

N° 1306.

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**ROUMANIE ET SUISSE**

Traité de conciliation, de règlement  
judiciaire et d'arbitrage obliga-  
toires. Signé à Berne, le 3 février  
1926.

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**ROUMANIA  
AND SWITZERLAND**

Treaty of Conciliation, Compulsory  
Arbitration and Judicial Settlement.  
Signed at Berne, February 3, 1926.

<sup>1</sup> TRADUCTION. — TRANSLATION.No. 1306. — TREATY<sup>2</sup> OF CONCILIATION, COMPULSORY ARBITRATION AND JUDICIAL SETTLEMENT BETWEEN ROUMANIA AND SWITZERLAND. SIGNED AT BERNE, FEBRUARY 3, 1926.

*French official text communicated by the Swiss Federal Council and by the Permanent Delegate of Roumania accredited to the League of Nations. The registration of this Treaty took place September 28, 1926.*

THE SWISS FEDERAL COUNCIL and HIS MAJESTY THE KING OF ROUMANIA, being desirous of reaffirming and strengthening the traditional bonds of friendship between Switzerland and Roumania and of deciding, by conciliation, by judicial settlement or by arbitration, any dispute which may arise between the two countries,

Have resolved to conclude a Treaty and with that object have appointed as their Plenipotentiaries :

THE SWISS FEDERAL COUNCIL :

M. Giuseppe MOTTA, Federal Councillor, Head of the Federal Political Department ;

HIS MAJESTY THE KING OF ROUMANIA :

M. Nicolas Petresco COMNÈNE, Envoy Extraordinary and Minister Plenipotentiary in Switzerland ;

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

*Article I.*

All disputes of whatever nature which may arise between the two States and which it is not possible to settle through the diplomatic channel within a reasonable time, shall, before any proceedings are instituted before the Permanent Court of International Justice<sup>3</sup> or before any recourse to arbitration, be submitted with a view to amicable settlement to a permanent international Commission, styled the Permanent Conciliation Commission, constituted in accordance with the present Treaty

Either Party shall, however, remain free to withdraw from the application of the present Treaty any dispute which is directly or indirectly concerned with questions affecting its territorial integrity or its present frontiers.

The Contracting Parties may further agree that any individual dispute shall be settled by the Permanent Court of International Justice or by arbitration, without previous recourse to the procedure of conciliation.

<sup>1</sup> Traduit par le Secrétariat de la Société des Nations.

<sup>1</sup> Translated by the Secretariat of the League of Nations.

<sup>2</sup> The exchange of ratifications took place at Berne, August 27, 1926.

<sup>3</sup> Vol. VI, page 379; Vol. XI, page 404; Vol. XV, page 304; Vol. XXIV, page 152; Vol. XXVII, page 416, Vol. XXXIX, page 165; Vol. XLV, page 96; Vol. L, page 159, and Vol. LIV, page 387, of this Series.

*Article 2.*

When the subject of the dispute is one which, under the municipal legislation of either Party, is within the competence of the national Courts of that Party, the matter in dispute shall not be submitted to the procedure laid down in the present Treaty until a judgment with final effect has been given by the competent national judicial authority.

*Article 3.*

The Permanent Conciliation Commission provided for in Article 1, shall consist of five members, who shall be appointed as follows : The two Contracting Parties shall each nominate one commissioner from among their respective nationals, and they shall further appoint, by common agreement, three other commissioners from among the nationals of third Powers ; these three commissioners must be of different nationalities and the Contracting Parties shall designate one of them as President of the Commission.

The members of the Commission shall be appointed for three years, and may be reappointed. They shall continue to hold office until they are replaced and, in any case, until the completion of any work in hand at the moment of the expiry of their mandate.

Any vacancies which may occur owing to death or resignation, shall be filled as soon as possible in the manner laid down for the nominations.

*Article 4.*

The Permanent Conciliation Commission shall be constituted within three months after the exchange of the ratifications of the present Treaty.

If the appointment of the members to be nominated by common agreement has not been made within the aforesaid period, or if a fresh appointment has not been made within three months after the seat became vacant, the necessary nominations shall be made, at the request of either Party, by the President of the Permanent Court of International Justice, or, if the latter is a national of one of the Contracting States, by the Vice-President, or, if the latter is in the same situation, by the oldest member of the Court.

*Article 5.*

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

The request shall contain a short statement of the subject of the dispute, followed by an invitation to the Commission to take all necessary steps with a view to arriving at an amicable settlement.

If the request emanates from one Party only, it shall be notified forthwith to the other Party.

*Article 6.*

The task of the Permanent Conciliation Commission shall be to elucidate the subjects in dispute, and for this purpose to collect all necessary information by means of enquiry or otherwise, and to endeavour to bring the Parties to an agreement. It may, after examining the question, propose to the Parties the terms of settlement which it considers suitable, and may appoint a period within which they are to make their decision.

At the close of its labours the Commission shall draw up a report stating that the Parties have come to an agreement and, if necessary, the terms of such agreement, or else that it has been impossible to effect a settlement, as the case may be.

Unless the Parties have agreed otherwise, the proceedings of the Commission must be concluded within six months from the day on which it was notified of the dispute.

