by formulating *de lege ferenda* postulates.

2. Honorary Consuls

Honorary consuls are the first of the groups of people who, without being professionally connected with the diplomatic and consular service, have been equipped with important competencies traditionally belonging to the competence of professional consuls. The institution of an honorary consul is not a particular Polish specialty. Rather, it originated in ancient Greece. The progenitors of today's honorary consuls were proxenos. These were citizens of another polis, who received an honorary title from that polis; however, this entailed the duty of taking care of the citizens of the polis which gave him this title and representing its interests in the polis where he resided.[3] Currently, it finds its place in the legal systems and practice of operation of most countries, perfectly complementing and expanding, in the interests of both the sending state and its citizens but also the receiving state, the activities performed by

1 Ustawa z dnia 25 czerwca 2015 r. – Prawo konsularne, Dz.U. 2023 poz. 1329 [Act of 25 June 2015 – Consular Law, Journal of Laws of 2023, item 1329].

2 Ustawa z dnia 21 stycznia 2021 r. o służbie zagranicznej, Dz.U. 2024 poz. 1691 [Act of 21 January 2021 on the Foreign Service, Journal of Laws of 2024, item 1691].

3 Czubik and Kowalski, 1999, pp. 17–18; Kleczkowska, 2015, pp. 165–179.

the professional consular apparatus. Unfortunately, it has not been codified at the international level. Contrary to the demand made by the Portuguese delegate during the work on the Vienna Convention on Consular Relations of 24 April 1963,[4] no definition of the concepts of professional and honorary consul was introduced into it.[5] As the literature points out, the effect of this procedure is to leave states free to define these institutions. However, as Czubik and Kowalski aptly state:

> There can be no doubt that states here do not have full freedom in defining these institutions. The practice of states, however, which differs as to the detailed solutions - with regard to, first of all, honorary consular officers - is identical as to the basic general principles relating to this institution (op. cit.)... in this sense, one can speak of the customary separation of these institutions and thus the definition of their conceptual meaning.[6]

While the proxenos may be regarded as the first historical embodiment of the honorary consul, similar intermediary figures appeared in the commercial republics of medieval Italy, where cities such as Venice, Genoa, and Pisa appointed mercantile agents abroad who simultaneously protected local traders and acted as informal diplomatic intermediaries. These early forms of consular representation reveal the long-standing practice of delegating state functions to private individuals of high social standing, especially in situations where the state lacked the resources or infrastructure to maintain a permanent official presence abroad. The tradition survived in the early modern period; expanding maritime and colonial powers – France, the United Kingdom, the Netherlands, and later, the United States – relied on merchants, shipowners, or local elites to fulfil consular tasks in distant ports, particularly outside Europe. In this sense, the honorary consul may be considered not an exception to the evolution of consular law, but rather a historically rooted and continuously adapted element of diplomatic practice.[7]

The modern rise in the importance of honorary consuls is also linked to the extraordinary expansion of global mobility, tourism, and trade in the 20th and 21st centuries. States with limited diplomatic networks have increasingly relied on honorary consuls to maintain a minimum level of representation. Meanwhile, even states with extensive networks, such as France, Italy, or the United Kingdom, use honorary consuls as an instrument of economic, cultural, and public diplomacy. According to available estimates, more than 90 states today maintain official honorary consular networks. Moreover, the total number of active honorary consuls worldwide exceeds 20,000, making them the most numerous category of persons performing consular functions globally. Simultaneously, the absence of uniform legal regulation

4 Journal of Laws of 1982, No. 13, item 98.
5 Staszewski, 2015, pp. 94–95.
6 Czubik and Kowalski, 1999, p. 61.
7 Leira and Neumann, 2017, pp. 223–235.

at the international level produces considerable diversity in national legislation, particularly regarding appointment procedures, admissible nationality, remuneration, immunity, disciplinary liability, and scope of functions.[8]

According to Art. 120 of pr.kons:

> An honorary consul of the Republic of Poland, hereinafter referred to as an 'honorary consul,' may be a Polish citizen or a foreigner permanently residing in the host country, possessing high authority and giving the guarantee of performing actions in accordance with the interests of the Republic of Poland.

According to Art. 121 of the pr.kons, 'The following classes of honorary consuls are established: 1) honorary consul general; 2) honorary consul; 3) honorary vice consul; 4) honorary consular agent'.

The key is the scope of the duties of the honorary consul. This is wide in Polish law; according to Art. 129 pr.kons:

The honorary consul supports the consul to whom he is subordinate, in terms of:

1) to protect the rights and interests of the Republic of Poland and its citizens in the host country;
2) to develop friendly relations and cooperation between the Republic of Poland and the host country;
3) strengthening ties between the Republic of Poland and Polish citizens, persons of Polish descent and persons declaring belonging to the Polish Nation, residing in the host country;
4) to develop and deepen economic, scientific, technical and cultural cooperation between the Republic of Poland and the host country, and to promote the Polish economy, science and culture and the Polish language;
5) providing consular assistance.

In a comparative perspective, the Polish legal model belongs to the group of normative systems that grant honorary consuls a broad mandate, but still clearly distinguishes between professional and honorary status. A stricter approach is visible in the legislation of Germany, where honorary consuls (Honorarkonsuln) are formally appointed by the Federal President on the recommendation of the Federal Foreign Office; their authorisation is significantly narrower in the field of notarial functions and civil-status certifications.[9] In contrast, the French system assigns honorary consuls (consuls honoraires) a much wider scope of administrative authority, including the possibility of issuing emergency travel documents, registering civil status events, and even exercising limited judicial functions in overseas collectivities.[10] The United States adopts a different model entirely: Its honorary consuls are

8 Stringer, 2007, pp. 5–18.
9 Bundesrepublik Deutschland, 1974.
10 Ministère des Affaires étrangères et du Développement international, 2013.

foreign nationals accredited by the U.S. Department of State but are strictly prohibited from performing most sovereign acts, as the U.S. constitutional system does not permit delegation of such authority to private individuals. Thus, the honorary consul, although present globally, is far from being a uniform legal institution.[11]

Moreover, in accordance with Art. 134 of pr.kons, the Minister of Foreign Affairs of the Republic of Poland may entrust an honorary consul, at his request, with the performance of certain notarial acts. That is, at the request of a Polish citizen or public administration body in the Republic of Poland, such a consul may then: prepare and certify excerpts, copies, excerpts and copies of documents; certify the authenticity of the signature and handwriting mark; and certify the date of presentation of a document, of a person's remaining alive or in a certain place.

As indicated in the doctrine:

> As for the performance of notarial activities, in accordance with Article 134 of the pr.kons, Article 33 of the same law also applies to honorary consuls, which stipulates that written authorization from the minister responsible for foreign affairs, granted in consultation with the minister of justice, is needed to perform the activities specified in Article 28(1) of the pr.kons. It seems that the need to obtain the approval of two ministers to perform notarial activities may constitute another 'sieve' for the selection of individuals who will be able to cope with these new functions. And if the assessment of an honorary consul's qualifications on appointment turns out to be flawed, the minister responsible for foreign affairs may change the scope of the honorary consul's consular functions (with the consul's consent - Article 124 pr.cons.). Secondly, Art. 134 pr.kons. states that entrusting the performance of notarial functions shall be done only in 'justified cases'.[12]

From the justification of the bill, it appears that such a case can be indicated by the honorary consul himself in the application, and that it can be a significant distance of the consular office headed by the honorary consul from the nearest professional consul or demand manifested by the Polish communities.[13]

The debate surrounding the extent of honorary consular authorisation is not unique to Poland. In the United Kingdom, honorary consuls operate under the Foreign, Commonwealth & Development Office (FCDO), and are expressly excluded from all forms of notarial intervention, even simple certification of signatures, precisely because of concerns about liability and legal certainty.[14] The Spanish model, in contrast, allows honorary consuls, subject to prior authorisation by the Ministry of Foreign Affairs, to legalise signatures and certify documents of commercial

11 U.S. Department of State, 2023.
12 Kleczkowska, 2015, p. 177.
13 Seventh Sejm, p. 53 Print No. 3290. [Online]. Available at: https://www.sejm.gov.pl/sejm7.nsf/druk.xsp?nr=3290 (Accessed: 18 April 2026).
14 United Kingdom Parliament, 2014.

character, and receive and forward civil registry and passport applications in areas without a resident career consulate. However, they are not considered civil registry officials and may not exercise general notarial functions, which remain reserved to career consular officers.[15] The argument repeatedly raised in parliamentary and academic discourse is that the economic usefulness of honorary consuls, especially in trade promotion and tourism, often leads states to expand their functions beyond strictly consular tasks, risking a blurring of the line between public authority and private interest.

