

THE
LEAGUE OF NATIONS
AND
MINORITIES

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NOTE

This pamphlet is one of a short series issued by the Information Section of the Secretariat of the League of Nations on various aspects of League work. Other pamphlets deal with the constitution and organisation of the League, the Permanent Court of International Justice, the financial reconstruction of Austria, political activities, financial and economic work, the financial administration of the League and allocation of expenses, disarmament, health, mandates, transit, the administration of Danzig and the Saar, intellectual co-operation, and humanitarian activities.

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THE LEAGUE OF NATIONS AND MINORITIES

I — INTRODUCTION

Several of the treaties concluded after the world war contain clauses dealing with the protection of minorities. This protection is placed under the guarantee of the League of Nations. By minorities are meant groups of persons who differ in race, religion or language from the majority of the inhabitants of a country. But such persons may be further subdivided into two quite distinct classes : (a) nationals of a foreign Power; (b) nationals of the country concerned. The protection of minorities may also be regarded from two points of view : (1) it may be granted by the laws of the country and therefore be guaranteed by the State; (2) it may be dependent on treaties and be guaranteed by foreign Powers.

In the recent treaties these four points are taken into consideration. These treaties, indeed, confer certain rights : (a) on all *inhabitants* of the country without distinction of birth, nationality, language, race or religion; (b) on all *nationals* of the country who belong to racial, religious or linguistic minorities. Moreover, the country concerned undertakes to recognise the clauses of the treaty : (1) as fundamental laws of the State; (2) as obligations of international concern placed under the guarantee of the League of Nations.

II — THE PROTECTION OF MINORITIES UP TO THE OUTBREAK OF THE WORLD WAR

The history of the protection of minorities, considered from these four points of view and in this wide acceptation of the term, is really the history of all the most important periods in the evolution of the world. All that has been attempted in the following pages is to give a retrospective summary, showing, first, that the protection of minorities is not an entirely new question, and secondly, that there is a fundamental difference between the system which was adopted to protect minorities before the war and that which has now been set up under the guarantee of the League of Nations.

The history of the rights of *aliens* carries us back to the early rights of hospitality, which were of the greatest importance in antiquity. The stranger was regarded as an enemy (*hostis*); but when he appeared among other people without displaying any hostile designs he was regarded as a supplicant under the protection of the gods and was treated as a guest (French *hôte*). Violation of the right to hospitality was considered a crime.

To private hospitality may be traced public hospitality and the whole consular system, with which the ancients were already familiar (the *proxenoi* in Greece). A very interesting chapter in the history of the consular system is supplied by the regime of the "capitulations" which preserved for Christians in the Levant, who were subjects of Western States, the right of having recourse to the jurisdiction of their own countries as represented by the consular courts. These rights, the origin of which may be traced to the privileges granted by Harun al Rashid to the subjects of Charlemagne, were the result of the good will displayed by Oriental sovereigns who granted them of their own free will. Certain towns in Italy

(Genoa, Venice, Amalfi, etc.) were already in possession of privileges which had been granted to them by the Byzantine Emperors and the Turkish Sultans, when Francis I, King of France, obtained, in 1535, the first capitulation of a general and international character (1). Various similar régimes in connection with extra-territorial rights have also long been in existence in Persia, Siam, China and Japan. In the case of the last-named country these rights were abolished towards the end of the last century.

Another example of the protection of the rights of aliens is to be found in the Treaty dated April 29, 1572, between Queen Elizabeth and Charles IX of France. The King of France undertook that no subject of the Queen of England should be "molested as to his person or his property by the Inquisitors or otherwise, on account of the religion at present accepted in England, though with this charge and condition, that the said English do comport themselves with modesty".

As regards the other group of minorities, namely, persons who are nationals of a country but differ in race, religion or language from the majority of the other nationals of the country, the question of ethnical minorities did not really arise until last century, whereas the question of religious minorities is as old as history itself. It is the history of religious tolerance and of mankind's struggle to obtain liberty of thought which reaches its culminating point in the Declaration of the Rights of Man at the time of the French Revolution. The records of this history are abundant and are among the most important documents in history. Mention need only be made of the Pact of Warsaw, 1573 (*Pax inter*

(1) The abrogation of the capitulations was one of the principal items on the Turkish programme at the opening of the Lausanne Conference in November 1922. Article 20 of the Treaty of Peace signed at Lausanne on July 24, 1923, reads as follows: "Each of the High Contracting Parties hereby accepts in so far as it is concerned the complete abolition of the Capitulations in Turkey in every respect."

Dissidentes de Religione), the Edict of Nantes, 1598, the Peace of Augsburg, 1555, and the Treaty of Westphalia, 1648.

The last-named treaty is of special interest. It confirms the agreements contained in all the previous treaties relating to the settlement of religious disputes arising out of the Reformation (the Passau Agreement, 1552—the religious Peace of Augsburg, 1555, etc.). In accordance with the terms of the Treaty of Westphalia, all the signatory Powers undertook to defend each and every clause of this treaty, even by armed force. It is unnecessary to emphasise the importance of this peace from the point of view of international law. The principle of joint action and the acceptance of common responsibilities and guarantees which are contained in this treaty in many respects evoke comparison with the Covenant or the League of Nations.

