

TREATY OF CONCILIATION AND ARBITRATION BETWEEN POLAND AND ROUMANIA. SIGNED AT BUCHAREST, OCTOBER 24, 1929

THE PRESIDENT OF THE POLISH REPUBLIC and HIS MAJESTY THE KING OF ROUMANIA, being desirous of reaffirming and strengthening the ties of traditional friendship existing between Poland and Roumania;

Being determined fully to apply in their mutual relations the principles which inspire the League of Nations;

Relying on Article 6 of the Treaty of Guarantee between Poland and Roumania signed at Bucharest on March 26, 1926, and Articles 13 and 21 of the Covenant of the League;

Have decided for that purpose to conclude a general Treaty of Conciliation and Arbitration and have appointed as their Plenipotentiaries:

THE PRESIDENT OF THE POLISH REPUBLIC:

His Excellency M. Auguste ZALESKI, Minister for Foreign Affairs;

HIS MAJESTY THE KING OF ROUMANIA:

His Excellency M. Georges G. MIRONESCO, Minister for Foreign Affairs;

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

PART I.

Article 1.

1. The Contracting Parties undertake to submit to the procedure of conciliation, and, if necessary, of arbitration, all disputes which may arise between them and which it has not been found possible to settle, within a reasonable time, through diplomatic channels.
2. Nevertheless, this undertaking shall not apply either to questions which, under international law, are within the exclusive competence of the States themselves or to disputes arising out of events prior to the present Treaty or belonging to the past.
3. Further, either of the Contracting Parties shall be free to withdraw from the application of the present Treaty any dispute directly or indirectly affecting questions connected with the integrity of its territory or its present frontiers.
4. Disputes for the settlement of which a special procedure is or may hereafter be provided for in other Conventions at any time in force between the Contracting Parties shall be settled in conformity with the provisions of those Conventions.

Article 2.

1. In the case of a dispute which according to the municipal law of one of the Parties falls within the competence of the national courts of that Party, the matter in dispute shall not be submitted to any of the procedures provided for in the present Treaty until a judgment with final effect has been pronounced by the competent national judicial authority with the

consent of both High Contracting Parties, save in cases where there has clearly been a denial of justice.

2. 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.

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

2. Should the proposal made by the Permanent Conciliation Commission not have been accepted by both Parties, the dispute shall be submitted to arbitration if one of the Parties so requests.

Article 4.

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

2. The Parties shall each appoint one member and shall jointly appoint a third, who shall be President of the Commission. The latter must not be a national of one of the Contracting Parties nor be domiciled in their territory or be in their service.

3. If the President has not been appointed within the said period of six months or if, in the event of the post falling vacant, the new President has not been appointed within three months of the date when the post became vacant, the President of the French Republic shall, in the absence of any other agreement, be requested to make the necessary appointment.

Article 5.

1. The members of the Commission shall be appointed for three years; their appointments shall be renewable. If, on the expiration of the term of office of a member, no provision has been made for filling the vacancy, his term of office shall be deemed to have been renewed for a further period of three years; nevertheless, at the request of one of the Parties, the President shall relinquish his functions at the end of his term of office. The members of the Commission shall remain in office until replaced, and in any case until the close of proceedings in progress at the date of the expiration of their term of office.

2. Steps shall be taken without delay to fill vacancies arising as a result of the decease, retirement or other circumstances preventing a member from carrying out his duties. In such cases the procedure laid down for appointments shall be followed.

Article 6.

1. The Permanent Conciliation Commission shall be informed by means of a request addressed to its President by the two Parties acting in agreement, or, in the absence of such agreement, by one or other of the Parties.

2. If the request is submitted by one only of the Parties, notification thereof shall be made without delay to the other Party.

3. The request, after having given a summary account of the subject of the dispute, shall invite the Commission to make all necessary proposals to the Parties with a view to arriving at an amicable settlement.

Article 7.

1. Within fifteen days from the date on which a dispute shall have been brought before the Permanent Conciliation Commission, either Party may, for the examination of the particular dispute, replace its national member by a person possessing special competence in the matter.

2. The Party making use of this right shall immediately inform the other Party; the latter shall in that case be entitled to take similar action within fifteen days from the date on which the notification reaches it.

Article 8.

1. It shall be the duty of the Permanent Conciliation Commission to elucidate the questions in dispute, with that object to collect all relevant information, and to endeavour to effect a settlement between the Parties. It may, after examining the case, inform the Parties of the terms of settlement which it deems suitable, and lay down a period within which they are to make their decision.

2. On the conclusion of its proceedings the Commission shall draw up a report stating, as the case may be, either that the Parties have come to an agreement, and, if necessary, the terms of the agreement, or that it has been impossible to effect a settlement between the Parties.

