

LEAGUE OF NATIONS.

C.590.(a).1929.VIII.

Geneva,

December 23rd, 1929.

ADVISORY AND TECHNICAL COMMITTEE
FOR COMMUNICATIONS AND TRANSIT.

JURISDICTION OF THE EUROPEAN COMMISSION OF THE DANUBE.

I. Convention concerning the powers of the various authorities responsible for drawing up and promulgating regulations for the maritime Danube and for investigating, verifying and punishing infractions of such regulations.

The Powers represented on the European Commission of the Danube,

Desiring to put an end to the difficulties that have arisen among them as to the powers of the European Commission of the Danube, and therefore to arrive at a settlement of the questions which have given rise to those difficulties, so as to prevent their recurrence,

Having entered, under the auspices of the League of Nations, into negotiations which have led to the preparation of an agreement on this matter,

Having regard to the fact that, in a resolution dated, the Council of the League of Nations has expressed its great satisfaction with the successful issue of the negotiations carried on under the auspices of the League with a view to the settlement of these difficulties, and its confidence that the agreement reached will be put into effect as speedily as possible,

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Bearing in mind that, in accordance with a decision reached by the Council of the League of Nations on the above date, the Secretary-General of the League has communicated to the other Powers which are parties to the Convention instituting the Definitive Statute of the Danube the provisions which the Powers represented on the European Commission of the Danube proposed to embody in the present Convention,

In view of the joint declaration signed at Geneva on by the representatives of all the Powers which are parties to the Convention instituting the Definitive Statute of the Danube,

Have appointed for their Plenipotentiaries:

The President of the French Republic :

M.

His Majesty the King of the United Kingdom of Great Britain and Northern Ireland :

Mr.

His Majesty the King of Italy:

M.

His Majesty the King of Roumania:

M.

Who, having communicated their full powers, found in good and due form, have agreed as follows:

Article 1.

The European Commission of the Danube shall draw up and promulgate river police regulations for the maritime Danube, i.e., as far as the up-stream limit of the port of Braila (kilm. 174).

Subject to the powers of the European Commission under the international conventions and regulations in force, over the port of Sulina and any other matters, the territorial authority shall draw up and promulgate regulations for the policing of the ports and banks and be responsible for their enforcement.

The provisions of the regulations for the policing of the ports and banks shall not prejudice the operation of the river police regulations.

The European Commission shall be responsible for the observation of all provisions of international treaties and regulations applicable to the maritime Danube and affecting navigation thereon.

Article 2.

It is hereby agreed that the Roumanian Government shall constitute one or more navigation tribunals; the procedure of these tribunals shall be as simple, speedy and inexpensive as possible. The Roumanian Government may thereafter alter the number, the seat and the area of jurisdiction of any tribunals already constituted or may constitute additional tribunals. The Roumanian Government shall inform the European Commission of the constitution of all such tribunals and any changes that may be made in their number, seat or area of jurisdiction as soon as the measures passed for this purpose have been promulgated. The navigation tribunals shall sit in towns situated on the maritime Danube.

Article 3.

The navigation tribunals shall deal with all infractions of the river police regulations and of the regulations for the policing of the ports and banks of the maritime Danube, and with no other matters.

These tribunals shall have jurisdiction to the exclusion of all other tribunals:

Proceedings or sentences against any agent of the European Commission or of the Roumanian Government shall not be entertained or pronounced by the navigation tribunals, but only by the European Commission or the Roumanian authorities respectively.

Article 4.

A Navigation Court shall be constituted at Galatz.

This Court shall consist of the first President of the Court of Appeal at Galatz, who shall be president thereof, and of two other members nominated as follows:- one shall be a national of a State represented on the European Commission, and shall be elected by a majority vote of the Commission; the other shall be a national of a State not represented on the European Commission, and shall be elected by a unanimous vote of the Commission.