In the following pages we shall confine ourselves to giving a summary of the provisions relating to the protection of minorities which are to be found in the most important treaties.

As the principle of established religion prevailed in many States, guarantees were sometimes given, when territories were ceded by one State to another, for the maintenance and protection of the religion existing in the ceded territories. This very often does not only mean the right of the inhabitants to exercise freely their religion, but it also implies the maintenance of their schools, etc. The first stipulation to this effect is found in the Treaty of Oliva, signed in 1660 between Sweden and Poland. Up to 1815 seven treaties repeat this clause.

The Treaty of Peace of Paris of February 10, 1763, by which Canada and British North America were ceded by France to Great Britain, guarantees the right of the Roman Catholics to profess their religion.

In the treaties by which the United States has obtained territorial extension during the 19th century, special clauses have been inserted providing that the inhabitants of the

ceded territories should be incorporated in the union of the United States and admitted as soon as possible according to the principles of the Federal Constitution to the enjoyment of rights, advantages and immunities of citizens of the United States, and in the meantime they should be maintained and protected in the full enjoyment of their liberty, property and the religion which they profess.

The Act of July 21, 1814, by which the sovereign Prince of the Netherlands accepted the sovereignty of the Belgian Provinces, ensures "protection and equal favour to all religions, and guarantees the admission of all citizens, whatever their religious beliefs may be, to public office".

At the Congress of Vienna, guarantees were given to the Poles who became subjects of Russia, Prussia and Austria that they should be allowed representative and national institutions. By virtue of this article, England and France made repeated protests to the Emperor of Russia.

Very interesting is the Protocol of March 29, 1815, relating to the cessions of territory made by the King of Sardinia to the Canton of Geneva. Article 3 of this Protocol contains a series of provisions with regard to the protection of Catholics. The King of Sardinia reserved the right to bring to the knowledge of the Swiss Diet, and to instruct his diplomatic agents accredited to it to support any complaint which might arise from failure to carry out these provisions. This act has played an important part in Genevese history. The King of Sardinia intervened in 1821 on the subject of the marriage laws promulgated by the Geneva Government which were found to be in conflict with the Catholic religion.

At the time of the formation of the Kingdom of Greece at the conference of London in 1830, France demanded guarantees for Catholics, and Greece undertook to grant equal political rights to all her subjects without distinction of religion.

The Treaty of Paris of 1856 took cognisance of the farious Hatti-Hamayun of February 18, 1856, by which the Sultan granted very extensive rights to the Christian or non-Moslem communities of the Ottoman Empire. With regard to the principalities of Moldavia and Wallachia, the first scheme, contained in the Protocol of Constantinople of February 11, 1856, by which all religions and their adherents were to enjoy equal liberty, was modified and Article 46 of the Convention of Paris of August 10, 1858, conferred political rights only on Moldavians and Wallachians belonging to any Christian denomination. The article added that the enjoyment of these rights might be extended to other religious beliefs by legislative provisions.

The Berlin Congress of 1878 dealt in detail with the question of religious liberty. Thus at the session held on June 23, 1878, when the independence of Serbia was discussed, the representatives of England (Salisbury), France (Waddington), Italy (de Launay), Germany (Bismarck), and Austria-Hungary (Andrassy), stated that the time had come for the representatives of Europe to affirm the principles of religious liberty. The congress laid down that countries which requested to be admitted to the comity of European nations on the same footing as other States must first of all recognize the principles upon which the social organization of all the States of Europe was based. These principles were embodied in five of the articles of the Treaty of Berlin. Under Articles 5, 27, 35, 44 and 62, of this Act, Bulgaria, Montenegro, Serbia, Roumania and Turkey guaranteed freedom of religion to all nationals of these States, as well as to foreigners, and declared that a difference of religious belief or denomination could not be urged as a reason for excluding or disqualifying anyone from the enjoyment of civil and political rights.

In the Convention of Constantinople of May 24, 1881, under which Thessaly was annexed to Greece, it was laid down that the lives, property, religion and customs of the

inhabitants of the ceded districts should be scrupulously respected. These inhabitants were to enjoy exactly the same civil and political rights as Greek subjects of Greek origin. Very explicit provisions were also inserted to ensure the safeguarding of the interests of the Mussulman population of this territory.

After the Treaty concluded at Bucarest on August 10, 1913, diplomatic notes were exchanged between the Roumanian Government and the Bulgarian, Greek and Serbian Governments. The latter consented to grant autonomy to the schools and churches of Kutso-Vlachs living within their territories, to authorize the creation of a bishopric for the Kutso-Vlachs and to allow the Roumanian Government to endow existing and future institutions as above, under the supervision of the Governments concerned.

In the Treaty of Constantinople of September 29, 1913, between Bulgaria and Turkey, in the Convention of Athens of November 1-14, 1913, between Greece and Turkey, and in the Treaty of Stamboul, March 1-14, 1914, between Serbia and Turkey, are also found very detailed stipulations safeguarding the rights of Moslems in these countries.

