

LEAGUE OF NATIONS.

C.378.1926.VII.

Communicated to the  
Council and to the  
Lithuanian Government.

Geneva,

June 11th, 1926.

MEMORANDUM BY THE PRESIDENT OF THE CHAMBER  
OF REPRESENTATIVES OF THE MEMEL TERRITORY.

Note by the Secretary-General.

The following letter, dated May 18th, 1926,  
from the President of the Chamber of Representatives  
of the Memel Territory, with the Annexes<sup>x</sup> thereto,  
is communicated for the information of the Council.

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x. Only one copy of the "Memeler Dampfboot" is  
forwarded to each member of the Council, the  
Secretariat having received ten copies in all.

LETTER FROM THE PRESIDENT OF THE CHAMBER  
OF REPRESENTATIVES OF THE MEMEL TERRITORY  
TO THE SECRETARY-GENERAL.

Memel,

May 18th, 1926.

Sir,

The undersigned members of the Committee to which the Chamber of Representatives of the Memel Territory has entrusted the duty of safeguarding the rights of the autonomous Territory have the honour to draw your attention to the points set out in the Annexes to the present letter and beg you to be good enough to inform accordingly the members of the Council of the League of Nations and the Chairman of the Transit Committee.

We have the honour etc.

(Signed) ERAUS.

President of  
the Chamber of  
Representatives.

(Signed) ROGGE.

Member of the Chamber of  
Representatives and Vice-President  
of the Memel Territory People's  
Party Group in the Chamber of  
Representatives.

Also on behalf of HM. von Drasler, Gubba and Kisllet,  
members of the Chamber of Representatives, who are  
temporarily absent.

ANNEX 1.

THE MEMEL HARBOUR BOARD.

Article 5 of Annex II of the Memel Convention provides that the Harbour Board responsible for the administration of the Port of Memel shall consist of three members including a member representing the economic interests of the Memel Territory to be appointed by the Directorate of the Territory. The question of the appointment of this member has assumed the form of a dispute on a matter of principle between the Memel Territory and the Lithuanian Government. The Lithuanian Government claims the right to a preponderant and indeed decisive voice in the filling of this post - a matter exclusively of interest to the Memel Territory - and is endeavouring by threats to impose its views in the matter on the Chamber of Representatives and the Directorate of the Memel Territory.

A detailed account of the development of this question was given by M. Gubba, a member of the Chamber of Representatives, in a speech a report of which was published in the "Memeler Dampfboot" to which we would venture to refer. (Annex 2)

The main facts are as follows:

The provisional Directorate, composed of M. Gailius and Borchert, which exercised authority before the election and summoning of the Chamber of Representatives of the

Memel Territory solely according to the instructions of the Lithuanian Government and which was not responsible to any Parliament, appointed M. Borchert, in October, 1924, to be a member of the Harbour Board and by a decision dated April 12th, 1925, fixed the period of appointment at three years. The Chamber of Representatives of the Memel Territory, which found matters in this condition, could not accept the arrangement. Apart from the fact that M. Borchert is in no way qualified to hold so responsible a position (see Point 3 of the Decision of the Conference of Ambassadors of February 16th, 1923, Document C.159.M.38. 1924, p.7) and that he does not enjoy the confidence of the majority of the Chamber of Representatives or of the present Directorate, his appointment should be regarded as merely provisional, just as the Directorate which appointed him was provisional. The "Directorate" which, under the terms of Article 5 quoted above, is to make the appointment for three years, must logically be taken to mean a Directorate which is constituted in accordance with Article 17 of Annex I of the Memel Convention and which enjoys the confidence of the Chamber of Representatives. That is the point of view which the Chamber of Representatives of the Memel Territory adopted in its Resolution of February 25th, a copy of which is attached. (Annex 3).

The Directorate of M. Simonaitis approved this Resolution, and by a unanimous decision dated April 21st

appointed as a member of the Harbour Board M. Kraus, President of the Chamber of Representatives and of the Memel Chamber of Commerce, in substitution for M. Borchert, whose mandate must be regarded as having expired since the constitution of a Directorate responsible to a Parliament. This decision was officially communicated to M. Kraus in a letter, of which a copy is attached (Annex 4). At the same time the Directorate informed the Governor of the Memel Territory of this decision in his capacity as representative of the Lithuanian Government.

The Lithuanian Government immediately took counter-measures by threatening to dismiss the President of the Directorate, to institute a new Directorate which would govern with dictatorial powers without a Chamber of Representatives, and to dissolve the Chamber of Representatives with the consent of the said Directorate, the Governor obtained a declaration from the present Directorate maintaining M. Borchert in office (see Annex 2 "Memeler Dampfboot").

It would seem unnecessary to point out that the threat of the Governor was quite illegal. The Statute of Memel does not give the Governor the right to intervene in the question of the appointment of the member of the Harbour Board representing the Memel Territory, or to dismiss the President of the Directorate whom he himself appointed. On the contrary Article 17 of the Memel Statute expressly provides that the President of the Directorate

shall hold office so long as he possesses the confidence of the Chamber of Representatives. The dissolution of a Chamber of Representatives by a Directorate which has not yet appeared before it would also seem to be illegal.