While the catalogue of activities of an honorary consul under Art. 129 pr.kons. does not raise major doubts, for it can be considered a certain worldwide standard, entrusting honorary consuls to perform even a limited catalogue of notarial activities raises a legitimate objection. The Polish notary's position is the position of a notary in the Latin notarial system: He is a highly specialised, independent, licensed public officer who watches over the security of legal transactions. This is in contrast to the Anglo-Saxon model of public notary, whose role is essentially limited to certifying documents and who does not need to have (and usually does not have) a legal education. For example, all real estate transactions in the Republic of Poland must, on pain of nullity, be conducted through notaries who draft notarial deeds. Notarial deeds cannot be drawn up by an honorary consul of the Republic of Poland; even a professional consul will draw them up, according to Art. 28 (3) pr.kons., only after its draft has been approved and authorised by the Minister of Justice (which, *nota bene*, the author has repeatedly done in 2015–2019 in the place of the Minister of Justice). However, when performing notarial acts that can be entrusted to an honorary consul, several dangers arise from certain aspects: the potential incompetence of the honorary consul (who does not need to have any special training or legal education, but may even have a poor understanding of the Polish legal system, especially when he or she is a citizen of the host country); and the dishonesty of the same, for it does not take much imagination to visualise the consequences of, for example, certifying the handwriting of a signature. For instance, it does not take much imagination to visualise the consequences of, for example, certifying the authenticity of a signature or being alive on a specific date in the area of inheritance law.

The introduction of this widely criticised solution in 2015 was accompanied by a heated discussion both in the professional and popular press, and in parliament where, besides the above-mentioned dangers, the prevalent problem of preserving the impartiality of honorary consuls was raised. While conducting business or professional activities, they very often use these powers for the benefit of such activities

15 Ministerio de Asuntos Exteriores y de Cooperación, 2007.

but not necessarily for their legality and the prestige of the sending state.[16] However, the provision was still enacted[17] and the *de lege ferenda* remarks should unequivocally advocate its repeal.

Concerns regarding potential abuses are not theoretical. Several high-profile controversies in recent decades have involved honorary consuls engaging in criminal activities under the cover of consular status, including cases of tax fraud, illegal arms trade, and money laundering identified in the United States, Germany, and Sri Lanka.[18] A 2023 investigative report by the International Consortium of Investigative Journalists documented more than 500 honorary consuls worldwide who had been accused of offenses ranging from corruption to supporting sanctioned regimes. This reveals the structural risks of a system that grants diplomatic privileges to individuals not employed or routinely vetted by the state apparatus.[19] Some policy-makers and investigators have called for an international register of honorary consuls and common vetting standards, as disclosed in global investigative research and European policy-impact reports.[20] Although no such reform has yet been implemented, the debate illustrates the tension between the flexibility and vulnerability of the institution.

Currently, the information published on the official website of the Polish government[21] shows that Poland has established about 250 honorary consuls.[22] Clearly, the institution is growing in popularity for over the past 20 years, as their number has almost doubled from 141 active honorary consuls appointed in 2005.[23] A similar

16 See, inter alia, Resolution No. IX/18/2015 of the National Notary Council of 9 May 2015 on the draft Consular Law. [Online]. Available at: https://orka.sejm.gov.pl/Druki7ka.nsf/0/28B5FD8DD67F6242C1257E4D0021C1D4/%24File/3290-003.pdf (Accessed: 18 April 2026), which states, among other things, that: 'The applied solution means de facto depreciation of notarial activities. It involves entrusting the performance of these activities – performed on behalf of the Republic of Poland – which should be performed by a person who has the character of a person of public trust in this regard – to a foreigner (who is most often an honorary consul). This involves a high risk of damage to the prestige of the RP. It should also be noted that such solutions in relation to honorary consuls are characteristic of countries where there is no notary public (and only public notaries operate, who, not being lawyers or persons of public trust, but being only 'certifying', are completely mistakenly identified with notary public). In the opinion of the NSC, this provision (i.e. the current Art. 134, together with the related Art. 135) should be removed from the law in its entirety.'

17 See more on the discussion of this solution and the circumstances of its enactment in Czubik, 2015, pp. 92–98.

18 Cenziper et al., 2022.

19 International Consortium of Investigative Journalists, 2023.

20 European Commission, 2023.

21 See: https://www.gov.pl/web/gov/katalog-jednostek (Accessed: 18 April 2026).

22 See the annex to the announcement of the Minister of Foreign Affairs of 11 September 2024 on the list of organisational units subordinate to or supervised by the Minister of Foreign Affairs (M.P. of 2024, item 811).

23 Szczepanik, 2005, p. 243.

expansion has happened in other Central European states. Hungary, for example, maintains 244 honorary consuls worldwide,[24] while the Czech Republic increased its network from 123 honorary consuls in 2003 to 216 by mid-2019, indicating a regional trend of externalising consular functions to non-professional actors to reduce budgetary pressure while increasing state visibility abroad.[25] Whether this development strengthens or weakens the overall credibility of consular activity largely depends on the regulatory safeguards and supervision mechanisms adopted by each state.

3. Trade Diplomacy

Another group of people who, without formally being members of the corps of the diplomatic and consular service, should play an important role in the field of economic diplomacy – supporting the economic development of Poland as a sending country – are the employees of specialised agencies located within diplomatic and consular representations. Traditionally, in Poland, as in many other countries, these were units like the offices of commercial counsels, in which some staff (i.e. at least the commercial counsels) themselves held diplomatic rank. Dissatisfaction with the often meagre results of the Economic and Commercial Departments inherited from the communist People's Republic of Poland that functioned at embassies led to a change in the system. Consequently, since 18 August 2017, the Law of 7 July 2017 on the Performance of Tasks in the Field of Promotion of the Polish Economy by the Polish Investment and Trade Agency Joint Stock Company[26] (hereinafter, the PAIH Law) has been in force. It states: 'The Agency's tasks referred to in Art. 2 may be performed with the assistance of foreign trade offices established and operated by the Agency in a legal and organisational form depending on the legal and economic conditions of the place of their establishment, including capital companies.' Today, these offices have been established in 57 countries, with some of them, such as the United States, having more than one.[27]

This solution has undoubted advantages, which is the functioning within the framework (at least theoretically less susceptible to the influence of current political conditions) along the lines of the classic commercial company, which is a joint-stock company; thus, it should be oriented to the efficient and economic achievement of the results for which it was established. However, its main drawback is the lack

24 Kovács, 2020, p. 248.
25 Ministry of Foreign Affairs of the Czech Republic, 2004, p. 148; Ministry of Foreign Affairs of the Czech Republic, 2020, p. 54.
26 Journal of Laws of 2022, item 1985.
27 PAIH, no date.

of direct and visible external environment connection with the sending country, which is typically ensured by the possession of diplomatic degrees by the staff and functioning within the framework of a network of diplomatic-consular missions. Of course, much depends on the specific conditions operating in the specific host countries. Still, this detachment from the official structures of the sending state in many cultural circles, and where the economy is closely linked to political power, hinders the goals that these entities are supposed to serve. In other words, in many markets, the lack of direct diplomatic support prevents or significantly hinders even the most competitive companies from entering and operating. Even the efforts of the most specialised agencies of PAIH operating in a given market will not change this because they lack the tools that, under the circumstances, guarantee economic success.

This structural limitation is particularly evident in regions where the economic system is intertwined with political patronage and where long-term business decisions are conditioned on high-level political endorsement.[28] In such markets, common in the Middle East, Central Asia, Africa and parts of Latin America, the ability to 'open doors', secure meetings with key decision-makers, or remove administrative obstacles often depends not on commercial expertise alone but on diplomatic presence. Numerous empirical studies show that in environments where political actors retain decisive control over market access and regulatory decisions, companies supported by embassy-based commercial counsellors enjoy significantly higher levels of institutional access and are better able to mitigate political-economic risks.