*Article 7.*

Failing any special provision to the contrary, the Permanent Conciliation Commission shall lay down its own procedure, which must in all cases provide for both Parties being heard. In regard to enquiries, the Commission shall, unless it unanimously decides otherwise, act in accordance with the provisions of Chapter III (International Commissions of Enquiry) of The Hague Convention<sup>1</sup> of October 18, 1907, for the Pacific Settlement of International Disputes.

*Article 8.*

Unless otherwise decided by agreement between the Parties, the Permanent Conciliation Commission shall meet at the place appointed by its President.

*Article 9.*

The deliberations of the Commission shall be held in private, unless the Commission decides otherwise, with the consent of the Parties.

*Article 10.*

The Parties shall be entitled to appoint agents to act as intermediaries between the Parties and the Permanent Conciliation Commission; they shall further be entitled to be assisted by counsel or by experts appointed by themselves for that purpose, and may claim a hearing for any persons whose evidence they may consider useful.

The Commission shall be entitled, for its part, to ask for oral explanations from the agents, counsel or experts of the two Parties, as also from any other persons whom it may think fit to summon, subject to the consent of their respective Governments.

*Article 11.*

The Commission shall take decisions by a majority, except where otherwise laid down in the present Treaty.

*Article 12.*

The Contracting Parties undertake to give the Permanent Conciliation Commission every possible assistance in its work and, in particular, to supply it to the greatest possible extent with all relevant documents and information, and to employ all means at their disposal to enable the Commission, in their respective territories and in accordance with their internal laws, to cite and take the evidence of witnesses and experts, and to proceed to any place in order to carry out enquiries on the spot.

<sup>1</sup> *British and Foreign State Papers*, Vol. 100, page 298.

Article 13.

Each of the Commissioners appointed by common agreement shall receive an allowance for the actual duration of the proceedings of the Conciliation Commission; the amount of this allowance shall be fixed by agreement between the Contracting Parties, by whom it shall be borne in equal shares.

Article 14.

If the proceedings before the Permanent Conciliation Commission do not result in an amicable agreement, either Party may require that the dispute shall be submitted to the Permanent Court of International Justice.

If, in the opinion of the Court, the dispute is not of a legal character, the Parties agree that the Court shall decide it *ex aequo et bono*.

Article 15.

The Contracting Parties may decide by common agreement to bring the dispute before an arbitral tribunal; this tribunal, unless otherwise agreed upon, shall consist of five members, who shall be appointed by the method laid down in Articles 3 and 4 of the present Treaty for the composition of the Permanent Conciliation Commission, and it shall observe the procedure laid down in The Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes.

Article 16.

In each particular case, the Contracting Parties shall draw up a special agreement (*compromis*) specifying clearly the subject of the dispute and the particular competence that might devolve upon the Permanent Court of International Justice or upon the arbitral tribunal provided for in the preceding Article.

The agreement shall be constituted by an exchange of Notes between the Governments of the Contracting Parties. All points therein shall be interpreted by the Court of Justice or the arbitral tribunal.

If the agreement is not drawn up within six months from the day on which one of the Parties has been requested to submit the matter for judicial settlement, either Party may bring the question before the Permanent Court of Justice by a simple request. If the Parties have agreed to submit the dispute to an arbitral tribunal, and have not reached an agreement regarding the text of the special agreement (*compromis*) within six months from the date of the reception of the request for arbitration, the text shall be compulsorily provided in accordance with the procedure laid down in Chapter IV of The Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes, and the recourse to arbitration shall, in such cases, be governed by the provisions of that Convention.

Article 17.

The judgment pronounced by the Permanent Court of International Justice or the award given by the arbitral tribunal shall be carried out by the Parties in good faith.

Any difficulties which might arise regarding the interpretation of the judgment or award shall be settled by the tribunal which gave it, upon a simple request to this effect submitted by either Party. If, however, the arbitral tribunal which gave the award requiring interpretation, cannot be again convened, or cannot meet within a reasonable time, the dispute may be brought, in virtue of a simple request, before the Permanent Court of International Justice.

*Article 18.*

During the procedure of conciliation, or the judicial or arbitral procedure, the Contracting Parties shall abstain from all measures which might prejudicially affect the acceptance of the proposals of the Conciliation Commission or the execution of the judgment of the Permanent Court of International Justice, or the award of the arbitral tribunal.

*Article 19.*

Any disputes which may arise as to the interpretation or the execution of the present Treaty shall, in the absence of an agreement to the contrary, be submitted direct to the Permanent Court of International Justice by means of a simple request.

*Article 20.*

If proceedings of any kind, undertaken in virtue and in execution of the present Treaty, are pending before the Permanent Conciliation Commission or the Permanent Court of International Justice, or before an arbitral tribunal, at the time of the expiration of the present Treaty, such proceedings shall pursue their course until their completion.

*Article 21.*

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

The present Treaty shall come into force as soon as the instruments of ratification have been exchanged, and shall be valid for a period of five years reckoned from the date on which it comes into force. Unless it is denounced six months before the expiry of this period, it shall remain in force for a period of one year, reckoned from the date on which either Contracting Party shall have notified the other of its intention to terminate the Treaty.

In faith whereof the undermentioned Plenipotentiaries have signed the present Treaty.

Done at Berne, in duplicate on February the third, nineteen hundred and twenty-six.

(Signed) MOTTA.

(Signed) N. P. COMNÈNE.