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**File F. c. XIX.
Docket XVIII. I.
Advisory Opinion No. 17
31 August 1930**

**PERMANENT COURT OF INTERNATIONAL JUSTICE
Eighteenth (Ordinary) Session**

**Interpretation of the Convention Between Greece and Bulgaria Respecting Reciprocal
Emigration, Signed at Neuilly-Sur-Seine on November 27th, 1919 (Question of the
"Communities")**

Advisory Opinion

BEFORE: President: Anzilotti
Vice-
President: Huber
Judges: Loder, Nyholm, De Bustamante, Altamira, Oda, Pes♦a, Fromageot,
Sir Cecil Hurst
Deputy
Judge(s): Yovanovitch
Judges ad
hoc: Caloyani, Papazoff

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(July 31)

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1930

[p4]

[1] On January 16th, 1930, the Council of the League of Nations adopted the following
Resolution [FN1]:

"The Council of the League of Nations,

Having considered the letter addressed by the President of the Greco-Bulgarian Mixed Commission to the Secretary-General of the League on December 19th, 1929, requesting [p5] the Secretary-General, in the name of the Bulgarian and Greek Governments, to submit to the Council of the League a request that an advisory opinion be obtained from the Permanent Court of International Justice, for the use of the Mixed Commission, with regard to the interpretation of those clauses of the Greco-Bulgarian Convention signed on November 27th, 1919, which relate to communities:

Requests the Permanent Court of International Justice to give an advisory opinion covering the questions formulated in the annexes to the letter from the President of the Mixed Commission, which constitute the three annexes to this Resolution.

The Council invites the Bulgarian and Greek Governments and the Mixed Commission to hold themselves at the disposal of the Court for the purpose of furnishing it with any necessary documents and explanations.

The Secretary-General is authorized to submit the present request to the Court, together with all documents relating to the question, to explain to the Court the action taken by the Council in the matter, to give any assistance required in the examination of the case, and, if desirable, to take measures to be represented before the Court."

[FN1] English text transmitted by the Secretary-General of the League of Nations

[2] The annexes to this Resolution were as follows [FN1]:

"Annex I.

List of questions drawn up by the Mixed Commission.

September 14th, 1929.

1. - What is the criterion to be applied to determine what is a community within the meaning of the Convention, inter alia under Article 6, paragraph 2 ?
2. - What conditions must be satisfied in order to cause the Mixed Commission provided for in the Convention to dissolve a community such as is meant by the Convention?
3. - What is to be understood by such dissolution? What relations are to be dissolved ? What is the period by reference to which the existence of such relations is to be established ?
4. - What attitude is to be observed by the Mixed Commission in cases where it does not succeed in discovering the ayants droit (persons entitled) referred to in Article 10, paragraph 2, of the Convention? [p6]

Annex II.

List of questions drawn up by the Bulgarian Government

December 17th, 1929.

1. - Seeing that the Convention deals with voluntary emigration, and that a community, being a legal fiction, only exists in virtue of the law of the country in question, whose frontiers it cannot transcend, can it be admitted that a community may emigrate in virtue of the Convention, or does it not logically follow that, where the Convention speaks of the property of communities, this must be understood to mean any private property rights which emigrants may eventually possess in respect of such property ?
2. - The Mixed Commission, being an executive body entrusted with the duty of facilitating emigration and liquidating existing rights of emigrants, and not with the creation of fresh rights, what body would be competent to order the eventual dissolution of a community, and what laws would such body be required to observe in such a case ?
3. - Whichever views be adopted, i.e. whether the case is considered to be one of liquidation merely of emigrants property rights over the property of the communities or one of liquidation in general of the property of the communities, must it not on either hypothesis be recognized that the liquidation must extend to the private property of the moral person which is constituted by a

commune, a commune being the typical example of a community ?

Annex III.

List of questions drawn up by the Greek Government.

December 18th, 1929.

