

N° 2638.

BULGARIE ET POLOGNE

Traité de conciliation, de règlement
judiciaire et d'arbitrage, avec
protocole additionnel. Signés à
Varsovie, le 31 décembre 1929.

BULGARIA AND POLAND

Treaty of Conciliation, Judicial Sett-
lement and Arbitration, with
Additional Protocol. Signed at
Warsaw, December 31, 1929.

¹ TRADUCTION. — TRANSLATION.No. 2638. — TREATY ² OF CONCILIATION, JUDICIAL SETTLEMENT AND ARBITRATION BETWEEN BULGARIA AND POLAND. SIGNED AT WARSAW, DECEMBER 31, 1929.

French official text communicated by the Bulgarian Chargé d'Affaires at Berne and the Polish Delegate accredited to the League of Nations. The registration of this Treaty took place March 12, 1931

HIS MAJESTY THE KING OF THE BULGARIANS and THE PRESIDENT OF THE REPUBLIC OF POLAND, being desirous of strengthening the ties of friendship existing between Bulgaria and Poland and of settling in accordance with the highest principles of public international law any disputes which may arise between the two countries, have resolved to conclude a general Treaty of Arbitration for this purpose and have appointed as their Plenipotentiaries :

HIS MAJESTY THE KING OF THE BULGARS :

His Excellency M. Vladimir ROBEFF, His Envoy Extraordinary and Minister Plenipotentiary at Warsaw.

HIS EXCELLENCY THE PRESIDENT OF THE REPUBLIC OF POLAND :

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

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

Article 1.

The High Contracting Parties reciprocally undertake to settle by pacific means and in accordance with the methods laid down in the present Treaty, all disputes or conflicts of any nature whatsoever which may arise between Bulgaria and Poland and which it may not have been possible to settle by the normal methods of diplomacy.

PART I.

DISPUTES.

Article 2.

1. All disputes of every kind between the High Contracting Parties with regard to which the Parties are in conflict as to their respective rights, and which it may not have been possible to

¹ Traduit par le Secrétariat de la Société des Nations, à titre d'information.

¹ Translated by the Secretariat of the League of Nations, for information.

² The exchange of ratifications took place at Sofia, February 12, 1931.

settle amicably by the normal methods of diplomacy within a reasonable time, shall be submitted for decision to the Permanent Court of International Justice.

2. Disputes for the settlement of which a special procedure is or may hereafter be laid down in other conventions in force between the Contracting Parties, shall be settled in conformity with the provisions of those conventions.

Article 3.

In the case of a dispute, the occasion of which, according to the municipal law of one of the Parties, falls within the competence of the national courts, such Party may oppose the submission of the dispute to the procedure laid down in the present Treaty until a judgment with final effect has been pronounced within a reasonable time by the competent national judicial authority.

Article 4.

Before being submitted to the judicial procedure provided for in Article 2 of the present Treaty, the dispute may, by agreement between the Parties, be submitted with a view to amicable settlement to a permanent international commission, called the Permanent Conciliation Commission constituted in accordance with the provisions of the present Treaty.

Article 5.

1. The Permanent Conciliation Commission shall be composed of three members. The Contracting Parties shall each appoint one Commissioner at their discretion and shall jointly designate a third to be the President of the Commission. The President must not be a national of one of the Contracting Parties and must not be habitually resident in the territory nor be in the service of the Parties.

2. The Commissioners shall be appointed for three years. If, on the expiry of the term of office of a member of the Commission, no steps have been taken to replace him, his term of office shall be deemed to have been renewed for a period of three years.

3. A member whose term of office expires while proceedings are in progress shall continue to take part in the examination of the dispute until the proceedings are terminated, even if his successor has been appointed.

4. In the case of the death or resignation of one of the members of the Conciliation Commission, steps shall be taken to replace him for the remainder of his term of office, if possible during the following three months and in any case as soon as a dispute has been submitted to the Commission.

5. Should the President of the Conciliation Commission jointly designated by the Contracting Parties be temporarily prevented from taking part in the work of the Commission as a result of illness or for any other reason, the Parties shall agree upon the appointment of a successor to replace him temporarily.

6. If a successor is not designated within three months from the beginning of the temporary vacancy, action shall be taken in accordance with Article 6 of the present Treaty.

Article 6.