III — MINORITIES TREATIES SIGNED AT PARIS, DURING THE PEACE CONFERENCE

At the time of the Peace Conference in Paris, a commission was set up on May 1, 1919, called the Commission on New States. The following countries were represented on this commission: France (Berthelot), the United States of America (Miller and Hudson), Great Britain (Headlam-Morley), and subsequently also Italy (de Martino and Castoldi) and Japan (Adatci). The Commission was entrusted by President Wilson, M. Clemenceau and Mr. Lloyd

George with the work of drawing up small treaties for the protection of minorities in the States of Eastern Europe (1).

The first of these treaties, that with Poland, was signed on June 28, 1919, simultaneously with the Treaty of Versailles. The text of this treaty was transmitted to M. Paderewski with a letter from the President of the Conference, M. Clemenceau. This letter may be said to include "the considerations" which form the basis of all treaties dealing with minorities, and it refutes any objections which may be raised against these treaties. The letter first of all lays stress on the fact that the minorities treaties do not inaugurate any fresh departure. It had for a long time been the established procedure of the public law of Europe that, when a new State was created or when an existing State absorbed any considerable amount of territory, for the formal recognition of the situation by the Great Powers to be accompanied by a request on the part of these Powers to the Government thus recognised, that it should undertake to

(1) Several of these States raised objections and at the plenary meeting of the Conference on May 31, 1919, their representatives stated that they were prepared to accept obligations relating to the protection of minorities if all the States Members of the League undertook similar obligations; otherwise, such obligations might be regarded as a derogation of their sovereign rights as States and they could not tolerate the intervention of other States in their own internal affairs. M. Clemenceau replied to these objections. The arguments which he advanced will be found in the letter addressed to M. Paderewski (see also Temperley: *History of the Peace Conference*, Vol. 5, p. 128).

In a memorandum submitted to the Peace Conference by the Polish Delegation, it was further pointed out that the Treaty of Versailles did not contain any provisions regarding the protection of minorities in Germany analogous to those which Poland was required to accept for the protection of German minorities in Poland.

In this connection it may be mentioned that in the German counter-proposals to the peace condition, Germany, in the chapter concerning the League of Nations, asked for the protection of minorities in general and in particular for the protection of German minorities in the ceded territories. Germany stated that, for her part, she was prepared to apply the same principles to the treatment of minorities within her own territory. In the Allies' reply dated June 16, 1919, reference was made to the guarantees which were to be provided under the minorities treaties to German minorities in the ceded territories, and the Allied and Associated Powers took note of the declaration of the German Delegation that Germany was prepared to apply the same principles to the treatment of minorities within her own territory.

apply certain definite principles of government, in the form of an agreement possessing an international character. The new minorities treaties, however, differ in form from previous conventions relating to similar questions. This change of form is a necessary consequence and an essential part of the new system of international relations inaugurated by the establishment of the League of Nations. Formerly, the guarantee for provisions of this nature was vested in the Great Powers. Experience has shown that this arrangement was ineffective in practice, and it was also open to the criticism that it might give to the Great Powers, either individually or in combination, a right to interfere in the internal constitution of the States affected which could be used for purely political purposes. Under the new system the guarantee is entrusted to the League of Nations. Furthermore, a clause has been inserted in all the treaties, by virtue of which disputes which may arise in connection with the guarantees in question may be submitted to the Permanent Court of International Justice. In this way, differences which may arise are removed from a political to a juridical sphere—a fact which should facilitate an impartial decision.

The treaties containing provisions concerning minorities are ten in number; they are as follows:

1. The Treaty of June 28, 1919, between the Principal Allied and Associated Powers and Poland, placed under the guarantee of the League of Nations, February 13, 1920.

2. The Treaty of September 10, 1919, between the Principal Allied and Associated Powers and Czechoslovakia, placed under the guarantee of the League of Nations, November 29, 1920.

3. The Treaty of September 10, 1919, between the Principal Allied and Associated Powers and the Kingdom of the Serbs, Croats and Slovenes, placed under the guarantee of the League of Nations, November 29, 1920.

4. The Treaty of December 9, 1919, between the Principal Allied and Associated Powers and Roumania, placed under the guarantee of the League of Nations, August 30, 1921.

5. The Treaty of August 10, 1920, between the Principal Allied Powers and Greece.

6. The Treaty of August 10, 1920, between the Principal Allied Powers and Armenia.

7. Articles 64 to 69 of the Treaty of Peace with Austria (signed at St.-Germain-en-Laye on September 20, 1919), placed under the guarantee of the League of Nations, October 22, 1920.

8. Articles 49 to 57 of the Treaty of Peace with Bulgaria (signed at Neuilly-sur-Seine, November 27, 1919), placed under the guarantee of the League of Nations, October 22, 1920.

9. Articles 54 to 60 of the Treaty of Peace with Hungary (signed at Trianon on June 4, 1920), placed under the guarantee of the League of Nations, August 30, 1921.

10. Articles 140 to 151 of the Treaty of Peace with Turkey (signed at Sèvres on August 10, 1920) ⁽¹⁾.

These treaties consist of five parts :

I. Rights common to all the inhabitants of the country : (a) protection of life and liberty; (b) free exercise of religion.