1. - What is, in view of their origin and development, the nature of the communities referred to in Article 6, paragraph 2', and Article 7 of the Convention of Neuilly? Do they enjoy, in law or in fact, a personality which confers upon them some of the attributes of a moral person, and in particular the right to possess a patrimony separate from that of their members ?
2. - Do the communities possess the characteristic of being connected as minorities and racial groups with the [p7] country in which the majority of the population is of the same race ? What are eventually the consequences, as regards the allocation of their property, where their members, as contemplated by Article 10 of the Convetion, are dispersed or absent (in the legal sense of the term) ?
3. - On what conditions should the dissolution of the communities be made to depend ?
4. - Does the Convention of Neuilly deal with communities dissolved before its entry into force ? Should the same rules be applied as regards the dissolution of these communities and the allocation of the proceeds of the liquidation of their property as apply in the case of the communities referred to in Article 7 of the Convention ?
5. - If the application of the Convention of Neuilly is at variance with a provision of internal law in force in the territory of one of the two signatory Powers, which of the conflicting provisions should be preferred - that of the law or that of the Convention ?"

 [FN1] English text transmitted by the Secretary-General of the League of Nations.

[3] In pursuance of the Resolution above mentioned, the Secretary-General submitted to the Court, on January 17th, 1930, a Request for an advisory opinion in the following terms:

"The Secretary-General of the League of Nations,
 in pursuance of the Council Resolution of January 16th, 1930, and in virtue of the authorization given by the Council,
 has the honour to submit to the Permanent Court of International Justice an application requesting the Court, in accordance with Article 14 of the Covenant, to give an advisory opinion to the Council on the questions which are referred to the Court by the Resolution of January 16th, 1930. The Secretary-General will be prepared to furnish any assistance which the Court may require in the examination of this matter, and will, if necessary, arrange to be represented before the Court."

The Request was accompanied by a file of documents which the President of the Greco-Bulgarian Mixed Emigration Commission addressed to the Secretary-General of the League of Nations, together with a letter to the following effect, dated December 19th, 1929 [FN1] [p8]:

"Athens, December 19th, 1929.

Sir,

In the fulfilment of the task which falls to it, under the Convention between Greece and Bulgaria of November 27th, 1919, concerning reciprocal emigration, the Greco-Bulgarian Mixed Commission has encountered certain difficulties regarding the interpretation to be placed on the provisions of the said Convention relating to communities.

The laborious discussions which have taken place in the Mixed Commission upon this question, and the importance which the two High Contracting Parties have declared that they attach to it, have led the Mixed Commission to consider the expediency of obtaining an opinion from the Permanent Court of International Justice.

At the 519th meeting, the two Parties announced through their delegates on the Mixed Commission that they agreed to entrust to the Commission the submission to the Council, on their

behalf, of a request to the effect that such an advisory opinion should be obtained.

The efforts of the Mixed Commission, though they did not result in the preparation of a list of questions satisfactory to the two Parties, enabled certain questions to be formulated which, in the opinion of the neutral members of the Com-mission, seem to cover the chief difficulties encountered.

In addition to these questions, however, each of the Parties has seen fit to formulate others, and this it has done with the full consent of the other Party.

You will find in Annexes 1, 2 and 3, the various questions thus presented.

In my capacity as acting President, I therefore have the honour, on behalf of the two Governments, to ask you to be so good as to lay before the Council of the League of Nations, a request to the effect that an advisory opinion be obtained from the Court for the use of the Mixed Commission.

Independently of the question of the form in which the Council may see fit to ask for this opinion, I venture, on behalf of the Mixed Commission, to express the hope that the Council will be so good as to consider the present request during its next session.

I feel that I should add that in resorting to this course, it is not the intention of the Commission in any way to invalidate the powers and jurisdiction assigned to it by the Convention of Neuilly.

