

No. 1338

TURKEY
and
ITALY

Treaty of Friendship, Conciliation and Judicial Settlement.
Signed at Rome, on 24 March 1950

Official text: French.

Registered by Turkey on 20 July 1951.

TURQUIE
et
ITALIE

Traité d'amitié, de conciliation et de règlement judiciaire.
Signé à Rome, le 24 mars 1950

Texte officiel français.

Enregistré par la Turquie le 20 juillet 1951.

TRANSLATION — TRADUCTION

No. 1338. TREATY¹ OF FRIENDSHIP, CONCILIATION AND JUDICIAL SETTLEMENT BETWEEN THE TURKISH REPUBLIC AND THE ITALIAN REPUBLIC. SIGNED AT ROME, ON 24 MARCH 1950

The President of the Turkish Republic
and
The President of the Italian Republic

being equally desirous of further strengthening the ties of friendship which exist between their two countries;

anxious to pursue at all times a policy of good understanding;

wishing to affirm their desire to contribute to the work of general peace and to settle, in conformity with the principles of international law and the Charter of the United Nations, disputes which might arise between Turkey and Italy,

have decided to conclude a Treaty of Friendship, Conciliation and Judicial Settlement, and for this purpose have appointed as their Plenipotentiaries :

The President of the Republic of Turkey :

His Excellency Necmeddin SADAK,
Deputy for Sivas,
Minister of Foreign Affairs
etc., etc., etc.

The President of the Republic of Italy :

His Excellency Count Carlo SPORZA,
Senator, Minister of Foreign Affairs,
etc., etc., etc.

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

Article 1

There shall be everlasting peace and friendship between Turkey and Italy.

Article 2

The High Contracting Parties agree that any dispute of whatsoever nature which arises between them and which cannot be settled through the normal

¹ Came into force on 6 June 1951, by the exchange of the instruments of ratification at Ankara, in accordance with article 25.

diplomatic channel shall be dealt with according to the conciliation procedure described in articles 6 to 17 below.

Article 3

The provisions of the foregoing article shall not apply to questions which, under treaties in force between the High Contracting Parties, are within the competence of either Party, nor to questions relating to sovereign rights. Either Party shall be entitled to determine, by a written statement, whether a question involves sovereignty; the other Party, if in disagreement, may resort to arbitration or may apply to the International Court of Justice for a ruling on this preliminary question.

The arbitral award shall be rendered in conformity with the principles of international law.

The provisions of the foregoing article shall likewise not apply to disputes arising out of events which occurred before this Treaty.

Article 4

Disputes for the settlement of which a special procedure is laid down in other conventions in force between the parties to the dispute shall be settled in conformity with the provisions of those conventions.

Article 5

1. If, under the domestic legislation of one of the Parties, the subject of a dispute is within the competence of the judicial or administrative authorities, then this Party shall be at liberty to claim that the dispute shall not be dealt with according to the various procedures for which provision is made in this Treaty until a final decision has been rendered within a reasonable time by the competent authority.

2. The Party which, in the aforementioned case, wishes to resort to the procedures for which provision is made in this Treaty shall give notice of its intention to the other Party within one year from the date of the decision in question.

Article 6

A Permanent Conciliation Commission shall be constituted within the six months following the entry into force of the present Treaty.

The Commission shall be composed of three members.

The High Contracting Parties shall each appoint one commissioner chosen from among their respective nationals. They shall by agreement designate

the President, who shall not be a national of the High Contracting Parties, nor be habitually resident in their territories, nor be employed in their service. If in the absence of agreement the appointment of the President is not made within the period stipulated in the preceding paragraph or, in the case of the appointment of a successor, within three months from the date on which the vacancy occurs, he shall be appointed as follows :

Each of the High Contracting Parties shall nominate two candidates, other than the members designated by the Parties, from the list of the members of the Permanent Court of Arbitration at The Hague who shall not be nationals of either Party. The President shall be chosen by lot from among the candidates so nominated.

If either of the High Contracting Parties fails to nominate its candidates, the President of the Court shall, upon the request of either of the Parties, designate the President of the Permanent Commission.

The commissioners shall be appointed for three years. They shall be re-eligible. They shall remain in office until replaced and in any event until the expiry of their term.

So long as proceedings have not commenced, each Contracting Party may recall the commissioner appointed by it and designate a successor on his stead. It shall also have the right to withdraw its approval of the appointment of the President.

Any vacancies due to expiry of term of office, recall, death, resignation or any other cause, shall be filled as promptly as possible in the manner prescribed for appointments.

Article 7

A matter shall be brought before the Conciliation Commission by means of an application addressed to the President by the two Parties acting in agreement, or, failing that, by the one or other Party. The application, after giving an account of the subject of the dispute, shall contain the invitation to the Commission to take any measures likely to lead to an amicable solution.

If the application is made by one of the Parties only, the other Party shall be notified by it at the same time.