Should the European Commission not elect either or both the members of the Court referred to in the preceding paragraph within six months of the coming into force of the present convention or thereafter within six months of the

occurrence of a vacancy, such election shall be made, subject to the conditions as to nationality laid down in the previous paragraph, and on the application of any of the States represented on the European Commission, by the President of the Permanent Court of International Justice.

Every person so elected a member of the court shall be appointed to that office for a period of four years by the Head of the Roumanian State, the appointment being made so as to enable him to enter on his duties three months after his election.

In the event of the appointment of an elected member not having been made within the above mentioned period, such member shall provisionally, pending his appointment, enter on his duties three months after the date of his election.

The non-Roumanian members of the Court shall enjoy the same immunities as the non-Roumanian members of the European Commission.

The official languages of the Court shall be Roumanian and French.

Article 5.

An appeal shall lie from any judgment of any navigation tribunal to the Navigation Court exclusively, whose decision shall be final.

In any case where any member of the Court of Navigation dissents wholly or in part from the judgment of the Court such judge shall have the right to append thereto a statement of his personal opinion.

Article 6.

The Inspector of Navigation and the Port Captains, each within the limits of his own authority, shall alone be competent, either in person or through officers invested with the necessary authority, to investigate and verify infractions of the relevant regulations, and to prosecute the offenders in the course of first and second instance.

Subject to the provisions of the river police regulations with regard to the powers, in the port and roadstead of Sulina, of the Inspector of Navigation and the Captain of the Port of Sulina respectively, the limits of the authority of the Inspector of Navigation on the one hand and the Port Captains on the other shall be defined as follows:-

The Inspector of Navigation shall have authority over vessels in the course of their voyage; any vessel lying at a place prohibited by the river police regulations shall be deemed to be in the course of its voyage;

The Port Captains shall have authority over vessels which are being handled in port, as well as over all vessels in docks, in winter harbours, and also over vessels in the Isakcea and Macin branches.

When a vessel which, under the rules, is subject to the authority of the Inspector of Navigation and a vessel which, under the said rules; is subject to the authority of a Port Captain are involved in one and the same accident of navigation, both judicial police officers (that is to say the Inspector of Navigation and the Port Captain) shall have authority in regard to the whole matter.

In the event of a conflict as to the limits of their authority between judicial police officers of the European Commission on the one hand and the Roumanian Government on the other, the matter shall be decided by the navigation tribunal, subject to a right of appeal to the Navigation Court.

The regulations referred to in Article 10 may, in the case of certain trivial infractions which have caused no damage, give power to the competent judicial police officer to inflict fines, subject to the right of the person concerned to object thereto and to ask that the case shall be decided by the tribunal.

Article 7.

As the Head of the Roumanian State has consented to represent for this purpose all the High Contracting Parties, the latter agree that the judgments and orders of the navigation tribunals and the Navigation Court shall be given in his name.

The Roumanian authorities and the European Commission shall lend their co-operation both in the preliminary investigation of cases and the execution of judgments and orders of the Navigation Tribunals and Navigation Court.

Officers and officials both of the Roumanian Government and of the European Commission may be summoned directly as witnesses by the navigation tribunals and by the Navigation Court.

Article 8.

The expenses of the navigation tribunals and of the Navigation Court, provided for in the regulations

referred to in Article 10, shall be borne in equal shares by the Roumanian Government and the European Commission.

The amount of all fines recovered under judgments or orders of the navigation tribunals or Court shall be shared equally between the Roumanian Government and the European Commission.

Article 9.

Persons of every nationality prosecuted before the navigation tribunals and Navigation Court shall receive equal treatment. For the purposes of their defense they shall be entitled to conduct their own case or to choose any other person to assist or represent them. Nothing in the rules of procedure or in any judgments shall sanction the levy of any fees or taxes but the repayment of certain expenses specified in the regulations referred to in Article 10 may be exacted. Documents forming part of the proceedings or judgment in any case shall be drawn up on unstamped paper. Judgment shall be given after a public hearing, the accused having been duly summoned.