You will find annexed to this letter the minutes of the above-mentioned meeting, and in general all information bearing upon the question as a whole. [p9]

The Mixed Commission holds itself entirely at the disposal of the Council of the League of Nations and of the Court to supply any further information.

(Signed) James De Reynier,
President."

[FN1] English text transmitted by the Secretary-General of the League of Nations.

[4] In conformity with Article 73, paragraph 1, of the Rules of Court, the Request was communicated to Members of the League of Nations and to States entitled to appear before the Court. The Registrar further sent to the Bulgarian and Greek Governments, which were regarded by the President of the Court - the latter not being in session - as likely, in accordance with the terms of Article 73, paragraph 2, of the Rules, to be able to furnish information on the questions in regard to which the Court's opinion was sought, a special and direct communication informing them that the Court was prepared to receive from them written statements and, if desired, to hear oral statements made on their behalf at a public hearing to be held for the purpose. By an Order made on January 24th, 1930, the President of the Court fixed February 28th, 1930, as the date by which written statements, if any, were to be filed with the Registry of the Court ; at the request of the Greek Government, this time was extended by means of an Order dated February 4th, 1930, until March 17th, 1930. By that date, the two Governments concerned had deposited writ-ten statements with the Registry. Subsequently, on March 21st, 1930, the Registrar informed the Agents of these Governments that it was not the intention of the Court to call for the sub-mission of further statements in reply to those which had been filed, but that the Court would be prepared to receive such statements if presented by April 24th, 1930; before that date, each Government sent to the Registry written observations upon the statement already filed on behalf of the other.

[5] In accordance with the Resolution of January 16th, 1930, the Council of the League of Nations had asked the Governments and the Commission for certain additional information. Furthermore, the acting President of the Commission informed the Court, by a letter dated June 20th, that he had come to The Hague in order to place himself at the Court's disposal. [p10]

[6] The Court in the course of public sittings held on June 19th, 20th, 21st, 23rd, 24th, 26th, 27th and 30th and on July 1st, 1930, heard the oral arguments of M. Thodoroff, Agent, and MM.

van Hamel and Verzijl, Counsel, on behalf of the Bulgarian Government, and of His Excellency M. Politis, Counsel on behalf of the Greek Government; at the conclusion of the hearings it also, by a special decision, accepted short written statements addressed to it by the Agents of the two Governments.

[7] Lastly, by an Order dated June 30th, 1930, the Court invited the aforesaid Agents and the President of the Mixed Commission to reply to certain questions formulated therein ; these replies were given by Colonel Corfe, President of the Mixed Commission, by M. Thodoroff, Agent for the Bulgarian Government, and by M. Coutzalexis, Agent for the Greek Government, at the hearing on July 1st.

[8] In addition to the statements and observations of the Governments concerned, further written information furnished by them and by the Mixed Commission at the Court's request, as also the documents transmitted to it by the Secretary-General of the League of Nations, the Court has had before it numerous documents filed at the hearing either by the representatives of the said Governments or by the President of the Mixed Commission [FN1].

[FN1] See annexed list

[9] In view of the fact that neither of the Governments concerned had upon the bench a judge of its nationality and that - the "request to the effect that an advisory opinion be obtained" having, according to the terms of the letter addressed to the Secretary-General of the League of Nations on December 19th, 1929, by the President of the Mixed Commission, been submitted "on behalf of the two Governments"-the question related to an existing dispute between two States, within the meaning of Article 71, paragraph 2, of the Rules, the attention of the Parties to this dispute, namely, the Bulgarian and Greek Governments, was drawn to their right under Article 31 of the Statute each to choose a judge of their nationality to sit in the case. The two Governments availed themselves of this right. [p11]

I.