3. The proceedings of the Commission shall be concluded within six months of the date of the first meeting of the Commission. The Parties may, by common consent, extend or shorten this period.

4. The Commission's report shall not have the character of an arbitral or judicial award either in respect of the statement of facts or of the legal arguments set forth.

Article 9.

1. In proceedings before the Permanent Conciliation Commission both Parties shall be heard.

2. The Commission shall determine its own procedure, being guided, unless it unanimously decides to the contrary, by the provisions of Chapter III of the Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes.

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

4. The Permanent Conciliation Commission shall take no decisions unless all its members have been duly convened and are present.

5. Unless otherwise provided in the present Treaty, the decisions of the Commission shall be taken by a majority vote. Each member shall have one vote.

Article 10.

Unless otherwise agreed by the High Contracting Parties the Permanent Conciliation Commission shall meet at a place selected by its President, which must, however, be outside the territory of the Parties.

Article 11.

The proceedings of the Permanent Conciliation Commission shall not be public except when an unanimous decision to that effect has been taken by the Commission with the consent of the Parties.

Article 12.

1. The Parties shall be represented before the Permanent Conciliation Commission by agents whose duty it shall be to act as intermediaries between them and the Commission; they may, moreover, be assisted by counsel and experts appointed by them for that purpose and may request that any persons whose evidence they consider desirable shall be heard.

2. The Commission for its part shall be entitled to request oral explanations from the agents counsel and experts of the two Parties and to request the Government concerned to communicate the statements made by any person whose evidence may be considered by the Commission as having a bearing on the case.

3. The Contracting Parties shall supply the Commission with all information required and shall assist it in all respects and by all means within their power in the performance of its task.

PART II.

Article 13.

1. When, under the provisions of Article 1 or Article 3 of the present Treaty, a dispute is submitted for arbitration, a Court of Arbitration shall be set up by agreement between the Parties.

2. 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 or one of the persons appointed by that Party to be members of the said Court. The arbitrators thus appointed shall themselves choose a President of the Court. If the votes are equally divided, the President of the French Republic shall be requested to make the necessary appointment.

Article 14.

1. Whenever a question has to be decided by arbitration, the Contracting Parties undertake to conclude within three months, reckoned from the date on which either has addressed a request for arbitration to the other Party, a special agreement concerning the subject of the dispute and the methods of procedure.

2. If such agreement cannot be concluded within the prescribed period, the Parties shall set up a special court, in accordance with the provisions of Article 13 (2), which shall have full authority to draw up the terms of the said agreement.

3. In cases dealt with under Article 13 (2), the above-mentioned time-limit shall only be reckoned as from the date on which the Court is established.

Article 15.

1. The arbitral award shall be binding and must be loyally carried out by the Parties.

2. If, however, the award establishes the fact that the decision of some judicial or other authority of one of the Contracting Parties is entirely or partly at variance with International Law, and if the Constitutional Law of that Party precludes the annulment or only allows of a partial annulment, through administrative channels, of the effects of such a decision, the injured Party shall be accorded equitable satisfaction in some other manner.

GENERAL CLAUSES.

Article 16.

1. While the conciliation or arbitration procedure is actually in progress, the member of the Permanent Conciliation Commission appointed by common agreement and the members of the Court of Arbitration shall receive an allowance, the amount of which shall be determined by the Contracting Parties.

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

Article 17.

While the conciliation or arbitration procedure is in progress, the Contracting Parties shall refrain from any measure liable to prejudice either the acceptance of the Permanent Conciliation Commission's proposals or the execution of the Arbitral award.

Article 18.

Any difficulties which may arise in regard to the interpretation of the arbitral award shall be settled by the Court which pronounced it. Either of the Parties may submit such difficulties to the Court by means of a simple request. If, however, the Court of Arbitration which pronounced the award can no longer be convened or cannot be convened within a reasonable time, the dispute shall be settled by a special Court set up under Article 13 (2) of the present Treaty.

Article 19.

If any proceedings instituted in virtue or in pursuance of this Treaty are pending before the Permanent Conciliation Commission or a Court of Arbitration at the time of the expiration of the present Treaty, such proceedings shall be continued until their conclusion.

Article 20.

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

2. The present Treaty shall come into force on the thirtieth day after the date of the exchange of ratifications and shall remain in force for a period of five years, reckoned as from the date of its entry into force, but either Government shall have the right to denounce it after two years at six months' notice.

3. Unless the present Treaty is denounced six months before the expiration of this period of five years, it shall remain in force for successive periods of one year.

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

Done at Bucharest in duplicate on October 24, 1929.

ZALESKI.

G. G. MIRONESCO.

[Quelle: League of Nations, Treaty Series, 1930, vol. 100, p. 301-311.]