

nationality which exposes them in Poland to the treatment laid down for persons of non-Polish nationality and, in particular, of German nationality

On the one hand, on the ground that these persons were born in the territory which is now part of Poland, their parents having been habitually resident there at the date of this birth, it is maintained that in virtue of Article 4, paragraph 1, of the Treaty of June 28th, 1919, between the Principal Allied and Associated Powers and Poland, they are *ipso facto* Polish nationals and, consequently enjoy all the rights and guarantees granted by the provisions of the said Treaty to Polish nationals belonging to racial, religious or linguistic minorities

On the other hand, the Polish Government considers itself entitled not to recognise these persons as Polish nationals, if their parents were not habitually resident in the above-mentioned territory both on the date of birth of the person concerned and on the date of the entry into force of the above-mentioned Treaty, namely, January 10th, 1920. It is, consequently, maintained that these persons cannot legally enjoy the guarantees granted by the Treaty

REQUESTS THE PERMANENT COURT OF INTERNATIONAL JUSTICE TO GIVE ITS ADVISORY OPINION, IF POSSIBLE DURING THE PRESENT SESSION, on the following questions

(1) Does the question regarding the position of the above-mentioned persons, in so far as they may belong to racial or linguistic minorities arising out of the application by Poland of Article 4 of the Treaty of June 28th, 1919, between the Principal Allied and Associated Powers and Poland, fall within the competence of the League of Nations under the terms of the said Treaty ?

(2) If so, does Article 4 of the above-mentioned Treaty refer solely to the habitual residence of the parents at the date of birth of the persons concerned, or does it also require the parents to have been habitually resident at the moment when the Treaty came into force ?

The Secretary-General is authorised to submit this request to the Court, together with all documents concerning the question, to inform the Court of the action taken by the Council in the matter, to give all necessary assistance in the examination of the case, and, if necessary, to arrange to be represented at the Court.

Annex 531.

C. 458, 1923. I.

GENERAL SITUATION OF THE FREE CITY OF DANZIG.

Report by M. Quiñones de Leon submitted to the Council on July 4th, 1923.

A number of questions referring to the Free City of Danzig have been placed on the agenda. I shall deal with the question of the financial situation of the Free City in a separate report. The second question on the agenda relating to Danzig, namely, the establishment by Poland of a railway administration at Danzig, has happily been settled for the moment by means of an agreement just concluded between the Governments of the Free City and of the Polish Republic.

The next question is that of property which has been transferred to the ownership of the Harbour Board in accordance with Article 25 of the Treaty between Poland and Danzig of November 9th, 1920. This matter was raised by the Conference of Ambassadors, which suggested that negotiations should be entered into between the two Governments under the auspices of the High Commissioner. The latter has just informed us that these negotiations have proved abortive, and that the Polish Government is applying for a decision.

The next question on the agenda is that of the visa fees for Danzig nationals crossing the Polish frontier when travelling to other countries. This question was settled by the High Commissioner's decision of May 1st, 1923, but has been brought before us owing to an appeal by the Danzig Government.

The agenda further includes the questions of the financial situation of the Danzig Harbour Board and of the Harbour Board's right to contract loans. These two questions were dealt with by the High Commissioner in his decisions of April 29th and May 24th, 1923, respectively. The Government of the Polish Republic has appealed against these decisions to the Council.

Finally, the agenda contains two questions which have wide and general bearing, namely the question of the competence of our High Commissioner at Danzig, which is submitted to us for an opinion by the High Commissioner himself as a result of certain arguments advanced by the Polish Government (C. 409. 1923. I.), and the general question of the differences which have arisen between Poland and Danzig, submitted to us by a note from the Polish Minister of Foreign Affairs (C. 425. 1923. I.). When forwarding this latter note, the Polish Delegate also stated on June 26th that his Government was of opinion that it would be advisable for the Council to defer examination of all other questions relating to the Free City, which have been placed on the agenda, until the question referred to in the note of June 20th was settled.