[10] The circumstances which led the Council to submit to the Court the above-mentioned Request for an opinion may be summarized as follows:

[11] Following upon the entry into force of the Greco-Bulgarian Convention respecting reciprocal emigration on August 9th, 1920, and in pursuance of a Resolution of the Council of the League of Nations dated September 20th, 1920, the Mixed Emigration Commission, which was provided for in Articles 8 and 9 of the Convention [FN1], assembled at Geneva on December 18th, 1920. Almost at the beginning of its sittings, it took up the question of the interpretation of the Emigration Convention, the provisions of which it examined, article by article, in the course of the 6th to the 48th meetings (December 24th, 1920 - July 11th, 1921); a very considerable part of this time - especially on and after February 17th (28th meeting)-was devoted to the discussion of Article 12 of the Convention. This article, which the Commission had considered very difficult to construe, formed the subject of a detailed report which had been drawn up by the neutral member of the Commission and the conclusions of which were adopted by the Commission on July 11th (48th meeting). On January 10th, 1921 (15th meeting), the question of the preparation of rules was raised in connection with Article 9; this work however was not seriously taken in hand until later (January-March 1922); it was completed on March 4th, 1922 (96th meeting), when the Commission unanimously adopted "Rules for the reciprocal and voluntary emigration of the Greek and Bulgarian Minorities". It officially communicated these Rules to the two Governments concerned on March 6th, 1922. Not until this was done did the Commission undertake the practical application of the Convention.

[FN1] For text of the Convention, see list in Annex

[12] During the preliminary stages of its work and the early years of its existence, the Commission was led to adopt more or less incidentally, a number of decisions affecting the interpretation of the Convention with respect to the position of communities. These decisions, which are enumerated in the [p12] written statement sent by the Commission to the Court at the latter's request, related amongst others to the following points :

- (1) interpretation of the word "persons" in Article 12 of the Convention;
- (2) liquidation of community property held by an individual in his own name;
- (3) method of representation of communities before the Mixed Commission, more particularly for the purposes of a claim for liquidation;
- (4) movable property of communities which may be taken away by emigrants;
- (5) provisional measurement and valuation of the immovable property of communities;
- (6) the drawing up and delivery of the instruments of payment in connection with the liquidation of community property erroneously considered to be the property of individuals;
- (7) interpretation of the conception of a "community" in relation to an administrative commune.

[13] Meantime, and in view of the fact that the documents relating to a number of cases of the verification of the rights of ownership in and of the valuation of certain immovable property belonging to communities had reached it, the Commission in August 1926 put to the representatives of the two Governments concerned questions relating to the following points bearing on the interpretation of Articles 6 and 7 of the Convention:

- (1) When is a community to be regarded as "dissolved" under the terms of Article 6?
- (2) To whom should the proceeds of the liquidation of a community considered as "dissolved" be paid?
- (3) What movable property may be carried away in the event of partial emigration?

[14] On these points, notes and written statements were presented to the Mixed Commission by the Bulgarian and Greek representatives. It was in these circumstances that the Commission decided "to instruct its President to put to the Legal Section of the League of [p13] Nations, on behalf of the Mixed Commission, such questions as he might consider advisable". On the basis of the opinions obtained in this way and from other sources, the neutral members of the Commission, in August 1928, after a period of direct negotiation between the two Governments concerned, laid before the representatives of these Governments two interpretations of the clauses of the Convention relating to the points at issue. The Bulgarian and Greek members of the Commission expressed their views - by means of letters to the President (meeting of August 24th, 1928) - with regard to the proposals in question, the Greek member accepting the second and the Bulgarian member adopting the first without being able to agree upon a solution acceptable to both Parties. In these circumstances, the President of the Commission, on September 15th, 1928, addressed to the Bulgarian and Greek Governments a letter in which he suggested for the first time that it might perhaps be useful if the Permanent Court of International Justice could be asked to give an advisory opinion upon the difficulties encountered by the Commission with regard to the interpretation to be placed on the clauses of the Emigration Convention relating to communities. The suggestion, which remained for a considerable time without response, was put forward again, more particularly in a letter of July 31st, 1929.