1. The Permanent Conciliation Commission shall be set up within ten months after the exchange of the ratifications of the present Treaty.

2. If the President to be jointly designated is not appointed within this period, or if he has to be replaced, within three months of his post becoming vacant, this appointment shall be entrusted

to a third Power chosen by agreement between the Parties. If no agreement is reached, each Party shall designate a different Power and the appointment shall be made jointly by the Powers thus chosen. If, within a period of two months, the two Powers have been unable to reach an agreement, each of them shall submit a candidate and it shall be decided by lot which of the candidates thus designated shall be appointed.

Article 7.

1. Disputes shall be brought before the Permanent Conciliation Commission by means of an application addressed to the President by the two Parties acting in agreement.

2. The application, after giving a summary account of the subject of the dispute, shall contain an invitation to the Commission to take all necessary measures with a view to arriving at an amicable solution.

Article 8.

1. Within fifteen days from the date on which a dispute has been brought before the Commission, either Party may replace its own commissioner, for the examination of the particular dispute, by a person possessing special competence in the matter. The Party making use of this right shall immediately notify the other Party; the latter shall, in such case, be entitled to take similar action within fifteen days from the date on which the notification reaches it.

2. Each Party reserves the right immediately to appoint a substitute to replace temporarily the permanent member designated by it, if he should, as a result of illness or for any other reason, be temporarily prevented from taking part in the work of the Commission.

Article 9.

1. The task of the Permanent Conciliation Commission shall be to elucidate the questions in dispute, to collect with that object all necessary information by means of enquiry or otherwise, and to endeavour to bring the Parties to an agreement. It may, after the case has been examined, inform the Parties of the terms of settlement which seem suitable to it and lay down the period within which they are to make their decision.

2. At the close 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 need arises the terms of the agreement, or that it has been impossible to effect a settlement.

3. The proceedings of the Commission must, unless the Parties otherwise agree, be terminated within six months from the date on which the Commission shall have been given cognisance of the dispute.

4. If it has been impossible to effect a settlement, the Commission may, unless the two commissioners freely appointed by the Parties object, order, even before the Permanent Court of Arbitration to which the dispute has been submitted has given a definite decision, the publication of a report containing the opinion of each of the members of the Commission.

Article 10.

1. In the absence of any special stipulation to the contrary, the Permanent Conciliation Commission shall lay down its own procedure, which in any case must provide for both Parties being heard.

2. In regard to enquiries, the Commission, unless it decides unanimously to the contrary, shall act in accordance with the provisions of Part III (International Commissions of Enquiry) of the Hague Convention ¹ of October 18, 1907, for the Pacific Settlement of International Disputes.

Article 11.

In the absence of agreement to the contrary between the Parties, the Permanent Conciliation Commission shall meet at a place selected by its President, who shall however avoid selecting a locality situated in the territories of the High Contracting Parties.

Article 12.

The work of the Permanent Conciliation Commission shall not be conducted in public, unless a unanimous decision to that effect is taken by the Commission with the consent of the Parties.

Article 13.

1. The Parties shall be represented before the Permanent Conciliation Commission by agents, whose duty 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 all persons whose evidence appears to them desirable shall be heard.

2. The Commission, for its part, shall be entitled to request oral explanations from the agents, counsel and experts of both Parties, as well as from all persons it may think desirable to summon with the consent of their Governments.

Article 14.

Subject to provisions to the contrary contained in the present Treaty, the decisions of the Conciliation Commission shall be taken by a majority vote, each member having one vote.

Article 15.

The Contracting Parties undertake to facilitate the work of the Permanent Conciliation Commission and particularly to supply it to the greatest possible extent with all relevant documents and information, as well as to use the means at their disposal to allow it to proceed in their territory, and in accordance with their law, to the summoning and hearing of witnesses or experts and to visit the localities concerned.

Article 16.

1. During the proceedings of the Permanent Conciliation Commission, each of the Commissioners shall receive emoluments, the amount of which shall be fixed by agreement between the Contracting Parties.

2. Each Party shall bear its own costs and an equal share in the common costs of the Commission, the emoluments mentioned in paragraph 1 being included in these common costs.

¹ *British and Foreign State Papers*, Vol. 100, page 298.

Article 17.

