

REPORT PRESENTED BY M. TITTONI AND ADOPTED BY THE COUNCIL OF THE LEAGUE OF NATIONS ON OCTOBER 22ND, 1920

The Council of the League of Nations has thought it advisable to determine the nature and limits of the guarantees with regard to the protection of minorities provided for by the different Treaties.

The stipulations of the Treaties with regard to minorities are generally defined in the following terms:

“The country concerned agrees that the stipulations in the foregoing articles, so far as they affect persons belonging to racial, linguistic or religious minorities, constitute obligations of international concern and shall be placed under the guarantee of the League of Nations.”

The stipulations with regard to minorities declare further that the country concerned “agrees that any Member of the Council of the League of Nations shall have the right to bring to the attention of the Council any infraction, or any danger of infraction, of any of these obligations, and that the Council may thereupon take such action and give such direction as it may deem proper and effective in the circumstances”.

The countries concerned have further agreed that any difference of opinion as to questions of law or fact arising out of these articles between the Government concerned and any one of the Powers, a Member of the League of Nations, which dispute shall, if the other party thereto demands, be referred to the Permanent Court of International Justice.

Up to the present time, international law has entrusted to the great Powers the guarantee for the execution of similar provisions. The Treaties of Peace have introduced a new system; they have appealed to the League of Nations.

The Council and the Permanent Court of International Justice are the two organs of the League charged with the practical execution of the guarantee.

It may be advisable at the outset to define clearly the exact meaning of the term “guarantee of the League of Nations”. It seems clear that this stipulation means, above all, that the provisions for the protection of minorities are inviolable – that is to say, they cannot be modified in the sense of violating in any way rights actually recognized and without the approval of the majority of the Council of the League of Nations. Secondly, this stipulation means that the League must ascertain that the provisions for the protection of minorities are always observed.

The Council must take action in the event of any infraction, or danger of infraction, of any of the obligations with regard to the minorities in question. The Treaties in this respect are quite clear. They indicate the procedure that should be followed.

The right of calling attention to any infraction, or danger of infraction, is reserved to the Members of the Council.

This is, in a way, a right and a duty of the Powers represented on the Council. By this right they are, in fact, asked to take a special interest in the protection of minorities.

Evidently this right does not in any way exclude the right of the minorities themselves, or even of States not represented on the Council, to call the attention of the League of Nations to any infraction, or danger of infraction. But this act must retain the nature of a petition, or a report pure and simple; it cannot have the legal effect of putting the matter before the Council and calling upon it to intervene.

Consequently, when a petition with regard to the question of minorities is addressed to the League of Nations, the Secretary-General should communicate it, without comment, to the Members of the Council for information. This communication does not yet constitute a judicial act of the League or of its organs. The competence of the Council to deal with the question arises only when one of its Members draws its attention to the infraction, or danger of infraction, which is the petition or report.

The State interested, if it is a Member of the League, is informed at the same time as the Council of the subject of the petition. As a matter of fact, the Secretary-General has for some time adopted the procedure of forwarding immediately to all the Members of the League any document forwarded for the information of Members of the Council. This information, which may give the State concerned an opportunity of submitting to the Members of the Council such remarks as it may consider desirable, does not, however, partake of the nature of a request of the League for information with regard to the subject of the petition, nor yet does it imply, with regard to the State concerned, the obligation of furnishing evidence in its defence.

Any cases where, as the result of the petition, the Intervention of the League seems to be urgently necessary, the Secretary-General may also adopt the above procedure, but, in view of the urgency of the case, he will forward the petition in question to the Members of the Council as soon as possible (by telegraph if he thinks it advisable).

Each Power represented on the Council may demand that an urgent Council meeting be summoned in accordance with the provisions of the regulations in force.

This precaution will have the object of preventing any sudden act of oppression of minorities.

If the Council approves of the Interpretation that I have had the honour to develop, it might adopt the following resolution:

“The Council invites its Members to draw the very special attention of their Governments to the conclusions arrived at in the present report.”

[Quelle: Galántai, József: Trianon and the Protection of Minorities (= East European Monographs, No. 352), Boulder 1992, S.170-172.]