II. Acquisition of the nationality of the country ⁽²⁾ : (a) by the fact of being domiciled in the country or possessing

(1) These articles will be replaced by Articles 37-45 of the new Treaty of Lausanne.

(2) The provisions concerning the acquisition of nationality differ in the various treaties. However, the two provisions mentioned above are to be found in all the treaties. There are several exceptions to the first provision; for instance Article 91, paragraph 2, of the Treaty of Versailles, under which Germans settled in Polish terri-

"indigénat" there at the time of the entry into force of the treaty; (b) through having been born in the country.

III. Rights of nationals of the country belonging to racial, religious or linguistic minorities : (a) equality in the eye of the law, that is to say, equality as regards civil and political rights, and in particular as regards admission to public services; (b) free use of the mother-tongue in private and commercial intercourse, in regard to religion, the press and publications, and also at public meetings and in the courts of law; (c) the right to establish at their own expense charitable, religious, social or educational institutions; (d) in towns and districts in which the minority constitutes a considerable proportion of the population, instruction in the primary schools of the State shall be given in the language of that minority, and the minority shall be assured an equitable share in the sums provided by the State and municipal budgets for educational, religious or charitable purposes.

IV. The juridical character of these obligations : (a) under Article I of the treaties, these provisions are recognised by the State concerned as fundamental laws, over which no other laws shall prevail.

(b) Under the last article of the treaties, the provisions are recognised, in so far as they affect persons belonging to minorities, as constituting international obligations, which shall be placed under the guarantee of the League of Nations. Any member of the Council of the League of Nations shall have the right to bring to the attention of the Council any infraction or danger of infraction of these provisions, and the Council may thereupon take such action and give such

tory after January 1, 1908, can only acquire Polish nationality by a special authorization of the Polish Government. In several treaties reference is made to a third class of persons who are capable of acquiring the nationality of the country, namely, persons who were born within the territory of the country, of parents there domiciled, although they were not themselves there domiciled at the date of the coming into force of the treaty.

instructions as it may deem proper and effective in the circumstances. In case of any differences of opinion as to questions of law or fact arising out of the articles of the treaties between the Government concerned and a member of the Council of the League of Nations such difference shall be held to be a dispute of an international character, under Article 14 of the Covenant. Any dispute of this nature may be referred to the Permanent Court of International Justice. The decision of the court shall be final.

V. Special provisions dealing with local and particular conditions : The treaty with Poland contains special provisions in regard to Jews. The treaties with the Kingdom of the Serbs, Croats and Slovenes and Greece have provisions which safeguard the rights of Muslims. In the Czechoslovak treaty is incorporated the charter for the autonomy of the Ruthenians south of the Carpathians; and the treaty with Roumania assures the educational and religious autonomy of the Saxons and Szeckler of Transylvania.

IV — INTERNATIONAL UNDERTAKINGS WITH REGARD TO THE PROTECTION OF MINORITIES AFTER THE PEACE CONFERENCE

The rights of minorities, as set out in the treaties, have already been included in the constitutions of several States and promulgated as fundamental laws, in accordance with the undertakings given by these States.

Several States have, moreover, concluded agreements with one another respecting the detail of the application of these treaties. Thus, Czechoslovakia and Austria concluded a Treaty at Brünn on June 7, 1920, and a supplementary Agreement at Carlsbad on August 23, 1920. These treaties deal more especially with the acquisition of citizenship and

questions affecting education, and they provide for a court of arbitration to settle any disputes which may arise between these States, in connection with the treatment of those minorities with which they are more particularly concerned.

In this connection mention may also be made of Article 33 of the Convention of November 9, 1920, between Poland and the Free City of Danzig, by which Danzig undertakes to apply to minorities a treatment similar to that applied by Poland, in accordance with the Polish Minorities Treaty. The agreement concluded on October 24, 1921, between Danzig and Poland in pursuance of the Convention of November 9, 1920, deals in Articles 225 and 226 with the question of language, and in Article 227 and annex with the questions of Polish minority schools in Danzig.

During the First Assembly of the League of Nations the question of minorities was raised in the Fifth Committee, which had been instructed to study the question of the admission of new States into the League of Nations. A sub-committee, composed of Lord Robert Cecil (South Africa), M. Motta (Switzerland), and M. Benes (Czechoslovakia), was formed to examine the question. On the proposal of this sub-committee, the Assembly adopted the following resolution, on December 15, 1920.

"In the event of Albania, the Baltic and the Caucasian States being admitted into the League, the Assembly requests that they should take the necessary measures to enforce the principles of the minorities treaties, and that they should arrange with the Council the details required to carry this object into effect."