Reports by the Organisation for Economic Cooperation and Development (OECD) and United Nations Trade and Development (UNCTAD) underline that in politically centralised economies, diplomatic status functions as a form of institutional leverage, allowing commercial counsellors to intervene at ministerial or agency level in ways that private-sector trade offices cannot. The United Kingdom's Department for International Trade (DIT), in its Frontier Economics evaluation of trade promotion instruments in 2017, similarly found that diplomatic posts play a critical role in establishing credibility, particularly in markets characterised by opaque decision-making or high barriers to entry.[29]

Germany, France, Italy, Japan and South Korea all maintain integrated embassy-based trade sections, combining diplomatic authority with technical economic expertise. OECD comparative studies of trade promotion from 2019 and 2020 show that these hybrid systems consistently outperform decentralised or agency-only models, especially in 'relationship-driven' economies where political endorsement is often a prerequisite for long-term commercial engagement. In this context, the absence of embassy-linked commercial counsellors significantly limits Poland's ability to match the institutional support deployed by competing states.[30]

28 Czarnecka-Gallas, 2012, pp. 62–73.
29 Kostecki and Naray, 2007, pp. 19–20, 29–30.
30 Lee and Hudson, 2004, pp. 343–360.

In other words, in many markets, the lack of direct diplomatic support prevents or significantly hinders even the most competitive companies from entering and operating, which even the efforts of the most specialised agencies of PAIH operating in a given market will not change because they lack the tools that under the circumstances guarantee economic success. This diagnosis is consistent with international data: According to OECD analyses, the effectiveness of national trade promotion structures strongly correlates with the degree of integration between economic agencies and diplomatic networks.[31]

An additional problem is that, as it is estimated that dozens of international agreements regulating the economic cooperation of the Republic of Poland with other countries list Economic and Trade Departments as units, these agreements have not been renegotiated to replace them with offices of PAIH. This makes it difficult (and sometimes even impossible) to take advantage of the opportunities created by these agreements. In many cases, these bilateral treaties grant specific procedural rights or cooperation mechanisms exclusively to 'economic departments of embassies' or 'commercial sections'; these legal entities no longer exist in the Polish system.[32]

Since assuming that the offices of PAIH, as a commercial law company, would be the successors of the formally liquidated economic diplomacy agencies of the Republic of Poland (which were the Economic and Trade Departments) would be impossible, this creates an uncertain legal situation. In several agreements, the designation of the competent authority is not merely formal but determines eligibility for participation in joint committees, arbitration mechanisms, or preferential access to host-country ministries. Without amendment, these treaty-based instruments may remain inaccessible to PAIH.[33]

This begs the question of whether the choice of reforming an admittedly unsatisfactory part of the Republic of Poland's functioning abroad made in 2017 is appropriate and should not be redefined.

The reform undertaken in 2017 was intended to address the long-standing fragmentation of Poland's external economic instruments, which since the early 1990s had been dispersed among several ministries, trade promotion foundations, and sectoral agencies. The post-1989 transformation created a dynamic domestic private sector. However, the institutional architecture supporting exporters and investors remained largely unchanged, reflecting the logic of the communist-era system rather than the needs of a market economy. In this context, the liquidation of ministerial trade offices and their replacement with a centralised network of foreign offices operated by PAIH was conceived as a way to strengthen operational flexibility, emphasise business orientation, and facilitate cooperation with private partners abroad.[34]

31 Volpe Martincus and Sztajerowska, 2019, pp. 20–21, 25–29.
32 Kuźniar, 2025, pp. 510–530.
33 Schmalenbach, 2017.
34 Arak, 2024, pp. 507–522.

Yet, this administrative centralisation simultaneously broke a decades-long structural link between economic diplomacy and the formal diplomatic service, which historically had ensured continuity, political backing, and a clearly recognisable state identity in international markets. In systems with strong traditions of state-led economic diplomacy such as France, Japan, or South Korea, commercial agencies operate in immediate proximity to diplomatic structures, ensuring that political signals and economic initiatives reinforce each other.[35]

In many countries, similar reforms were conducted differently. Germany, Japan, and the United Kingdom reorganised their trade and investment promotion systems over the past twenty years, but retained strong and institutionalised connections between economic agencies and the diplomatic corps. German Trade & Invest, while a separate legal entity, operates directly within the strategic framework of the Federal Ministry for Economic Affairs and Energy, and cooperates closely with the network of German embassies, which remain the primary carriers of diplomatic authority.[36] Likewise, Japan External Trade Organization functions as a semi-public body but maintains extensive personnel exchange with the Ministry of Foreign Affairs and the Ministry of Economy, Trade and Industry, ensuring unified representation in politically sensitive markets.[37] The United Kingdom's model under the Department for Business and Trade (DBT) explicitly integrates trade officers into embassy teams, combining private-sector methods with the diplomatic reach of the FCDO.[38] Compared to these solutions, the Polish model appears significantly more separated from state authority than common in major economies.

Another structural weakness of the PAIH model is the limited diplomatic protection available to its foreign offices. Staff working in a commercial-law company cannot benefit from the immunities, privileges, and secure access channels enjoyed by diplomatic personnel.[39] In many markets, including large economies in Asia and the Middle East, access to ministries, regulatory agencies, and key decision-makers is conditioned on formal diplomatic status, or at least, on operation under an official governmental mandate. This structural asymmetry may undermine the effectiveness of Polish businesses seeking regulatory clarity, dispute resolution, or entry into sectors controlled by public authorities. Furthermore, the absence of diplomatic rank among PAIH personnel affects perceptions of credibility and seriousness: Foreign partners, particularly in emerging markets, often assume that only

35 UNCTAD, 2023, pp. 188–205.

36 Bozoyan, 2025, p. 1.

37 Japan External Trade Organization, 2020.

38 According to DBT, its United States network operates from the British Embassy in Washington and other consulate-generals, supporting United Kingdom businesses with 'expertise and contacts through our extensive network of specialists […] and staff in the British Embassy in Washington'. [Online]. Available at: https://www.gov.uk/world/organisations/department-for-business-and-trade-in-the-usa (Accessed: 18 April 2026).

39 Vienna Convention on Diplomatic Relations, Arts. 22–37.

embassy-based officials can represent genuine state interests or provide reliable governmental guarantees.[40]

Equally problematic are the information flow and institutional coordination. Prior to 2017, commercial counsellors, although not always effective, were at least integrated into the internal reporting systems of embassies. This ensured that the information gathered on local markets, political risk, and regulatory developments reached the Ministry of Foreign Affairs. Under the new model, foreign offices of PAIH send their reports exclusively to the agency's headquarters, while embassies and consulates have no automatic access to this data. Such institutional separation may hinder strategic planning, as economic intelligence collected by PAIH is not systematically linked with the political and security assessments conducted by diplomatic posts.[41]

This stands in contrast to best practices recommended by the OECD, the European Commission, and UNCTAD, which emphasise the centrality of integrated one-network systems in modern economic diplomacy, especially for medium-sized economies that must optimise limited resources.[42] Moreover, the fragmentation of information can lead to duplicated efforts, inconsistent messaging to potential investors, and delays in identifying emerging risks or opportunities; more cohesive systems can effectively mitigate such problems.

Meanwhile, the idea that the PAIH offices operate in a purely business-oriented manner does not fully match reality. Their effectiveness often depends on informal support from embassy staff – ambassadors, consuls general, or political sections – who provide institutional legitimacy and facilitate access to host-country authorities. Paradoxically, the very deficiencies created by the structural separation between PAIH and the diplomatic corps must be compensated by ad hoc cooperation at the local level, highlighting the fundamental interdependence of economic and political diplomacy.[43]

Long-term strategic concerns also arise. The fact that many bilateral agreements still refer to Economic and Trade Departments – entities that no longer exist – may lead to legal uncertainties; in extreme cases, it may create situations where Poland cannot fully enjoy the rights or mechanisms established under these agreements. Renegotiating dozens of bilateral treaties or memoranda is a lengthy and politically sensitive process, requiring high levels of diplomatic engagement. Until such renegotiations occur, PAIH offices may find themselves unable to rely on the full scope of cooperation instruments technically available to Poland on paper.[44] This legal vacuum can gradually weaken Poland's position in international trade negotiations

40 Reiterer, 2006, pp. 223–243.
41 van Bergeijk, 2018, pp. 95–125.
42 OECD, WTO and UNCTAD, 2013, pp. 5–8.
43 Riordan, 2003, pp. 129–136.
44 Emerson, 2004, pp. 13–15.

or in implementing economic cooperation frameworks dating back to the 1970s, 1980s, or 1990s.[45]

