

**TREATY OF CONCILIATION AND ARBITRATION BETWEEN POLAND
AND THE KINGDOM OF THE SERBS, CROATS AND SLOVENES.
SIGNED AT GENEVA, SEPTEMBER 18, 1926**

THE PRESIDENT OF THE POLISH REPUBLIC and HIS MAJESTY THE KING OF THE SERBS, CROATS AND SLOVENES, being desirous of developing the friendly relations which unite the two countries, being guided by the principles laid down in the resolution of the Assembly of the League of Nations, dated September 22, 1922, concerning the creation of Conciliation Commissions between States, and desiring to embody the principle of compulsory arbitration in their reciprocal relations by a general agreement such as is contemplated by Article 21 of the Covenant of the League of Nations, have resolved to conclude a Treaty of Conciliation and Arbitration, and have appointed for this purpose as their Plenipotentiaries:

THE PRESIDENT OF THE POLISH REPUBLIC:
M. August ZALESKI, Minister for Foreign Affairs;

HIS MAJESTY THE KING OF THE SERBS, CROATS AND SLOVENES:
M. Momtchilo NINTCHITCH, Doctor of Laws, Minister for Foreign Affairs;

Who, having communicated their full powers, found in good and due form, have agreed upon the following provisions:

Article 1.

The High Contracting Parties undertake to submit to the procedure of conciliation or of arbitration all disputes which may arise between them and which it has not been found possible to settle by diplomacy within a reasonable time.

The present Treaty shall not apply to disputes for the settlement of which a special procedure is or may hereafter be provided in other Conventions between the Contracting Parties. The Contracting Parties shall not, however, be precluded from also applying to such disputes the conciliation procedure which is provided in the present Treaty.

Any dispute capable of being settled in the manner set forth above shall be submitted to the procedure of conciliation, unless the Parties agree to submit it immediately to arbitration.

Should the procedure of conciliation laid down in the present Treaty fail to provide a settlement, the dispute shall be submitted to arbitration if either of the Parties so requests.

Article 2.

If, in accordance with the municipal legislation of one of the Parties, the matter in dispute comes within the jurisdiction of the national judicial authorities, that Party may decline to have the dispute submitted to a procedure of conciliation or arbitration until the competent national courts have given a final decision, unless the case be one of a denial of justice.

The request for conciliation must in the above case be put forward within one year, at the latest, from the date of the final judgment.

Article 3.

In the six months following the exchange of the ratifications of the present Treaty, the Contracting Parties shall set up a permanent Conciliation Commission consisting of five members.

Each Party shall appoint two members, one being a national of its own State and the other a national of a third State. The latter must neither be domiciled in the territory of the Party which has appointed him, nor be in the service of that Party.

The two Parties shall jointly appoint a national of a third State as President of the Commission for a period of five years. Should the Parties fail to agree on this choice, the President shall be appointed in accordance with Article 45 of the Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes.

Article 4.

In case of the death or withdrawal of one of the members of the Conciliation Commission arrangements shall be made to replace that member, if possible within the following three months and in any case as soon as a dispute has been submitted to the Commission.

Should one of the members of the Conciliation Commission be temporarily prevented as a result of illness or any other circumstance from taking part in the work of the Commission, the Party which has appointed him shall choose a substitute who shall replace him temporarily.

The President shall cease to exercise his duties as soon as his term of office expires. The two Parties may, however, by common consent, renew his appointment for a further period of five years.

So long as proceedings have not been opened before the Commission, each Contracting Party shall be entitled to recall the members which it has appointed: in such case the member who has been withdrawn shall be replaced without delay.

Article 5.

Within fifteen days from the date on which one of the Parties has laid a dispute before the Conciliation Commission, each of the Parties may, for the consideration of this dispute, replace the member who is a national of its own State by a person possessing special competence in the question.

A Party which desires to avail itself of this right shall immediately inform the other Party, and the latter shall, in such case, be entitled to avail itself of the same right within a period of fifteen days from the date on which it received notification.

Article 6.

The Conciliation Commission shall endeavour to facilitate the settlement of the dispute by conducting an impartial and conscientious enquiry into the facts, and by formulating proposals for the settlement of the dispute in conformity with the provisions of Article 12 of the present Treaty.

The Commission shall be informed by means of a request addressed to its President by either of the Contracting Parties.

Notification of such request shall at the same time be made to the other Party by the Party which has requested the opening of proceedings of conciliation.

Article 7.

The Conciliation Commission shall, in the absence of any agreement to the contrary, meet at the place designated by its President.

Article 8.

In proceedings before the Conciliation Commission both Parties shall be heard. The Commission shall itself determine the procedure, being guided (unless it unanimously decides to the contrary) by the provisions et Chapter III of the Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes.

The discussions shall take place in private unless the Commission, with the assent of the Parties, should decide otherwise.

Article 9.

Unless otherwise provided in the present Treaty, the decisions of the Conciliation Commission shall be taken by a majority vote; each member shall have one vote. The decisions of the Commission shall not be valid unless all the members are present.

Article 10.

The Contracting Parties shall be entitled to appoint special agents to be attached to the Commission, who shall act at the same time as intermediaries between the Contracting Parties and the Commission.

Article 11.