The attitude which the Lithuanian Government and its Governor have adopted in this question is all the more incomprehensible in view of the fact that by formal declarations the Chamber of Representatives and the Directorate expressed themselves willing to take no further action in the matter and M. Kraus, who had been appointed a member of the Harbour Board by the Directorate, agreed to refrain from exercising the rights conferred upon him by his letter of appointment until a final decision had been taken in regard to the question of the expiration of M. Borchert's mandate either by the Council of the League of Nations, or by the Permanent Court of International Justice at the

Hague. The Lithuanian Government, however, categorically rejected this compromise, and demanded that the Chamber of Representatives and the Directorate should sign a declaration stipulating:

(1) That no change would be made in the present constitution of the Harbour Board, and that Mr. Borchert would continue to act as a member of the Harbour Board until the expiration of the first period of three years; and

(2) That no action would be taken in pursuance of the Resolution of the Chamber of Representatives dated February 25th, and that the copies of this Resolution forwarded to the League of Nations and the Lithuanian Government would be withdrawn.

In this awkward situation the Directorate felt compelled, in order to maintain order and to ensure the regular working of a legal system of administration in the Memel Territory - which is traversing a very serious economic crisis - to give way to the pressure which was being put upon it, and to sign the declaration which was categorically demanded of it. This declaration which maintains M. Borchert in office for a period of three years was not, however, communicated to M. Kraus, the newly appointed member, nor was the mandate of the latter annulled, and by a decision dated this day, a copy of which is attached (Annex No.5), the Chamber of Representatives fully maintained the point of view which it had previously adopted. The second decision of the Directorate mentioned above is not indeed such as to modify in any way the appointment of M. Kraus. It is not a valid decision in law. President Kraus is a member of the Harbour Board for a period of three years. The notification of the Directorate's decision to the Harbour Board has no legal effect; in law, the communication addressed to the person appointed to represent the Memel Territory is alone valid.

In the prolonged discussions with the leaders of the majority parties in the Chamber of Representatives the Governor of the Memel Territory has definitely adopted the following standpoint:

1. That the Lithuanian Government has the right to assist in choosing the person whom the Directorate appoints as representative of the Memel Territory on the Harbour Board:

2. That the Governor may, if he sees fit, dismiss the President of the Directorate at any moment;

3. That the Governor may, if he sees fit, dissolve the Chamber of Representatives of the Memel Territory at any moment;

4. That Lithuanian law is in all cases of greater authority than the Memel Convention, even if it is in direct contradiction with the provisions of the said Convention.

This attitude, which has led to the application of the above-mentioned illegal measures of constraint against the Directorate, is in our opinion irreconcilable with the fundamental principles of the Statute of Memel.

We beg to inform the League of Nations of this new and grave infringement of the Convention of Memel, confident that the League of Nations, acting in conjunction with the Transit Committee, which is competent to deal with the matters affecting the Harbour Board, will take the necessary steps to ensure, in the interests of the Port of Memel, that the President of the Chamber of Representatives, M. Kraus, who has been legally appointed by the Directorate as the member of the Harbour Board representing the Memel Territory, will be able to take office and to participate in the work of the Harbour Board.



Annex 3.

At its meeting on February 25th, 1926, the Chamber of Representatives adopted the following Resolution:

Article 5 of Annex II of the Memel Convention provides that the Directorate of the Memel Territory shall appoint a member of the Memel Harbour Board. The Chamber of Representatives considers that such appointment can only be made by a Directorate whose existence is based upon the said Convention (Article 17 of Annex I). The Chamber of Representatives is therefore of opinion that M. Borchert has ceased to be a member of the Harbour Board, and it invites the Directorate to take immediate steps to appoint as a member of the Harbour Board a person qualified to represent the economic interests of the Memel Territory.

The present Resolution shall be communicated to the League of Nations and to the members of the Harbour Board appointed by the Lithuanian Government.

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Annex 4.

COPY.

Directorate of the Memel  
Territory.

No. I. 1330/26.

Memel, April 21st, 1926.

The Directorate has the honour to inform you that by Decision dated the 21st inst. you have been appointed as the Memel Member of the Harbour Board of Memel.

(Signed) SIMONAITIS.

M. Josef Kraus,  
Factory Director and President  
of the Chamber of Representatives,  
MEMEL.

R E S O L U T I O N  
of the Chamber of Representatives  
of May 18th, 1926.

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The Chamber of Representatives, while regretting the unyielding attitude of the Governor who, by order of the Central Government, has brought great pressure to bear upon the Directorate, appreciates the motives which have induced the Directorate to take a decision in the matter of the Harbour Board which, in the opinion of the Directorate, was unavoidable in the interests of the Territory, but which, as regards the Harbour Board, is at variance with the standpoint adopted by the Chamber of Representatives (Resolution of February 25th, 1926).

In view of the difficult position in which the Directorate was placed, the Chamber of Representatives feels that it has no reason for withdrawing its confidence from the Directorate; it has, however, no reason either to modify its point of view as stated in its Resolution of February 25th, 1926, particularly as the Resolution of the Directorate of May 5th would appear to be of doubtful validity from the legal point of view.

The Chamber of Representatives authorises Standing Committee XI to continue its investigation of the matter, and to take any steps which may be necessary for that purpose.