Finally, a key question remains whether the 2017 reform should be reassessed. An increasing number of experts highlight the need to rebuild closer links between trade promotion structures and the diplomatic service, possibly through hybrid models allowing for the coexistence of PAIH's business flexibility with the diplomatic authority of embassy-based officers.[46] Such an approach would not require abandoning the post-2017 system entirely but would instead restore a level of integration necessary for effective operation in politically complex markets. A thorough evaluation of the reform, considering comparative international models and the experience accumulated over the past several years, seems indispensable if Poland intends to strengthen its economic presence globally and ensure that its institutional architecture adequately supports the ambitions of Polish enterprises.[47]

4. Professionals (Judges, Prosecutors, and Notaries)

Another of group of interest are the various types of specialists who, at least in some countries where Polish diplomatic and consular posts face specific problems whose solution may be too great a challenge for their classical staff, could assist with the diplomatic staffs' work by effectively helping to protect the interests of the Republic of Poland and its citizens. Art. 7(8) of the u.sł.zagr. states: 'Whenever the law refers to a delegated employee, it means a person designated by a minister other than the minister in charge of foreign affairs or the head of a public finance sector unit, who performs the duties of support staff or service staff at a foreign post as determined by the designating authority'. To bring this issue closer, I focus on one of the most serious problems hindering the functioning of Polish citizens abroad, which the author personally encountered in 2015–2019 while serving as undersecretary of state at the Ministry of Justice in charge of, among other things, common justice and the international relations of the ministry.

The problem at the time was (and, unfortunately, still is) the existence of numerous transnational disputes regarding the issue of residence and custody of a child of a Polish citizen living abroad in a situation of dispute between his parents. Moreover, the institutions of foreign countries, obliged to assist the family, would abuse their powers and take children out of the custody of their parents, often including Polish citizens, and transfer them to specialised state institutions or foster families, including those from a completely different cultural background.

45 Łazor, 2018, p. 95.
46 UK Department for International Trade, 2022. pp. 4–6, 39–40, 52, 90–94.
47 OECD, 2023, pp. 5–6.

While such cases involve litigation resolved by both Polish and foreign family courts (sometimes contradictory), they also generate media interest and diplomatic tension. This is because not all states respect (or at least not to the same extent) international legal obligations, including those under the Convention on the Rights of the Child, signed by most of them and adopted by the United Nations General Assembly on 20 November 1989 in New York.[48] This convention includes, among other things, Art. 10(2), according to which:

> A child whose parents reside in different countries shall have the right to maintain regular, except in extraordinary circumstances, personal relations and direct contacts with both parents. To this end, and in accordance with the obligation of States Parties under the provision of Art. 9, para. 2, States Parties shall respect the right of the child and his or her parents to leave any country, including their own, and to return to their own country. The right to leave any country shall be subject only to such restrictions as are prescribed by law and which are necessary for the protection of national security, public order, public health and morals, or the rights and freedoms of others, consistent with the other rights recognized in this Convention.

Due to the sensitivity of the issue, cases of this and similar types should be handled not only in the courts but also by diplomatic and consular representations with the utmost care and sensitivity, and using knowledge and experience that professional diplomats most often do not possess. The intersection of family law, international private law, and inter-institutional cooperation makes these cases uniquely complex. Moreover, the operations of child protection agencies in some states, although legitimate in the internal legal order, often raise serious concerns from the perspective of proportionality, cultural competence, and respect for parental rights in cross-border situations. The absence of Polish-speaking professionals, capable of communicating with the affected families and assessing the factual circumstances further exacerbates the risk of misunderstandings or procedural disadvantages.

In this situation, in 2015–2019, the idea emerged, in governmental spheres, to use the institution of the delegated worker to delegate to Polish posts located in countries where problems of this kind were the greatest (Norway, Germany, and the United Kingdom) to family judges with experience not only in jurisprudence but also often as clerks in the Ministry of Justice (for it is there, as judges delegated to the Ministry of Justice, that they usually coordinate the activities of the Ministry in this area). The belief was that judges with practical expertise in family and guardianship law, with procedural experience and the knowledge of international cooperation mechanisms (including Hague instruments) could serve both as advisors and operational support for consular staff. They could provide analytical assessments, participate in discussions with foreign agencies, and ensure that the legal position of Polish citizens was correctly understood and presented.

48 Journal of Laws of 1991 No. 120, item 526.

Note that the institution of a judge delegated to perform administrative duties at the Ministry of Justice has a long and good tradition in Poland. It was used in the period after Poland regained independence in 1918 until the outbreak of World War II. Even the communists occupying Poland in 1945–1989 did not abandon it. After Poland regained independence, it continued to be used and is still used today. The idea of delegating judges to perform administrative duties at the Ministry of Justice (and, for more than a dozen years, other institutions affiliated with that ministry, including the National School of the Judiciary and Public Prosecution, an institution that prepares candidates for judicial and prosecutorial service, and provides continuing education for judicial and prosecutorial personnel; or those supervised by that ministry, such as the Justice Institute, which is a think tank of the Ministry of Justice) is a simple consequence of entrusting that office with the administrative supervision of the entire general and military judiciary.

This historical continuity is not accidental: The Polish system traditionally relied on the professional, apolitical expertise of judges to ensure that ministerial supervision did not violate judicial independence. Delegated judges brought into the ministry an insider's understanding of judicial work, enabling them to evaluate systemic problems, like delays, inefficiencies, structural misallocations, with a perspective unavailable to civil servants or political appointees. Their presence in administrative structures also mitigated the risk of political interference by ensuring that supervision remained rooted in constitutional principles and long-standing legal culture.

As part of the Minister of Justice's administrative oversight of the entire general and military judiciary, activities need to be performed at the interface of pure administration, such as the organisation of the court network, investment tasks, and budgeting, with those already very close to the judiciary's mission, which is the administration of justice (i.e. the resolution of disputed cases by independent courts composed of independent judges). These issues require not only unique competences, which are almost exclusively possessed by judges as they acquire these during many years of judicial work in the courts, but also sensitivity allowing to reconcile obvious requirements related to ensuring constitutional[49] and convention guarantees to the sub-judge;[50] this involves using supervisory measures, such as vetting or visiting the activities of the court, or even a demand to initiate by the Minister of Justice

49 Art. 45(1) of the Constitution of the Republic of Poland (Journal of Laws of 1997, No. 78, item 483): 'Everyone has the right to a fair and public hearing without undue delay by a competent, independent, impartial and independent court'.

50 Art. 6(1) of the Convention for the Protection of Human Rights and Fundamental Freedoms (Journal of Laws of 1993, No. 61, item 284): 'Everyone has the right to a fair and public hearing within a reasonable time by an independent and impartial court established by law in deciding his civil rights and obligations or the merits of any accusation in a criminal case brought against him. Proceedings before the court shall be public, but the press and the public may be excluded from all or part of a court hearing for reasons of morality, for reasons of public order or state security in a democratic society, when the welfare of minors requires it or when it serves to protect the private lives of the parties, or in special circumstances, within the limits deemed absolutely necessary by the court, when publicity would be detrimental to the interests of justice'.

(who receives thousands of complaints from dissatisfied parties of various types of court proceedings) disciplinary proceedings against a judge who, for example, due to incompetence or laziness, has been convicted of a crime. Due to incompetence or laziness, for example, leads to the gross protraction of ongoing proceedings with respect to judicial independence. This means that this supervision and the measures used within the framework of this supervision can in no way encroach on the judicial sphere, within which judges are independent.

The skilful reconciliation of these challenges faced by every apparatus of every (regardless of political provenance) Minister of Justice is made possible by the constitutional position of the judge. Besides his competence and unique knowledge of how the courts really function, he has the right, unlike any civil servant, to refuse at any time to carry out the order of any superior in the ministry structure, including, for example, ones that the delegated judge believes is illegal. A delegated judge can resign from his delegation at any time with immediate effect; thus, the next day, he returns to his home court and again starts performing his normal judicial work. Thus, the possibilities of pressure on his decisions (e.g. politically motivated) are much less than the pressure that can be exerted on a civil servant; when a judge refusing to carry out an unlawful order returns to his court, the civil servant risks losing his job, which is his source of livelihood for himself and his family.

Hence, since the pre-war period, one of the deputy ministers of justice, the one responsible for overseeing the general judiciary, must, by law, be a delegated judge. It is he who, with the help of other judges delegated to the Ministry of Justice, performs administrative oversight activities over the general and military judiciary precisely so that they are not carried out by a professional politician such as the Minister of Justice or his other political deputies, or at their behest by civil servants who fear to oppose unlawful orders because of the possibility of losing their jobs. The author held such a position from 2015 to 2019.