The Contracting Parties shall supply the Conciliation Commission with all necessary information and shall facilitate its work in every respect.

Article 12.

The Conciliation Commission shall submit its report within six months, reckoned from the date of its first meeting, unless the Contracting Parties decide by agreement to shorten or lengthen this period.

The report shall include, if necessary, a draft scheme for the settlement of the dispute.

The opinion of the minority, if any, accompanied by a statement of reasons, shall be included in this report.

A copy of the report, signed by the President, shall be communicated to each of the Parties.

The report of the Commission shall not be in the nature of an arbitral or judicial award as regards either the statement of the facts or the legal considerations.

Article 13.

The Parties shall inform each other and the President of the Conciliation Commission within a reasonable period, which shall not in any case exceed three months, whether they accept the findings of the report and the proposals contained therein.

It will be for the Parties to decide, by agreement, whether the report of the Commission is to be published.

Article 14.

While conciliation proceedings are actually in progress, the President and members of the Commission shall receive allowances on a scale to be determined by the Contracting Parties.

Each Party shall bear its own expenses and an equal share of the expenses of the Commission.

Article 15.

Should the Conciliation Commission not succeed in framing a proposal for the settlement of the dispute within the period referred to in the first paragraph of Article 12 of the present Treaty;

Or should one of the Contracting Parties, or both, fail to adopt the findings of the report of the Conciliation Commission and the proposals contained therein;

Or should they fail to declare within the period referred to in Article 13 of the present Treaty that they adopt the findings of the report and the proposals contained therein,

The dispute shall be submitted to arbitration and a Court of Arbitration shall be set up by agreement between the Contracting Parties.

If the Court of Arbitration is not set up by agreement between the Parties within a period of three months reckoned from the date on which one of the Parties has addressed the request for arbitration to the other Party, the following procedure shall be adopted:

Each Party shall appoint two arbitrators, one of whom must be on the list of members of the Permanent Court of Arbitration, but must not be a national of the Party in question. The President of the Court shall be appointed by agreement between the Parties. Should they fail to agree on this choice, the President shall be appointed in accordance with Article 45 of the Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes.

Article 16.

Whenever a question has to be decided by arbitration, the Contracting Parties undertake to conclude within three months reckoned from the day on which either Party has addressed a request for arbitration to the other Party, a special agreement clearly defining the subject of the dispute, the method of procedure, the special competence of the Court and any other conditions mutually agreed upon.

Unless otherwise provided in the special agreement referred to above, the Contracting Parties shall, as regards arbitration procedure, observe the provisions of the Convention for the Pacific Settlement of International Disputes signed at The Hague on October 18, 1907.

Article 17.

It is understood that the obligations assumed by the Contracting Parties under the present Treaty shall in no way restrict their right to submit, by agreement, any disputes which may arise between them to the Permanent Court of International Justice at The Hague.

Article 18.

The provisions of the two last paragraphs of Article 16 shall also apply when, in virtue of the fourth paragraph of Article 1, a dispute is submitted immediately to arbitration.

Article 19.

When the Court of Arbitration or the Permanent Court of International Justice are called upon to decide a dispute submitted to them, they shall, unless otherwise provided by agreement between the Parties, apply:

- (1) International conventions, whether general or particular, establishing rules expressly recognised by the contesting States;
- (2) International custom, as evidence of a general practice accepted as law;
- (3) The general principles of law recognised by civilised nations;
- (4) Subject to the provisions of Article 59 of the Statute 1 of the Permanent Court, judicial decisions and the teachings of the most highly qualified publicists of the various nations, as subsidiary means for the determination of rules of law.

Article 20.

The provisions of Article 14 shall also apply to the Court of Arbitration.

Article 21.

The arbitral award, as well as the award of the Permanent Court of International Justice, shall be binding and must be loyally carried out by both Parties.

If, however, the award establishes the fact that a decision of some judicial or other authority of one of the Contracting Parties is entirely or partly at variance with a universally recognised rule of international law, and if the municipal law of that Party precludes the annulment or only allows of a partial annulment, by administrative action, of the effects of the decision, the injured Party shall be accorded equitable satisfaction in some other manner.

Should any dispute arise regarding the meaning or scope of an award, the Court which has rendered the award shall interpret it, if either Party so requests.

Article 22.

While the procedure of conciliation or arbitration is in progress, the Contracting Parties shall refrain from any act which may have an influence prejudicial to the acceptance of the proposals of the Conciliation Commission or the execution of the arbitral award.

Article 23.

Any dispute regarding the interpretation of the present Treaty shall be submitted to the Permanent Court of International Justice.

Article 24.

The present Treaty shall be ratified as soon as possible and the instruments of ratification shall be exchanged at Belgrade.

It shall come into force on the thirtieth day after the date of its ratification, and shall remain in force for five years.

If it has not been denounced six months before the date of its expiration, it shall be held to have been renewed for a further period of five years, and similarly thereafter for successive periods of five years.

In faith whereof the Plenipotentiaries have signed the present Treaty and have thereto affixed their seals.

Done at Geneva, in duplicate, September 18, 1920.

(L. S.) (Signed) August ZALESKI.

(L. S.) (Signed) M. NINTCHITCH.

[Quelle: League of Nations, Treaty Series, 1928, vol. 78, p. 421-431.]