Of the above States, Albania and Finland were alone admitted during the First Assembly. Questions regarding the minorities in these two countries have been considered by the Council at several of its meetings. As early as June 27, 1921, the Council of the League of Nations, after

recognising the sovereignty of Finland over the Aaland Islands, adopted a resolution regarding the guarantees which Finland undertook to grant to the population of the Aaland Islands for the preservation of their language, their culture and their local Swedish traditions, and to insert in the law of May 7, 1920, for the autonomy of the Aaland Islands. By the terms of this resolution instruction will be given in the Swedish tongue in the State schools. The Finnish language will only be taught with the consent of the commune concerned. Whenever real estate in the islands is sold to a person not legally domiciled in the province, the provincial council or anybody domiciled in the island shall have the right of repurchase. Finnish citizens immigrating from Finland shall not acquire the right of provincial suffrage in the islands until they have been domiciled there for five years. The Governor of the islands shall be appointed by the President of the Finnish Republic in agreement with the President of the Aaland Islands Landsting. Fifty per cent of the revenue from the land tax shall be used for the requirements of the islands, in addition to the revenue already provided for in the law of autonomy. The Council of the League of Nations will see that the guarantees are duly observed. Finland shall transmit to the Council of the League, together with its own observations, any complaints or claims by the Aaland Landsting in regard to the application of these guarantees, and the Council may, in case the question should be of a legal nature, consult the Permanent Court of International Justice. Finland further submitted to the Council a memorandum conveying detailed information as to the rights guaranteed to minorities in Finland by the constitutional law of that country. The Council took note of this information at its meeting of October 2nd.

At the same meeting of the Council on October 2, 1921, the Albanian representative signed a declaration containing provisions similar to those in the minorities treaties. This declaration was ratified by Albania on February 17,

1922, and placed under the guarantee of the League of Nations.

During the Second Assembly, before the admission of Estonia, Latvia and Lithuania to the League, the representatives of these States signed a declaration by which the Estonian, Latvian, and Lithuanian Governments accepted the Assembly's resolution of December 15, 1920, and stated their readiness to enter into negotiations with the Council for the purpose of determining the scope and details of the application of their international obligations for the protection of minorities. The Council, during its session in January, 1922, requested the representative of Brazil to enter into negotiations with the representatives of these States. On May 12th the representative of Lithuania signed before the Council of the League of Nations a declaration containing provisions similar to those in the Polish Minorities Treaty. The representatives of Estonia and Latvia have submitted several memoranda exposing the views of their Governments on the question.

At a meeting of the Council on July 7, 1923, the Latvian delegation made a declaration containing proposals which were accepted by the Council and which the Latvian Government subsequently approved on July 28, 1923.

This declaration brought to an end the negotiations between the Latvian Government and the Council of the League. The Council, however, retains the right to take cognizance of the question again and to re-open the subject if it considers that the position of minorities in Latvia does not correspond to the general principles embodied in the Minorities Treaties. The Latvian Government may also ask that the negotiations be taken up again. The declaration, furthermore, contains stipulations as to the procedure to be adopted for petitions addressed to the League concerning the position of minorities in Latvia. This procedure is similar to that established by the Council for countries that

have signed the Minorities Treaties. The Latvian Government undertakes in principle to give the Council any information that it may require if a question concerning the position of minorities in Latvia is brought before it by one of its members. In case of differences of opinion on questions of law or fact arising out of the declaration, either the Latvian Government or the Council may request that the difference be brought before the Permanent Court of International Justice for an advisory opinion.

As regards Esthonia, the Council, at its session of September 17, 1923, adopted a resolution and accepted proposals contained in a declaration made by the Esthonian representative.

According to this resolution, the Council takes note of the information communicated to it by the Esthonian representative in his report of August 28, 1923, concerning the position of racial, linguistic and religious minorities in Esthonia. The report states that the protection of minorities in Esthonia is at present provided for by the Esthonian Constitution in a manner conforming to the general principles embodied in the minorities treaties. The Council, however, retains the right to be apprised of the status of minorities in Esthonia in case this status should cease to ensure the application of the principles of the minorities treaties as laid down in the recommendation of the League Assembly voted on December 15, 1920. For this purpose the Council may ask the Esthonian Government to furnish it with any information it may require as to minorities questions that may be brought before it by one of its members. In case of differences of opinion on questions of law or fact arising out of this resolution, recourse may be had to the Permanent Court of International Justice for an advisory opinion.

The declaration subsequently made by the Esthonian representative laid down the procedure to be followed

with regard to information addressed to the League, on the situation of minorities. This procedure corresponds to that already described in the case of Latvia.

The decision regarding Upper Silesia which was adopted on October 20, 1921, by the Conference of Ambassadors in conformity with the opinion expressed by the Council of the League of Nations, lays down: (1) that the Polish Minorities Treaty of June 28, 1919, is applicable to the Polish portion of Upper Silesia; (2) that considerations of equity, as well as the maintenance of the economic life of Upper Silesia, require that the German Government shall accept similar provisions, at least for a provisional period of 15 years, as regards the German portion of Upper Silesia; (3) that the provisions of the convention to be concluded between the German and Polish Governments in this connection shall constitute obligations of international concern both for Germany and for Poland, and shall be placed under the guarantee of the League of Nations in the same manner as those of the Polish Treaty of June 28, 1919.