Article 10.

The Regulations annexed to the present convention contain supplementary provisions necessary for the application of the present convention, especially with regard to the organisation, working and procedure of the judicial bodies provided for herein. Such regulations shall come into force at the same time as the present convention and may thereafter be amended by agreement between the Governments represented on the European Commission, or failing such agreement, in such manner as the Council of the League of Nations may decide.

Article 11.

The High Contracting Parties hereby renounce such rights as are conferred on them by the treaties in force in connection with guard ships in the waters of the maritime Danube.

Article 12.

Any interested State may submit to the European Commission for its consideration any difficulties relating either to the interpretation or application of any treaty provisions affecting the maritime Danube or to questions of international law connected with the régime on that waterway.

Difficulties of the kind referred to in the preceding paragraph which the Commission may not have been able to settle within a reasonable time and which may have assumed the character of a dispute between States shall be settled, if any interested state shall make any application to this effect, according to the procedure laid down in Article 22 of the General Convention on the Régime of Navigable Waterways of International Concern.

The same procedure shall be followed, on the application of any of the Powers represented on the European Commission, if there arises between them a difficulty of a kind not included in the classes specified above relating to the interpretation or application of the regulations or decisions of the Commission which the Commission may have been unable to settle by amending its regulations or decisions or some other means.

The decisions of the Commission can only be made the subject of a dispute if it is denied that the Commission has taken these decisions in the regular exercise of its powers or in conformity with the law in force.

The difficulties referred to in the preceding paragraphs include difficulties arising out of final decisions of

a navigation tribunal or the Navigation Court. In accordance with Article 5 these decisions themselves shall not be upset, but the navigation tribunals and the Navigation Court shall be bound in future to adhere to the interpretation of the texts given by the Permanent Court of International Justice and to observe the rules of international law laid down by that Court.

The procedure provided for in this article shall have preference in the cases in which it applies over any other procedure provided for by any treaty between the parties of conciliation, arbitration or judicial settlement.

The present article shall in no way affect the relations between the Commission and private individuals.

Article 13.

All treaty provisions and conventions applicable to the maritime Danube and in force on the date of signature of the present Convention shall remain in force except in so far as the provisions thereof are inconsistent with the provisions of the present Convention.

Article 14.

The present Convention is subject to ratification. The instruments of ratification shall be transmitted to the Secretary-General of the League of Nations (must be transmitted to the Secretary-General of the League of Nations before)

They shall be deposited in the archives of the Secretariat.

Article 15.

The present Convention shall come into force when it has been ratified on behalf of all the High Contracting Parties. The date of its entry into force shall be the thirtieth day after the receipt of the last ratification by the Secretary-General of the League of Nations.

Upon the entry into force of the present Convention the Secretary-General shall send certified copies thereof to the States signatories of the Declaration of Geneva of

Done at Geneva

II. Draft Declaration.

The undersigned Plenipotentiaries of the Governments of the States which are parties to the Convention instituting the Definitive Statute of the Danube, duly authorised, hereby declare that their respective Governments, having been acquainted by a communication from the Secretary-General of the League of Nations dated, in pursuance of a resolution of the Council dated, with the provisions which the Powers represented on the European Commission of the Danube propose to embody in a special Convention with the object of putting an end to the difficulties that have arisen between them and preventing the recurrence of such difficulties,

Hereby declare that they jointly agree that, should the said Convention be put into force, the above-mentioned provisions shall be substituted for those laid down in previous treaties, convention and acts or arrangements so far as they may differ from such treaties, convention acts or arrangements.

Done at Geneva

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| Austria | Hungary |
| Belgium | Italy |
| Bulgaria | Roumania |
| Czechoslovakia | Yugoslavia |
| France | |
| Germany | |
| Great Britain | |
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