Concurrently, the long-standing tradition of delegating judges to the Ministry of Justice created a reservoir of highly specialised personnel capable of handling legal matters at the interface of domestic and international law. Their experience in cross-border legal cooperation, participation in negotiations, and involvement in legislative processes naturally predisposes them to roles requiring diplomatic sensitivity. Unlike many legal systems, Poland historically cultivated a model in which judicial expertise supported the executive in matters requiring a deep understanding of the administration of justice. Hence, the idea of deploying judges to diplomatic and consular missions was not an accidental or experimental concept, but the logical extension of a long-established institutional philosophy.

The system of delegation of judges is complemented by the prohibition, resulting from the Constitutional Court's judgment of 15 January 2009, K 45/07[51] of a judge delegated to the Ministry of Justice or other political institutions; Art. 77 Sec. 2b

51 Journal of Laws of 2009. No. 9, item 57.

of the Act of 27 July 2001, Law on the Common Court System[52] (hereinafter, u.s.p.) states that:

> A judge may not combine the function of adjudication with the performance of administrative duties in the Ministry of Justice or other organisational unit subordinate to the Minister of Justice, the Chancellery of the President of the Republic of Poland, the Chancellery of the Prime Minister or the office serving the minister responsible for foreign affairs.

The *ratio legis of* this prohibition stems from the Constitutional Court's obvious observation that during the period of delegation to an institution of a political nature such as the Ministry of Justice, a judge performing official duties is obliged to perform the instructions of his superiors. This cannot be reconciled with his constitutional position and the attribute of independence to which he is entitled in the judicial sphere.

By the same token, he cannot concurrently be an element of the executive power as an official in a ministry that is part of the executive branch and a holder of another segment of state power, which is the judiciary. The constitutional architecture of Poland, rooted in the classical Montesquieu-inspired separation of powers, demands a clear demarcation between judicial independence and executive loyalty. The Constitutional Court merely reaffirmed this principle by emphasising that no judge can simultaneously remain independent and subject to ministerial instruction.

To allow judges to perform specialised duties in diplomatic and consular posts of the Republic of Poland, the u.s.p. was amended, as of 12 August 2017, by introducing the provision of Art. 77 Sec. 1(2b), which states:

> The Minister of Justice may delegate a judge, with his or her consent, to perform the duties of a judge or administrative activities in an office serving the minister in charge of foreign affairs – at the request of the minister in charge of foreign affairs.

In terms of effectiveness in carrying out the tasks entrusted to such judges, the prognosis was good; the above-described competence of delegated judges and their systemic status, so desirable in the Ministry of Justice and its affiliated agencies, would also be a great enhancement in relations with the competent authorities of foreign countries.

Regrettably, such delegation has never happened to date. Officially, this has been hindered by alleged legislative inadequacies because it has been argued that the delegation of a judge to the Ministry of Foreign Affairs is not the same as the delegation of a judge to perform activities outside the borders of the Republic of Poland within the network of diplomatic and consular posts, and the legislation would have to be amended to do so. Meanwhile, it is unofficially known that this is because the

52 Journal of Laws of 2024, item 334.

Minister of Foreign Affairs has never submitted an application for the delegation of a judge to the Minister of Justice because the professional diplomats who would be assisted by such a delegated judge were reluctant to do so. Thus, so far, this institution remains unused, which makes it impossible to verify, in practice, the assumptions behind its introduction into the Polish legal system.

Besides judges, note that sometimes, the highest-class specialists in matters in the area of criminal law in the broadest sense, and combating crime and international cooperation in criminal matters, are prosecutors. Therefore, they, in accordance with Polish law and constitutional tradition, can also be and are delegated to the Ministry of Justice, dealing especially with legislation in the area of criminal law and organisation of the work of the prosecutor's office; in Poland, the Minister of Justice is simultaneously the Prosecutor General. Further, for example, they are involved in extradition, which is a traditional power of the Minister of Justice not just in the Polish legal system. Considering the complexity of modern international criminal cooperation, including extradition, mutual legal assistance, transfer of sentenced persons and cross-border investigations, the expertise of prosecutors could substantially support diplomatic missions in countries where such matters arise frequently or where systemic obstacles hinder effective cooperation.

In a situation where Polish judges specialising in family cases could appear in some Polish diplomatic or consular posts on a delegation basis, officers of the Polish army, police, and other services have been functioning there for a long time (more on this later). In some situations, the diplomatic and consular staff may also need to be supported with the knowledge and experience of the delegated prosecutor. For the time being, however, this is impossible because the Law of 28 January 2016, Law on the Public Prosecutor's Office (hereinafter, p.prok.)[53] in the catalogue. In principle, according to Art. 106, which normalises the institution of delegation of the public prosecutor, no agencies of the Ministry of Foreign Affairs are present, including diplomatic or consular posts. As it seems justified here, one may reasonably formulate a postulate for the amendment of Art. 106 of the Public Prosecutor's Code by adding to it a provision modelled on Art. 77 of the Public Prosecutor's Code to strengthen, with representatives of this institution, those Polish offices too which, due to special conditions in a given country, need it.

Completing this catalogue, note that within the framework of *de lege ferenda* postulates, a proposal definitely worth considering is supporting the staff of Polish consular posts in the performance by consuls of their notarial functions by employing, in them, persons who have completed notarial training but did not pass or did not attempt to pass the final notarial exam. These persons, being professionally prepared to perform notarial activities, would certainly perform them within the framework of their consular functions at a professional level unattainable for professional consuls. This is even more true for honorary consuls, who, as a rule, do not even have a legal education, and not to mention specialised preparation for performing

53 Journal of Laws of 2024, item 360.

notarial activities. They can provide invaluable assistance to them and entities that, for various reasons, cannot perform these activities with a notary based in the territory of the Republic of Poland.

As indicated in the related literature, such a solution is inspired by the French solutions, where professional lawyers (including judges and people with experience in working in a notary's office) are employed in the foreign service could successfully work in Poland not only for the reasons indicated above, but also given the insufficient number of candidates for notaries compared with market needs.[54] The French model demonstrates that embedding legal professionals within foreign service structures significantly increases the quality of notarial and quasi-notarial acts performed abroad, reduces the risk of errors, and expands the trust of local authorities and the Polish diaspora in consular actions. The adaptation of such a model to Polish conditions can require limited legislative amendments but would result in a substantial improvement in the legal security of Polish citizens abroad.

In addition, adopting such a solution can serve not only the practical needs of consular offices but also the broader systemic objective of enhancing the professionalism of Polish foreign service structures. Many states, particularly those with strong civil law traditions, rely on legally trained personnel in their embassies and consulates to perform authentication, certification, and advisory functions. These specialists effectively bridge the gap between domestic legal systems and the needs of citizens abroad. For Poland, which maintains a large and highly mobile diaspora, the creation of a semi-notarial corps within consular structures could significantly reduce the burden on consuls and minimise the legal risks associated with improperly executed notarial acts.

Such a solution would also fit well within the logic of Art. 134 of the pr.kons., which already permits entrusting consuls with the performance of certain notarial acts. Yet, as practice and doctrine emphasise, entrusting such competencies to persons without complete legal training carries considerable risks. The literature highlights instances in which consular staff, acting in good faith but without full legal insight, committed procedural errors that would have been easily avoided by a professional trained in notarial practice. Consequently, supplementing consular teams with individuals completing notarial training, even if they did not ultimately obtain the title of notary, can fill a gap between the growing demand for legal-technical services abroad and the limited capabilities of the existing consular framework.

Moreover, note that the presence of such specialists can support consuls in handling more complex legal matters which require familiarity with formal requirements and documentary practice, such as inheritance declarations, powers of attorney, marital property agreements, or certifications needed for cross-border civil status proceedings. The growing mobility of Polish citizens has resulted in a notable increase in the number of these cases and consular posts are increasingly struggling to meet these expectations, particularly where local legal systems impose complex

54 Czubik, 2019, pp. 17–19.

requirements. In this sense, the proposed reform would not only enhance procedural security but also strengthen the prestige of consular offices by improving the quality and reliability of the services they provide.