Article 8

Within fifteen days from the date on which a dispute has been brought before the Conciliation Commission by one of the Parties, 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 it received the notification.

Article 9

Unless otherwise agreed between the Parties, the Conciliation Commission shall meet at a place selected by its President.

Article 10

It shall be the function of the Conciliation Commission to elucidate the questions in dispute, to collect all necessary information for this purpose and to endeavour to reconcile the Parties.

After considering the case, the Commission shall draw up a report making proposals for the settlement of the dispute.

Article 11

The procedure of the Conciliation Commission shall provide for the hearing of both Parties.

The Commission shall lay down its own procedure and, unless otherwise agreed unanimously, shall be guided by the provisions of Part III of The Hague Convention of 18 October 1907¹ for the Pacific Settlement of International Disputes.

Article 12

The deliberations of the Commission proceedings shall take place in private unless, in agreement with the Parties, it decides otherwise.

Article 13

The Parties shall be entitled to be represented before the Commission by agents, counsel and experts who shall, at the same time, act as intermediaries between them and the Commission; the Parties shall likewise be entitled to request that any person whose evidence appears to them desirable shall be heard.

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

Article 14

The Parties undertake to facilitate the work of the Conciliation Commission and in particular to supply it to the greatest possible extent with all relevant

¹ British and Foreign State Papers, Vol. 100, p. 298, and League of Nations, *Treaty Series*, Vol. LIV, p. 435, and Vol. CXXXIV, p. 453.

documents and information, and to use all the means at their disposal, in accordance with their law, to enable the Commission to summon and hear witnesses or experts.

Article 15

The Conciliation Commission shall present its report within four months from the day on which the dispute was brought before it, unless the Parties agree to prolong this time-limit.

A copy of the report shall be handed to each Party. The report shall not be in the nature of an arbitral award, either as regards the statement of facts or as regards the legal arguments.

Article 16

The Conciliation Commission shall prescribe the time-limit within which the parties are to give their decisions concerning the proposals for settlement contained in its report. This time-limit shall not exceed three months.

Article 17

For so long as the proceedings are actually in progress, each of the commissioners shall receive an emolument in an amount to be fixed by agreement between the Parties, each of which shall contribute an equal share.

The overhead expenses incurred in connexion with the proceedings before the Commission shall be divided in the same manner.

Article 18

If either of the Parties fails to accept the proposals of the Conciliation Commission or to give its decision within the time-limit prescribed in the report of the Commission, each Party may request that the dispute shall be submitted to the International Court of Justice.

Should the International Court find that the dispute does not involve a question of law, the Parties agree that it should be decided *ex æquo et bono*.

Article 19

The Contracting Parties shall, in each particular case, conclude a special agreement clearly defining the subject of the dispute, the particular competence which might be vested in the International Court of Justice and any other conditions agreed between the Parties.

The agreement shall be concluded by exchange of notes between the Governments of the Contracting Parties.

The agreement shall be interpreted in all respects by the Court.

If this agreement is not concluded within three months from the date on which either Party received a request for judicial settlement, each Party shall be entitled to submit the question direct to the Court of Justice by simple application.

Article 20

If the International Court of Justice should hold that a decision of a judicial or other authority of one of the Contracting Parties is wholly or in part at variance with international law, and if the constitutional law of the said Party does not make it possible, or does not make it fully possible, to remove the consequences of the decision in question by administrative action, then, in such circumstances, the injured Party shall be awarded equitable satisfaction in a different form.

Article 21

The decision of the International Court of Justice shall be carried out in good faith by the Parties.

Any difficulty in the interpretation of the decision shall be settled by the Court of Justice to which each Party may refer the question by simple application.

Article 22

For so long as the conciliation or judicial proceedings are in progress, the Contracting Parties shall abstain from any action capable of having an adverse influence on the acceptance of the proposals of the Conciliation Commission or on the execution of the decision of the International Court of Justice.

Article 23

If any conciliation or judicial proceedings are pending at the time of the expiry of this Treaty the said proceedings shall be conducted according to the terms of this Treaty or of any other Treaty which the Contracting Parties have agreed to substitute therefor.

Article 24

Any disagreements which might arise concerning the interpretation or application of this Treaty shall be submitted direct to the International Court of Justice by simple application.

Article 25

This Treaty shall be ratified as soon as possible and shall come into force immediately following the exchange of instruments of ratification which is to

take place at Ankara. It shall remain in force for five years from the date on which the instruments of ratification are exchanged. Unless denounced six months before the expiry of this period, it shall remain in force for a further period of five years and so on thereafter.

IN WITNESS WHEREOF the plenipotentiaries have signed this Treaty and have affixed their seals thereto.

DONE in Rome, in the French language, in duplicate, this 24th day of March 1950.

(Signed) Necmeddin SADAK

(Signed) SFORZA