The general question raised by the High Commissioner as to his competence and the general question of the differences which have arisen between Poland and Danzig are closely connected and should be dealt with together. With a view to gaining a clearer view of the matter, I think the Council might regard the problem as consisting mainly of the following points

- (1) What is the relation between the terms contained in Article 104 of the Treaty of Versailles and the terms of the Treaty signed by Poland and the Free City of Danzig on November 9th, 1920 ?
- (2) The competence of the High Commissioner of the League of Nations.
- (3) The general situation created by the disputes as a whole between Poland and the Free City of Danzig. This latter problem raises more especially the question of the procedure to be adopted in cases of dispute between the Danzig and Polish Governments.

With regard to the *first point*, the High Commissioner's opinion is contained in paragraph 5 of his letter to the Secretary-General dated June 4th, 1923 (Council Document C. 409/1923. I. and Annex 5 to Council Document C. 425. 1923. I.). The Polish Government's opinion will be found in the note from the Polish Minister of Foreign Affairs dated June 20th and the Danzig Government's opinion in the note from the President of the Free City dated March 31st, 1923 (Annex 4 to the Polish note). Before giving an opinion in this matter, the Council might perhaps wish to give our High Commissioner and the representatives of Poland and of the Free City of Danzig an opportunity to state their views. I hope that after having heard the High Commissioner and the representatives of the two Governments, the Council will find the position sufficiently clear to enable it to arrive at a conclusion at its present session.

The *second problem* referred to above is that of the competence of the High Commissioner. In order properly to judge of the situation, it should be remembered that each of the two parties, Poland and Danzig, has the right at any time, and without restriction, to appeal to us against a decision by our High Commissioner, and we shall thus have every opportunity of considering the competence of the High Commissioner in each case that arises.

This brings me to the *third problem*, namely, the general question of differences between the Polish Government and the Danzig Government, and the allied question of the procedure to be adopted in the event of disputes. The note from the Polish Minister for Foreign Affairs, dated June 20th, 1923, states "that the Polish Republic's rights in the territories of the Free City of Danzig have not hitherto been enforced in any way, and that the Polish Government expects that the stipulations contained in Articles 100 to 108 of the Treaty of Versailles will be made *de facto* applicable, by means of a complete alteration of the present state of affairs and the putting into force of the guarantees granted to Poland by the Treaty of Versailles" Before entering upon a general examination of the disputes between the Polish Government and the Danzig Government, I must lay before the Council the preliminary question of the procedure to be adopted in this matter.

The Treaty of Versailles contains the following stipulation (Article 103, paragraph 2)

"The High Commissioner will be entrusted with the duty of dealing, in the first instance, with all differences arising between Poland and the Free City in regard to this Treaty or any arrangements or agreements made thereunder."

If Danzig finds grounds of complaint against Poland, or if Poland considers that she is not obtaining legitimate and complete satisfaction from the Free City, the procedure laid down in the Treaty of Versailles consists in applying to the High Commissioner of the League of Nations. The question cannot be brought before the Council of the League of Nations until it has been dealt with by the High Commissioner. According, as I have already observed, we are faced by the preliminary question whether the Council should forthwith enter upon an examination of the disputes as a whole, or whether it should not rather recommend the two Governments to bring before our High Commissioner, without delay, any legitimate grievance which either may consider it has against the other, and to abstain, of course, in the meantime, from any action which might prejudice the settlement of the disputes by decisions given by the High Commissioner and, if necessary, by the Council of the League of Nations.

A special question relating to the problem of procedure is raised by the High Commissioner, who puts it in the following terms

"...in dealing in the first instance with differences arising between Poland and the Free City in regard to the Treaty of Versailles and arrangements and agreements made thereunder, the method to be employed is a matter for the High Commissioner to settle. It will be understood that the High Commissioner will, in the future as he has in the past, continue to consult the convenience of the Representatives of the two Governments in fixing the time and date of such meetings, as he may consider necessary, either for the purpose of trying to arrange an agreement between the two parties, or for informing himself of any particulars connected with the difference which has arisen between the two Governments."

These are the important questions before us with which I have to deal in my report. I thought it best to confine myself, for the present, to the statement which I have given you, while reserving the right to submit more definite conclusions after hearing any explanations, which the High Commissioner or the representatives of the two parties may wish to lay before us.

Since drawing up the present report I have received through the Secretariat a note from the Danzig Delegation, dated July 1st, 1923, with two annexes, containing detailed comments on the Polish Note of June 20th. These documents have been circulated to Members of the Council this morning, as Document No. C. 456.