A broader comparative perspective demonstrates further arguments in favour of the reform. In several European Union (EU) Member States, notably France, Italy, and Spain, consular structures have long employed legally trained specialists who support consuls in performing tasks that in their domestic systems would be reserved for notaries or other legal professionals. These states recognised early that the complexity of cross-border legal transactions requires the presence of highly skilled personnel capable of managing formalities on a level equivalent to that expected domestically. Poland, despite having a strong notarial tradition, remains more conservative in assigning legal roles to consular offices abroad, although the needs of its citizens have grown substantially over the last two decades.

Extending this reasoning, the presence of such specialists can also alleviate the burden on the Ministries of Foreign Affairs and Justice, both of which are often consulted when consular officials encounter legal questions beyond their expertise. This would ensure faster decision-making, reduce institutional bottlenecks, and improve legal certainty. Moreover, by placing trained quasi-notarial personnel directly within consular posts, Poland would approximate the model already recommended in contemporary diplomatic management literature, which stresses the importance of professional diversification within foreign service structures.

Finally, it is worth situating these considerations within the broader context of the evolution of diplomatic and consular functions. Contemporary foreign service institutions increasingly rely on mixed professional teams rather than exclusively career diplomats. This trend reflects the growing complexity of international relations, where consular protection, cross-border family law, criminal cooperation, migration management, and international commerce increasingly require domain-specific expertise. Diplomats alone, even the most capable, cannot reasonably master all of these highly specialised fields. Thus, the Polish proposals discussed here align with global tendencies acknowledging that effective foreign policy requires multidisciplinary staffing models which integrate legal, economic, cultural, and technical expertise.[55]

In this regard, the deployment of judges, prosecutors, and legally trained notarial specialists should not be perceived as a departure from diplomatic tradition, but rather as its natural extension. Historically, consuls were not only representatives of state authority but also key legal intermediaries in foreign jurisdictions. Over time, the strict professionalisation of diplomatic services sometimes resulted in an overly narrow understanding of consular functions – one that underestimated the need for technical legal knowledge indispensable in a globalised world. Therefore,

55 Haynal et al., 2013, pp. 1–5.

reintroducing specialised legal personnel into consular structures restores an older, classical conception of consular work, consistent with long-standing European traditions.[56]

In conclusion, the proposals for de lege ferenda reform, including the delegation of judges to foreign posts, possibility of delegating prosecutors, and employment of legally trained notarial specialists, represent coherent and realistic steps toward improving the functioning of Polish diplomatic and consular posts. They can directly address systemic challenges already identified in practice, increase the legal protection of Polish citizens abroad, and raise the substantive quality and prestige of Polish consular services. Moreover, these proposals remain fully consistent with the broader trajectory of administrative modernisation and professional specialisation observable across diplomatic services internationally.

5. Cultural Diplomacy

Another classic field of activity performed within diplomatic and consular missions is cultural activity. Examples of institutions promoting a country's cultural achievements abroad are well known, with the best-known ones being the British Council, French Alliance Française, or Spanish Cervantes Institute. This path has also been used in Poland to expand the cultural offer of the agencies of the Polish state directed abroad beyond the classic framework resulting from the performance of official duties by employees of Polish diplomatic and consular posts.

Over the past decades, cultural diplomacy has increasingly become a pillar of a state's soft power, understood as the ability to shape the preferences and perceptions of foreign societies through the attractiveness of its culture, values, and achievements. Many scholars emphasise that in the 21st century, cultural prestige often plays a role equal to or even greater than military or economic influence in determining a state's international position.[57] In this context, the Polish state, seeking to build a positive and modern image of the Republic of Poland abroad, counteract negative stereotypes, strengthen ties with diasporas, and cultivate awareness of Polish heritage, gradually constructed a multilayer institutional system supporting cultural presence overseas. This system operates in parallel with classical diplomacy, creating a complementary channel of influence.

The situation in this regard is somewhat reminiscent of the above-described construction of the functioning of Polish economic diplomacy; the Economic and Commercial Departments were abolished and replaced by the Offices of PAIH. Still, some, generally the larger ones, still employ people dealing with economic and commercial

56 Lee and Quigley, 2008, pp. 3–25, 258–276, 541–548.
57 Nye, 2004, pp. 1–12.

issues, and those involved in the promotion of Polish culture abroad. The restructuring in both spheres, economic and cultural, arose from the attempt to modernise instruments available to the Polish state, and adapt them to the expectations of foreign partners and audiences. However, cultural diplomacy, unlike economic promotion, remains more closely integrated with the Ministry of Foreign Affairs due to the symbolic dimension of culture, which is inseparable from national identity and state representation.[58]

The basic activity in the area of promoting Polish culture is carried out through a network of Polish Institutes or Institutes of Polish Culture, of which 26[59] are currently located in various parts of the world, especially in the largest and most important countries such as the United States, China, Russia, India, or Japan, and in those with a large Polish diaspora, such as Germany, France, the United Kingdom, Spain, Lithuania, Belarus, Ukraine, or Israel. They are under the authority of the Minister of Foreign Affairs and operate based on international agreements. Polish Institutes and Institutes of Polish Culture, like diplomatic and consular posts (including honorary consulates), are directly subordinate to the Minister of Foreign Affairs and function in direct connection with Polish diplomatic posts sometimes even acting as cultural departments of embassies such as in Belgium or China.

In practice, these institutions are the primary instruments of Poland's cultural presence abroad. They organise exhibitions, concerts, film screenings, lectures, conferences, educational workshops, and numerous long-term thematic programs. Their activities correspond to strategic objectives of Polish foreign policy, including strengthening Poland's visibility, promoting contemporary Polish creativity, and maintaining contact with cultural elites of host countries. In many capitals, they serve as recognisable hubs of cultural life comparable to Western counterparts.[60]

Where their degree of separation is greater, for example, when the headquarters of the institute is located in a locality with no Polish diplomatic post, such as in Düsseldorf (Germany), they closely cooperate with the staff of Polish diplomatic and consular missions. What they have in common is that the staff employed therein have the status of employees of official agencies of the Polish state. This provides institutional legitimacy, a feature illustrating the non-functionality of the economic diplomacy model described earlier.

In 95 countries with Polish diplomatic missions, while Polish Institutes or Institutes of Polish Culture have not been established, cultural sections of varying size are present. These units implement similar tasks, albeit with limited capacity. Consequently, Poland's cultural presence abroad remains asymmetrical.

58 Cull, 2019, pp. 24, 61–62.

59 See the annex to the announcement of the Minister of Foreign Affairs of 11 September 2024 on the list of organisational units subordinate to or supervised by the Minister of Foreign Affairs (M.P. of 2024, item 811).

60 Ang, Isar and Mar, 2015, pp. 365–381.

Completing the overall picture in the area of culture is the activity of Polish state cultural institutions located in Poland, whose statutory tasks include activities in the field of promoting Polish culture abroad. These include the Polish Film Institute, Book Institute, Zbigniew Raszewski Theatre Institute, Frederic Chopin National Institute, and Adam Mickiewicz Institute. The very names of these institutions illustrate the profile of their activities; they are engaged in the promotion and organisation of cultural events in the areas in which they specialise, like film art, theatre art, literature, and music.

Only last of them, the Adam Mickiewicz Institute, is not so obvious, and thus, requires an introduction. It is a state cultural institution operating based on the Act of 25 October 1991 on the organisation and conduct of cultural activities,[61] established on 1 March 2000 by the Minister of Culture and National Heritage and supervised by him.[62] It is a cultural institution specialising in activities abroad unlike the others mentioned above, where foreign activities are only a part of the activities performed.

According to Sec. 4(1) of the Statute granted by the above-mentioned Minister: 'The purpose of the Adam Mickiewicz Institute is to present the Polish culture abroad and initiate international cooperation and cultural exchange in line with the statement of the foreign policy and foreign cultural policy of the Republic of Poland'. The Sec. 4 para. 3 of the Statute states: For the purposes of accomplishing the objectives stipulated in these Articles of Association, the institute shall cooperate mostly with:

1) entities in charge of developing and pursuing the state policy regarding international cooperation and cultural exchange;
2) foreign diplomatic missions in Poland and foreign culture, science and media institutions; research centres and non-governmental organisations; and
3) representatives of local and foreign cultural, scientific, research and media sectors.

The institute's programs (including major thematic seasons, touring exhibitions, and international residencies) demonstrate increasing professionalisation. It simultaneously functions as an executor of national cultural policy, and a mediator between public institutions, civil society, and international cultural partners.