[15] A long series of discussions in the Mixed Commission followed; finally, at the beginning of December 1929, they culminated in the sending by the two Governments to the President of written declarations whereby they mutually consented in principle to a procedure consisting in obtaining an advisory opinion from the Court; this consent, however, was given on both sides

subject to an express reservation with regard to the final form to be given to the questions to be submitted to the Court. In pursuance of a formal decision of the Commission, its President prepared and submitted to his colleagues a draft list of questions. As this list was not accepted by the representatives of the two Governments concerned, it was agreed that the latter might send to the Commission any additions which they wished to make to the questionnaire. Herein lies the origin of the fact [p14] that first the Council and subsequently the Court had before them three lists of questions, which constitute the questionnaires drawn up by the Mixed Commission, the Bulgarian Government and the Greek Government respectively and annexed to the Council's Resolution. Those of the two national members were submitted at the meeting of December 18th, 1929. At the same meeting the Commission approved, firstly the letter - reproduced in the early part of the present Opinion - sent on the following day by the President of the Commission to the Secretary-General of the League of Nations, in order to set in motion the procedure for obtaining an opinion, and secondly the list of documents relating to the matter, which the Secretary-General would be requested to transmit to the Court.

[16] At a previous meeting (December 3rd), the President had already submitted to the Commission a statement indicating the procedure which he thought should be followed - or which, in his view, would be followed - for the purpose of obtaining the opinion of the Court. This statement seems to have been officially transmitted to the two Governments concerned on behalf of the Commission. This document, after analysing the relevant provisions of Article 73 of the Rules of Court, says that "the [written] statements of the two Parties should conclude with their respective submissions. In these submissions, each Party should enumerate the submissions which it wishes the Court to confirm." Leaving aside the question of the correctness of the opinion thus expressed in relation to advisory procedure, it is to be observed that the two Governments concerned have conformed to it: the Memorial filed by each of them is in fact terminated by a series of "submissions" containing the replies proposed by them to the various questions upon which the Court's opinion is sought. These submissions may usefully be reproduced here as authoritative summaries of the opposing contentions:

Submissions of the Bulgarian Government.

"It is submitted:

1. (a) that the conception of a community within the meaning of the Convention between Greece and Bulgaria [p15] respecting reciprocal emigration signed at Neuilly-sur-Seine on November 27th, 1919, is to be understood in the French sense of the expression "corps et communautés", that is to say that it covers associations with an ideal aim and "foundations" enjoying juridical personality, provided that they present exclusively the characteristics of a racial or religious minority. Such are the various religious, educational or philanthropic establishments (religious congregations, churches, convents, monasteries, schools, hospitals, alms-houses, etc.) and communes, the population of which presents the characteristics of a minority, in so far as their private property is concerned ;
- (b) that the minority and racial characteristics of communities should be determined not only with reference to their designation and nominal affinity, but also with regard both to their origin and to the character of the bulk of the local orthodox population which contributed to their creation or maintenance and to the historical fact that until 1870 all inhabitants of the Ottoman Empire of Greek orthodox religion (Greeks, Bulgars, Serbs, Vlachs, etc.) were subject, as regards both their personal and spiritual status, to the authority of the Greek Patriarch of Constantinople and were all called "Greeks" (Roum millet);
- (c) that communities, as juridical persons, are not entitled under the Convention to benefit by the provisions respecting emigration and are not, as such, covered by the conception of "emigrants"; only their members who have exercised in due form the right to emigrate can claim this character;
2. (a) that a community can only be dissolved when all or nearly all its members have exercised the right to emigrate;
- (b) that the Convention only contemplates the dissolution of a community as the result of the

emigration of its members, and not for any other reason;

(c) that the expression "members" of a community is to be understood as meaning not only its directors and personnel but also all the inhabitants belonging to the minority, in the locality served by the community, who, directly or indirectly, contribute to its support or administration; that only members who have duly exercised the right to emigrate should be taken into account;