On the basis of this decision, negotiations between Germany and Poland were begun at Beuthen in December, 1921, and were resumed at Geneva on February 15, 1922. The results of these negotiations have been embodied in Part III (Articles 64-158) of the German-Polish Convention signed at Geneva on May 15, 1922.

The first section of the Convention (Articles 64-72) contains a synoptic table, setting out in one column those articles of the Polish Minorities Treaty which Poland undertakes to apply in the Polish portion of Upper Silesia (Articles 1, 2, 7, 8, 9, 10, 11, 12), and in another column parallel engagements entered into by Germany.

However, in order that the protection of minorities in the plebiscite portions of the territory may be based upon principles of equitable reciprocity, and in order that the

special conditions arising out of the provisional regime may receive due consideration, the contracting parties have agreed to observe, for a period of 15 years, certain more detailed provisions which are contained in Section II (Articles 73-146 : civil and political rights, religion, private education, public primary education, vocational and supplementary education, secondary and higher education, the official language of the administration, and the language to be employed in the courts of law).

Section III deals with the right of petition and the methods of appeal. A Minorities Office is to be set up in both portions of the plebiscite territory. Persons belonging to a minority may, after having filed a complaint with the highest administrative authority, submit a petition to the Minorities Office of their State for consideration. If the Minorities Office does not succeed in obtaining satisfaction for the petitioners, it shall transmit the petition, together with any comments it may wish to make, to the Chairman of the Mixed Commission for his opinion. The Chairman will afford the members of the Mixed Commission opportunity to express their views ⁽¹⁾. The Chairman will then make known his opinion to the Minorities Office, which will communicate it to the proper administrative authorities. In case the petitioners are not satisfied with the findings of the administrative authority, they may appeal to the Council of the League of Nations. Such appeals must be addressed to the Minorities Office, which will see that they are forwarded to the Council by the Government. The Council of the League of Nations is also competent to give a decision concerning any individual or collective petition addressed to it directly by persons belonging to a minority.

(1) The Mixed Commission is composed of two Germans and two Poles, and a Chairman of some other nationality (see Article 562 of the Convention).

V. — PROCEDURE ADOPTED BY THE LEAGUE OF NATIONS

With the exception of the treaties concluded with Greece⁽¹⁾, Turkey and Armenia, which have not yet been ratified, the provisions concerning minorities contained in the other treaties mentioned above have been placed under the guarantee of the League of Nations by special resolutions of the Council of the League.

Rules have been laid down by the League governing the procedure to be followed in minorities questions.

1. The report of M. Tittoni, the Italian representative, approved by the Council on October 22, 1920.

This report points out that the guarantee of the League means first of all that the Treaty provisions concerning minorities are inviolable, and, secondly, that the League must ascertain that these provisions are always observed. The report emphasises the provision which is contained in all the Treaties to the effect that the right of calling attention to any infraction or danger of infraction of the clauses of the Treaties is reserved to the members of the Council, who are thereby in duty bound to take a special interest in the protection of minorities. It is further pointed out that the limitation of the right of initiative to members of the Council in no way excludes the right of the minorities themselves or of States not represented on the Council to draw the

(1) The fact that the Greek Minorities Treaty has not yet been ratified is due to a provision in the treaty itself, according to which this treaty was to enter into force simultaneously with the Treaty of August 10, 1920, by which the status of Thrace is to be finally settled. This latter treaty has not yet been ratified by the Principal Allied Powers.

By protocol XVI annexed to the Lausanne Treaty of July 24th, 1923, the Principal Allied Powers declare that the ratification of these two Treaties are to take place at the same time as the ratification of the Peace Treaty.

attention of the League to any infraction or danger of infraction, but that this step must take the form of a petition or of the communication of information and cannot have the legal effect of apprising the Council of the question at issue. When a petition of this nature is addressed to the League of Nations, the Secretary-General shall communicate it, without comment, to the members of the Council for information. The State interested, if it is a member of the League, is informed at the same time as the Council of the subject of the petition, in accordance with the principle by which any document forwarded for the information of members of the Council is, as a matter of course, immediately communicated to all the members of the League of Nations. Under this system, the State concerned has an opportunity of submitting to the members of the Council such observations as it may consider desirable.

2. The Council resolution of October 25, 1920.

This resolution lays down that the President of the Council and two members appointed by him should in each case proceed to consider any petition or communication with regard to an infraction or danger of infraction of a treaty for the protection of minorities, as soon as the petition in question has been brought to the notice of the members of the Council.

3. The Council resolution of June 27, 1921.

According to this resolution, which is in the form of an amendment to the resolution of October 22, 1920, that has just been mentioned, and was based on proposals submitted simultaneously by Poland and Czechoslovakia, petitions concerning the protection of minorities under the provisions of the treaties and received from petitioners other than members of the League of Nations have to be communicated to the State concerned before they are transmitted to the members of the League.

The State in question has to inform the Secretary-General, within three weeks, whether it desires to make any comments on the subject. If it replies in the affirmative, it is granted a period of two months within which to submit its comments; the latter have to be communicated, together with the petition, simultaneously to the Council and the members of the League.