It also plays a crucial role in digital cultural diplomacy. The platforms it operates, including *Culture.pl*, reach millions of users globally. Digital formats such as virtual exhibitions, online festivals, or streaming projects allow Poland to expand its soft power beyond traditional geographical constraints. Research shows that states using digital cultural diplomacy achieve broader and more diversified influence networks.[63]

61 Journal of Laws of 2024, item 87.
62 https://iam.pl/en/about-us/adam-mickiewicz-institute (Accessed: 18 April 2026).
63 Cull, 2019, pp. 143–165.

Looking ahead, cultural diplomacy in Poland is likely to expand along several axes:

a) strengthening long-term strategic planning,
b) deepening cooperation with diaspora communities,
c) enhancing digital tools,
d) integrating cultural diplomacy with public diplomacy,
e) supporting regional initiatives, and
f) developing public-private partnerships in the cultural sector.

These processes indicate that cultural diplomacy has become an indispensable component of Poland's international presence.

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6. Uniformed Services

The last group of people who, without being strictly members of the diplomatic and consular staff, perform important activities for the Polish state are representatives of various types of uniformed services. Of course, this area is not a purely Polish peculiarity. The global standard is the existence in diplomatic missions of military attachés and police liaison officers who facilitate the establishment of relations with relevant agencies of the host state in the area of internal and external security. As a rule, they are not subject to acceptance by the host state, but the basic act of international law in this area, which is the Vienna Convention on Diplomatic Relations, drawn up in Vienna on 18 April 1961 (hereinafter, the Vienna Convention).[64] It clearly states in Art. 7: 'Subject to the provisions of Arts. 5, 8, 9 and 11, the sending State may appoint at its discretion the staff of the mission. For military, naval and air attachés, the receiving state may require that their names be submitted to it in advance for its consent.'

In practice, the attaché system has long been recognised as an indispensable instrument of defence diplomacy. States rely on it to maintain continuous situational awareness, foster interoperability with partner countries, and ensure that their defence policies are coherently communicated abroad. The presence of uniformed personnel at diplomatic posts also strengthens crisis-response capabilities in situations requiring coordinated military–civil actions, such as evacuations, repatriations, or the provision of consular assistance in conflict zones.

The legal basis for the functioning of professional soldiers in the structures of Polish diplomatic missions is Art. 27 of the u.s.zagr., according to which:

(1) The official relationship and the resulting rights and obligations of soldiers and officers of the Military Counterintelligence Service and the Military Intelligence

64 Journal of Laws of 1965 No. 37, item 232.

Service serving in foreign missions are determined by separate regulations. (2) The persons referred to in paragraph 1, designated to perform the tasks of the Minister of Defence in a foreign post shall be given the diplomatic rank of: 1) defence attaché (military, naval, aviation) or 2) deputy defence attaché (military, naval, aviation). (3) The Minister responsible for foreign affairs and the Minister of Defence shall determine, by order, the specific rules for the performance of official duties by the persons referred to in paragraph 1, as well as the organization and functioning of defence attachés in foreign missions, taking into account the provisions of the Act of March 11, 2022. on Defence of the Fatherland (Journal of Laws of 2024, item 248, 834, 1089, 1222, 1248 and 1585) and the Act of June 9 2006 on the service of officers of the Military Counterintelligence Service and the Military Intelligence Service (Journal of Laws of 2023, item 2098).

As defence attachés increasingly perform analytical, representational, and coordination functions, their role expands beyond the traditional observation of host-state forces. They now facilitate procurement projects, defence-industry cooperation, and bilateral training activities, and support dialogue within the North Atlantic Treaty Organization and EU defence formats. Their advisory function towards ambassadors is particularly significant, ensuring that diplomatic representations maintain strategic coherence with national defence policy.

According to Art. 203 of the Law of 11 March 2022 on Defence of the Homeland[65] (hereinafter, u.o.o.):

> 1. A professional soldier may be designated or directed to perform professional military service outside the country. (2) To perform professional military service outside the country shall designate: 1) the Minister of Defence – professional soldiers in service positions with the rank of colonel (commander) to the rank of general (admiral) and to which he designates under the provisions of separate laws; 2) the head of the organizational unit responsible for human resources – other professional soldiers. (3) The Chief of the General Staff of the Polish Armed Forces directs to perform professional military service abroad. (4) During the performance of professional military service outside the country, the professional soldier shall be subject to the authority determined by the Minister of Defence. During the performance of official tasks outside the state, a professional soldier may be subordinate to, respectively, depending on the place of professional military service: 1) the head of the foreign post in which he was assigned to perform professional military service; 2) the head of the foreign post in which he was assigned to perform professional military service; 3) a Polish military representative – in the case of service in a position in the Polish military representation to an international organization or to an international military structure, to the armed forces or to other defence structures of foreign countries.

65 Journal of Laws of 2024, item 248.

The specific rules for the performance of service by professional soldiers in the defence attaché office that are part of the structure of Polish embassies are regulated by the Ordinance of the Council of Ministers of 27 March 2024 on the performance of professional military service outside the country[66] issued pursuant to Art. 203(8) of the u.o.o. The organisation and functioning of defence attaches is regulated by an order issued jointly by the Ministers of Foreign Affairs and National Defence dated 27 June 2022, on specific rules for the performance of official duties by soldiers and officers of the Military Counterintelligence Service and Military Intelligence Service serving in foreign missions of the Republic of Poland, and the organisation and functioning of defence attaches in foreign missions of the Republic of Poland[67] issued pursuant to Art. 27 (3) u.s.zagr. This is an act common to 'ordinary' professional soldiers and officers of the Polish military intelligence services, namely the Military Intelligence Service and Military Counterintelligence Service.

The functioning of the latter is regulated by the provisions of the Act of 9 June 2006, on the service of officers of the Military Counterintelligence Service and Military Intelligence Service[68] (hereinafter, u.s.f.). According to its Art. 15:

> 1. An officer may be entrusted, for a period of up to 6 months, to perform official duties in another position. In such case, the officer's emoluments may not be reduced. (2) An officer, when it is justified by the performance of the tasks of the Internal Security Service (SKW) or the Internal Security Service (SWW) respectively, with his/her consent, may be delegated to perform official duties outside the SKW or the SWW, after being transferred to the disposal of the Head of the SKW or the Head of the SWW respectively. The provisions of Art. 13 shall not apply. (3) The Minister of National Defense shall define, by way of regulations, separately for the Internal Security Service and the Internal Security Service, the conditions and procedure of secondment, the rights and obligations of an officer during secondment, the amount and manner of payment of emoluments and other pecuniary benefits to which a seconded officer is entitled, taking into account the place, as well as the nature and scope of his/her official tasks performed outside the Internal Security Service or the Internal Security Service, as well as shall determine, taking into account the provisions on the protection of classified information, the specific rights and obligations of an officer performing service outside the country.

In fulfilling the statutory delegation, the Ordinance of the Minister of Defence of 29 September 2006 on the secondment of an officer of the Military Intelligence Service to perform official tasks outside the Military Intelligence Service[69] and Ordinance of the Minister of Defence of 29 September 2006, on the secondment of an

66 Journal of Laws of 2024, item 480.
67 Official Journal of the Ministry of Defence, 2022, item 107.
68 Journal of Laws of 2023, item 2098.
69 Journal of Laws of 2023, item 1384.

officer of the Military Counterintelligence Service to perform official tasks outside the Military Counterintelligence Service[70] were issued. They regulate, in detail, the powers and duties of officers of these services seconded outside their structure, including to Polish diplomatic missions, and within their structures at the defence attaché office.

Finally, based on the Police Act and u.s.zagr, and the Agreement on the Principles of Operation of Police and Border Guard Liaison Officer Positions at Foreign Posts of the Republic of Poland, concluded in Warsaw on 24 March 2016 between the Ministers of Foreign Affairs, and Internal Affairs and Administration (hereinafter, the 2016 Agreement),[71] and the Agreement of 11 October 2007 between the Commander in Chief of the Police, Commander in Chief of the Border Guard, and Head of the Customs Service on the joint use of Police and Border Guard liaison officers by the Police, Border Guard, and Customs Service (hereinafter, the 2007 Agreement),[72] 11 liaison officers are currently present in key countries from the perspective of the tasks of the Polish police and other civilian uniformed services: Ukraine, Germany, France, the United Kingdom, Turkey, Norway, Hungary, Italy, Spain, Georgia, and the United States. Until recently, they also operated in Belarus and Russia; however, due to interstate tensions, their mission was terminated in 2020 and 2022, respectively.[73] The Border Guard currently has its own liaison officers in Germany and Ukraine, besides two officers who represent the entire EU by serving as European Return Liaison Officers in Uzbekistan and Vietnam.[74]

Liaison officers represent a practical response to modern transnational threats such as cybercrime, trafficking networks, terrorism, irregular migration, and organised criminal activity. Their effectiveness lies not only in their operational knowledge but also in the trust-based relationships they develop with foreign services; these relationships are impossible to build through purely diplomatic channels.