1. Failing an agreement for the submission of the dispute to the Permanent Conciliation Commission, or, in the event of such an agreement, failing an amicable settlement before the Permanent Conciliation Commission, the dispute shall be submitted to the Permanent Court of Arbitration in accordance with the provisions of Article 2 of the present Treaty.

2. In this case, as also in the case where no recourse has previously been had to the Permanent Conciliation Commission, the Parties shall jointly draw up a special agreement submitting the dispute to the Permanent Court of Arbitration and appointing arbitrators. The special agreement shall clearly specify the subject of the dispute, the particular competence that might devolve upon the Arbitral Tribunal and all other conditions decided upon between the Parties. It shall be constituted by a separate instrument, which shall be submitted for ratification to the two Governments.

3. The Arbitral Tribunal which is requested to give a decision on the dispute shall be competent to interpret the terms of the special agreement.

4. The procedure applicable shall be that laid down by the Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes.

PART II.

CONFLICTS.

Article 18.

1. All questions on which the High Contracting Parties may differ without being able to reach an amicable solution by the normal methods of diplomacy, the settlement of which cannot be sought by an arbitral judgment, as provided in Article 2 of the present Treaty, and for the settlement of which no other procedure has been laid down in a Treaty or convention in force between the Parties, shall be submitted to the Permanent Conciliation Commission.

2. In the absence of an agreement between the Parties with regard to the application to be made to the Commission, either Party may, after giving one month's notice, bring the question before the Commission direct.

3. If the application is made by one of the Parties only, this Party shall notify the other Party without delay.

4. The procedure laid down in Article 7, paragraph 2, and Articles 8 to 16 of the present Treaty shall be applicable.

Article 19.

If the Parties are unable to reach an agreement, the conflict shall, on the application of one of the Parties, be submitted for decision to an Arbitral Tribunal, which, in the absence of any other agreement between the Parties, shall be composed of three members appointed for each particular case, according to the method laid down in Articles 5 and 6 of the present Treaty with regard to the Conciliation Commission. The findings of this Arbitral Tribunal shall be binding on the Parties, who shall execute them in good faith.

Article 20.

1. Should recourse be had to arbitration between the Contracting Parties, they undertake to conclude, within a period of six months from the date on which one of the Parties shall have addressed to the other a request for arbitration, a special agreement concerning the subject of the dispute and the details of the procedure.

2. If this special agreement cannot be concluded within the time stipulated, either Party may bring the question before the Arbitral Tribunal constituted in accordance with Article 19, by a simple application. In this case, the Arbitral Tribunal shall itself lay down the procedure to be followed.

PART III.

GENERAL PROVISIONS.

Article 21.

If the Arbitral Tribunal finds that a decision by a court of law or any other authority of either of the Contracting Parties, including the administrative courts, is wholly or in part contrary to international law, and if the constitutional law of that Party does not permit, or only partially permits, the consequences of the decision in question to be annulled by administrative action, other equitable compensation shall be granted to the injured Party.

Article 22.

During the procedure of conciliation or the arbitral procedure, the Contracting Parties shall refrain from all measures which might prejudicially affect the acceptance of the proposals of the Conciliation Commission or the execution of the arbitral award.

Article 23.

Any disputes which may arise as to the interpretation of the present Treaty shall, in the absence of agreement to the contrary, be submitted direct to the Permanent Court of International Justice.

Article 24.

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

2. The present Treaty shall come into force on the thirtieth day after the exchange of the ratifications and shall be valid for a period of three years from that date. Unless it is denounced six months before the expiration of that period, it shall be deemed to be renewed for further successive periods of one year.

3. If, at the time of the expiration of the present Treaty, any proceedings in virtue or by application of this Treaty are pending before the Permanent Conciliation Commission or before

an Arbitral Tribunal, they shall pursue their course until their completion, in accordance with the provisions of the present Treaty.

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

Done at Warsaw, in duplicate, December 31, 1929.

(L. S.) VI. ROBEFF.

(L. S.) August ZALESKI.

ADDITIONAL PROTOCOL.

In view of the principle adopted by each of the High Contracting Parties not to apply treaties of this kind retrospectively, it is understood that the provisions of the present Treaty shall only apply to disputes which may arise after its ratification in respect of situations or facts subsequent to such ratification.

Done at Warsaw, December 31, 1929.

(L. S.) VI. ROBEFF.

(L. S.) August ZALESKI.