In exceptional and extremely urgent cases the Secretary-General may communicate the petition to the members of the Council as speedily as possible (by telegraph, if he thinks necessary). Any Power represented on the Council may demand an immediate meeting of that body. The Secretary-General is merely required, before communicating the petition, to inform the representative accredited to the Secretariat of the League of Nations by the State concerned.

4. The Council resolution of September 5, 1923.

This resolution is the conclusion of a report presented to the Council by the Brazilian representative, with regard to two notes from the Polish Government, dated January 16 and August 23, 1923, respectively, and a note from the Czechoslovak Government of April 5, 1923.

The resolution first of all stipulates that petitions concerning the protection of minorities addressed to the League, in order to conform to the procedure established by the resolutions of the Council,

(a) must have in view the protection of minorities in accordance with the treaties;

(b) in particular must not be submitted in the form of a request for the severance of political relations between the minority in question and the State of which it forms a part;

(c) must not emanate from an anonymous or unauthenticated source;

(d) must abstain from violent language;

(e) must contain information or refer to facts which have not recently been the subject of a petition submitted to the ordinary procedure.

In case the State concerned should for any reason object to a petition being received, the Secretary-General will submit the question to the President of the Council, who may invite two other members of the Council to assist him in the study of this question. At the request of the State concerned this question of procedure may be put on the agenda of the Council.

The resolution further provides that a prolongation of the delay of two months granted by the resolution of June 27, 1921, for the remarks of the Government concerned on a petition, may be authorised by the President of the Council at the request of the State concerned and if it appears to be required by the circumstances (1).

Finally, the resolution defines the functions of the so-called "Committee of Three" set up by the resolution of October 25, 1920. It states that examination by the President and two Members of the Council of petitions and remarks on them by the Governments concerned shall be for the sole

(1) This restriction of the resolution of June 27, 1921, was justified in the following terms in the report by the Brazilian representative :

Its object is simply to supply information to the Members of the Council, in order to enable them to exercise the right of initiative reserved to them by the clauses of the Minorities Treaties. This would be attained by restricting circulation to the Members of the Council only...

Circulation of the petitions to all the Members of the League allowed the State concerned to submit any observations it desired in regard to a petition which would not have come to its notice if it had been communicated only to the Members of the Council. According to the procedure instituted by the resolution of June 27, 1921, the petition is now brought to the notice of the States concerned even before it is circulated to the Members of the Council...

Many of the petitions are of so little interest, especially after the Government concerned has submitted its observations, that they are hardly worth bringing to the notice of all the Members of the League. If the petitions were circulated only to the Member of the Council, it would become impossible to use the system of petitions for the purpose of malicious propaganda against a State Member of the League.

purpose of determining whether one or more Members of the Council should bring to the attention of the Council a case of infraction or danger of infraction of some one of the provisions of the Minorities Treaties. The right of any Member of the Council to bring to the attention of that body any infraction, or danger of infraction is preserved intact.

THE RESOLUTIONS OF THE THIRD AND FOURTH ASSEMBLIES

During the Third Assembly of the League of Nations the minorities question was one of the principal items of discussion. At the request of the delegate for South Africa, the question was referred to the Sixth Committee, in which a long and exhaustive discussion of the subject took place, and during which Professor Gilbert Murray, delegate for South Africa, and the Estonian, Finnish, Latvian and Czechoslovakian delegates submitted special proposals; On the recommendation of the Committee, the Assembly adopted, on September 21, five resolutions.

In these resolutions the Assembly recognised that, as the League can best promote good relations between the various signatory Governments of minorities treaties and persons belonging to minorities placed under their sovereignty by benevolent and informal communication with those Governments, the Council might require to have a larger secretarial staff at its disposal. The Assembly further recommended that the members of the Council should appeal without unnecessary delay to the Permanent Court of International Justice in cases of difference of opinion as to questions of law or fact arising out of the minorities treaties. While the Assembly recognised the right of minorities to protection, it also emphasised the duty incumbent upon minorities to

co-operate as loyal fellow-citizens with the nations to which they now belong, and the Secretariat-General of the League should assist the Council in ascertaining in what manner the minorities fulfil their duties towards their States. Finally, the Assembly expressed the hope that the States which were not bound by any legal obligations towards the League with respect to minorities would nevertheless observe in the treatment of their own racial, religious or linguistic minorities at least as high a standard of justice and toleration as is required by any of the treaties and by the regular action of the Council (1).

The Sixth Committee of the Fourth Assembly also studied the question of minorities. It considered the resolutions already mentioned that were adopted by the Council on September 5, 1923, but without going into questions of detail. The one matter dealt with was whether communication of petitions from minorities to Members of the League should be restricted to Members of the Council. In this connection

(1) In its report to the Assembly, the Sixth Committee mentioned that the representative of South Africa had pointed out that in certain localities of mixed population, where conflicts were frequent and serious, order had frequently been maintained and tranquility restored by the mere presence of consuls or other representatives of foreign governments, who could impartially report on events and bring to bear the influence of a wider public opinion. He had observed that cases might arise in which the presence of resident representatives of the League might have an even more beneficial effect in view of the disinterestedness and the moral prestige possessed by the League, and suggested that the Council might well consider the desirability in suitable cases of employing such representatives, with the consent of the Government concerned, to allay public excitement and gradually to restore tranquility in disturbed districts. The Committee had felt the force of these observations and wished to place them on record, but considering the variety of possible contingencies which may have to be met and the wide discretion in the hands of the Council for meeting them, thought best not to embody the proposals in a definite resolution.