The Police Liaison Officer represents the Police (and, if necessary, other uniformed services subordinate to the Minister of Internal Affairs and Administration, or the Customs Service subordinate to the Minister of Finance). He is an officer of the Police or Border Guard as a service subordinate to the Minister of Internal Affairs

70 Journal of Laws of 2014, item 1036.

71 Unpublished. Available through access to public information.

72 Dz.Urz.KGP of 2007, No. 20, item 153.

73 https://info.policja.pl/inf/wspolpraca-miedzynarod/oficerowie-lacznikowi/52161/Oficerowie-lacznikowi-Policji.html (Accessed: 18 April 2026).

74 https://www.strazgraniczna.pl/pl/straz-graniczna/wspolpraca/1647/Glowne-obszary-wspolpracy-miedzynarodowej-Strazy-Granicznej.html (Accessed: 18 April 2026).

and Administration.[75] However, as a person designated by the Director General of the Foreign Service, he is a *de facto* representative of the Republic of Poland. As a member of the foreign service, he has rank, immunity, and a diplomatic passport.[76] Recall that, according to the Vienna Convention, it is the head of mission or a member of the diplomatic staff, namely persons who have a diplomatic rank (as opposed to administrative or technical staff, whose members do not have such a rank), who can represent the sending state not only before the authorities of the host country but also before any international organisation.[77]

Clearly, the formal status of a liaison officer is significantly different from that of other representatives of the uniformed services undertaking tasks abroad, who are not members of the diplomatic staff specifically because the rules of subordination of liaison officers are dual. According to Sec. 3 of the 2016 Agreement:

> 1. The liaison officer is organizationally subordinate to the head of the foreign post. (2) Instructions given to the liaison officer by the head of the foreign post may not relate to duties arising from service in the Police or the Border Guard or impede the performance of tasks performed for the Minister of Internal Affairs and Administration, the Chief Commander of the Police or the Chief Commander of the Border Guard. (3) Substantive supervision over the performance of tasks by the liaison officer shall be exercised by the competent supervisor. (4) Substantive supervision over the performance of tasks of the liaison officer in cases ordered by the Minister of Internal Affairs and Administration shall be exercised by the Minister of Internal Affairs and Administration. In summary, the status and construction of the liaison officer function can be described as a hybrid construction combining elements characteristic of the status of a uniformed services officer with the status of a diplomat – similar, moreover, to the status of a military attaché.

75 See Agreement 2016: 'Sec. 1 (1) In foreign missions of the Republic of Poland, hereinafter referred to as 'foreign missions', there shall be representatives of law enforcement services supervised by the Minister of Internal Affairs and Administration, hereinafter referred to as 'liaison officers'. Sec. 2(1) Sentence 1 Liaison officers shall be appointed and dismissed by the Director General of the Foreign Service on the application of the Chief Commander of the Police - with respect to Police liaison officers and the Chief Commander of the Border Guard - with respect to Border Guard liaison officers, hereinafter referred to as 'relevant supervisors', submitted after obtaining the approval of the Minister of Internal Affairs and Administration.'

76 See Agreement 2016: 'Sec. 2(7) Upon fulfilment of the conditions set forth in paras. 2–4 and 6, the Director General of the Foreign Service shall confer on a liaison officer, in consultation with the appropriate superior, a diplomatic rank in accordance with the adopted service pragmatics, for the time necessary to perform the tasks of a liaison officer in a foreign post. Sec. 2(9) The Director General of the Foreign Service, in consultation with the appropriate superior, shall, upon application or after consultation with the head of the foreign post, decide on the conferring of further diplomatic degrees on the liaison officer'.

77 See Art. 5(3) of the Convention: 'The head of a mission or a member of the diplomatic staff of a mission may represent the sending state before any international organization'.

Officers designated as liaison officers are treated as a channel for information exchange. The basis for the exchange of information between law enforcement agencies of different countries is provided in Polish law by the Act of 16 September 2011 on the Exchange of Information with Law Enforcement Agencies of European Union Member States, Third Countries, European Union Agencies and International Organizations (hereinafter, u.wym.inf.).[78] According to its Art. 4(1), in principle, this exchange is performed using a single point of contact for all authorised services, as this provision states: 'Within the structure of the Police Headquarters, an organisational unit acting as a contact point for the exchange of information between authorised entities and the entities referred to in Art. 1, para. 1, item 1, hereinafter referred to as the 'contact point', shall be designated.' The point of contact acts not only for the police, as the primary and largest uniformed formation to uphold internal order but also, according to Art. 1(2) of the Law, the entities authorised to exchange information: The Internal Security Agency, Central Anti-Corruption Bureau, Internal Surveillance Bureau (police within the police), Internal Inspectorate of the Prison Service, National Tax Administration, Border Guard, Military Police, and State Protection Service.

Of course, exceptions to this rule exist; a key one is precisely the institution of a liaison officer. Art. 4(3)(2) of this law states:

> Direct exchange of information, bypassing the contact point, between representatives of authorized entities and the entities referred to in Art. 1, para. 1, point 1, in the performance of the tasks of the authorized entity's liaison officer abroad or the liaison officer forming part of the Polish liaison office at the European Union Agency for Law Enforcement Cooperation (Europol), shall be permitted.

Art. 8(2) states:

> The point of contact may provide information to the entities referred to in Art. 1, para. 1, point 1, through liaison officers or other representatives of authorised entities in the entities referred to in Art. 1, para. 1, point 1, and liaison officers or other representatives of the entities referred to in Art. 1, para. 1, point 1, in the Republic of Poland.

Liaison officers may also be members of special missions (i.e. temporary missions representing a state) sent by one state to another state with its consent to jointly consider certain matters with it or perform a specific task towards it. A detailed regulation of the functioning of special missions is contained in the Convention on Special Missions opened for signature in New York on 16 December 1969.[79] In the basic legal act for the Polish police, which is the Act of 6 April 1990 on

78 Journal of Laws of 2023, item 783.
79 Journal of Laws of 1985 No. 48, item 245.

the Police,[80] the institution of a liaison officer is devoted to only one provision: Art. 122a. This article states: 'To a police officer delegated to perform the function of a liaison officer in Polish diplomatic representations regarding the right to emoluments and other monetary benefits and dues, only the provisions concerning employees of Polish diplomatic representations shall apply'.

Liaison officers play an essential role in:

a) supporting criminal investigations involving Polish citizens,
b) locating missing persons,
c) conducting joint operations,
d) monitoring extremist groups,
e) countering illegal migration routes,
f) advising ambassadors in crisis situations, and
g) protecting victims of crime abroad.

Their presence strengthens Poland's position in international security cooperation and ensures that the state may respond swiftly to emerging threats.

7. Concluding Remarks

The above outlined picture of the functioning, in not only Polish foreign missions but also institutions closely cooperating with them, of persons other than members of the professional diplomatic and consular staff does not pretend to be complete. I focused on the principles known to myself from autopsy, as well as those described in the literature, of the functioning of the same within the foreign service of the Republic of Poland, the controversies associated with it and the identified imperfections of the existing solutions, and proposals aimed at eliminating them. Consideration of the issues raised, also within the framework of *de lege ferenda* remarks made in the text, and possible, even partial, consideration of them could well serve to professionalise this important area of activity of the Republic of Poland. This activity is performed outside its borders, and thus, increases its international prestige while facilitating the daily functioning not only of its citizens, who have a constitutional right to care outside its borders,[81] but also all entities that, in any respect, have a need to come into contact with the authorities of the Republic of Poland without visiting it in person.

80 Journal of Laws of 2024, item 145.

81 See Art. 36 of the Constitution of the Republic of Poland of 2 April 1997 (Journal of Laws of 1997, No. 78, item 483, as amended): 'During his stay abroad, a Polish citizen has the right to be taken care of by the Republic of Poland'.

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