The representatives of the Baltic States had proposed that a special commission should be appointed to study the minorities question in general, with a view to laying down the main lines for a general protection of minorities in all the States members of the League. This proposal was, however, withdrawn, owing to the consideration that the resolutions already adopted provided for a searching enquiry by the Council and the Secretariat into minorities questions, and also that the establishment of a special committee would involve considerable expense.

the Committee found that one of the resolutions adopted by the Third Assembly (1) was also applicable to petitions from minorities. The Fourth Assembly adopted the Committee's proposal on September 25, 1923, and voted a resolution according to which any Government member of the League may request the Secretariat to send it any petitions, together with the remarks of the Government concerned, that may have been communicated to the Council.

To sum up, the procedure to be followed in questions concerning the protection of minorities, as it has been laid down by the various decisions mentioned, is as follows :

When the Secretariat of the League receives a petition concerning a minority question, the petition is examined by the Secretariat in order to ascertain whether it fulfils the five conditions necessary to make it admissible. If it does, the petition is communicated to the State concerned. If this State for any reasons raises objections to the admissibility of the petition, the Secretary-General submits the question to the President of the Council, who may invite two other members of the Council to assist him. If the State concerned so requests, this question of procedure may be put on the agenda of the Council. If the petition is declared admissible, the State concerned must announce within three weeks

(1) The resolution in question (paragraph 5) is in the following terms :

"The Secretariat of the League, which has the duty of collecting information concerning the manner in which the Minorities Treaties are carried out, should not only assist the Council in the study of complaints concerning infractions of these Treaties, but should also assist the Council in ascertaining in what manner the persons belonging to racial, linguistic or religious minorities fulfil their duties towards their States. The information thus collected might be placed at the disposal of the States Members of the League of Nations if they so desire."

of being informed of this fact whether it wishes to make any remarks or not. If it does, it must present its remarks within two months. This period of time may be prolonged on the authority of the President of the Council if the State concerned also requests and if the circumstances appear to make this necessary. The petition, together with the remarks of the Government concerned, is then communicated to the members of the Council for purposes of information. Any State member of the League may, by request, obtain copies of these documents.

The President of the Council asks two other members of the Council to examine documents with him. If one of these three members or any other member of the Council considers it necessary, the question may be brought before the Council. The latter, once it has been made cognisant of the matter "may proceed in any manner and give any instructions that appear to it appropriate and effective in the circumstances". In case of a difference of opinion as to questions of law or fact between the State concerned and any State member of the Council, this difference will be considered as of international concern according to the terms of Article 14 of the Covenant, and the question may be referred to the Permanent Court of International Justice, whose decision will be final.

A number of petitions have been dealt with in accordance with this procedure. In most cases it has not been found necessary by a member of the Council, in consideration of the observations presented by the interested Government, to call the attention of the Council to the question. Only two cases have been brought before the Council, and the more important of these is still under deliberation.

VI — GREECO-BULGARIAN AND GREECO-TURKISH EMIGRATION COMMISSIONS.

On November 27, 1919, a Convention was concluded between Greece and Bulgaria in fulfilment of Article 56 of the Treaty of Peace of Neuilly-sur-Seine.

The object of this Convention is to regulate the reciprocal and voluntary emigration between Greece and Bulgaria, of racial, religious and linguistic minorities, so that Greeks domiciled in Bulgaria may emigrate to Greece, and Bulgarians domiciled in Greece may emigrate to Bulgaria. This Convention provides for the formation of a Mixed Commission of four members, one appointed by the Greek Government, one by the Bulgarian Government and two (a Belgian and a New Zealander) by the Council of the League of Nations.

The duties of this Commission are, generally speaking, to supervise this emigration. It is responsible for the liquidation of the property of persons who are emigrating or have emigrated. It receives from the States concerned the funds required to facilitate emigration, and it advances to the emigrants the value of their real estate. This Commission has been at work since December 18, 1920.

On January 30, 1923, a Convention was signed at Lausanne concerning the obligatory exchange of Turkish nationals of Greek Orthodox religion on Turkish territory and of Greek nationals of Mussulman religion on Greek territory, with the exception of Greek inhabitants of Constantinople and Mussulman inhabitants of Western Thrace. According to the terms of this Convention, a Mixed Commission has been appointed composed of four Turkish members, four Greek members and three members chosen by the Council of the League from among nationals of Powers that did not take part in the war of 1914-1918. The three neutral members

(a Dane, a Spaniard and a Swede) were appointed on September 17, 1923.

This Commission has similar functions to that of the Greco-Bulgarian Mixed Commission.

Article 3 of the Albanian Declaration of October 2, 1920, provides for similar arrangements with countries bordering on Albania for reciprocal and voluntary migration of persons belonging to ethnic minorities.

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