(d) that the Convention does not apply to communities dissolved before its entry into force;

(e) that with regard to the dissolution of communities and, in general, the exercise of the right to emigrate, the provisions of the Convention should prevail over laws and regulations of the country conflicting with them; but that [p16] in all questions concerning the substance of the law to be applied - the existence or constitution of communities, the nature, particulars and extent of rights to property which it is sought to assert in connection with emigration, the methods of establishing such rights, etc., - the local legislation in force, under which these rights have been acquired or created, is alone applicable;

(f) that the Mixed Commission has no power to pronounce the dissolution of a community except on account of the emigration of its members and then only in the case of total emigration;

3. (a) that by "dissolution" is to be understood the dissolution of the legal relations resulting from joint patrimonial interests which unite the members of the community, if, as a result of such dissolution, the emigrant members are entitled to claim a portion of the property of the community, either by reason of the division of the property (an extremely rare case) or in respect of individual rights over such property; that the moment in time by reference to which these rights are to be determined is the time at which the emigration took place;

(b) that only property which is the subject of commercial exchange capable of private ownership and of being the subject of private rights, is liable to liquidation;

(c) that only members who have duly exercised the right to emigrate and who are in a position to assert pecuniary rights over the property of a community are entitled to apply for its dissolution; that the delegates of States are not entitled to apply for it and that the Mixed Commission has no power to pronounce it *ex officio*;

4. (a) that the proceeds of the liquidated property of a dissolved community must be handed over to the members who have duly exercised the right to emigrate and have submitted applications for liquidation - of course within the limits of their rights as specified above;

(b) that any surplus should revert to the State which has sovereignty over the territory in which the liquidated property of the dissolved community is situated."

Submissions of the Greek Government.

"It is submitted:

I. With regard to the definition of the term "communities":

1. that the criterion of the conception of a community within the meaning of the Convention, *inter alia* within the meaning of Article 6, paragraph 2, is that it must [p17] be a group of persons of the same religion and race, must be of a character both religious and national and must be designed to serve the common interests of its members in regard to religion, education and charity; and that the question whether such a community still exists or has existed in the past is a question of fact to be decided in each case in accordance with the relevant historical data ;

2. that the community in the sense of the Convention bears no relation whatever to the commune, from which it differs fundamentally in character, purpose and composition;

3. that the community within the meaning of the Convention is a body endowed in law and in fact, or in fact only, with the character of a juridical person, capable of possessing rights and of being bound by its own obligations and of possessing property distinct from that of its members;

4. that the community within the meaning of the Convention possesses essentially minority and racial characteristics linking it to the State to which it is nationally akin.

II. With regard to the conditions for the dissolution of communities:

1. that the dissolution of communities, in the sense of the Convention, is the regularization in law of a situational ready existing in fact;

that it is subject to one condition, necessary but sufficient, namely, the emigration in the future or in the past of the members of the community in question;

2. that the members of the community in question, whose emigration is necessary for the dissolution of the community, must be understood to mean persons who have really formed part of the racial minority of which this community was the national organ;

that the number of emigrants or emigrated persons is, for the purposes of the dissolution of the community, a matter of complete indifference. On the other hand, what is essential is to ascertain whether the community in question can now continue to fulfil its original purpose, namely, to serve as national organ for the racial minority which established it;

3. that it is not for the Commission to pronounce the dissolution of a community, but simply to ascertain whether emigration has in fact taken place; if it has, it necessarily involves the dissolution in law of any community already dissolved in fact; [p18]

4. that since the dissolution of communities is not effected by a pronouncement but follows automatically upon the fulfilment of the condition upon which the Convention is made dependent, there is no need to consider on what laws a pronouncement of dissolution should be based;

that the laws of the country in the territory of which the community to be dissolved has functioned cannot constitute any hindrance to its dissolution; that if in regard to this point, or in any other respect, they conflict with the Convention, they are to be regarded as of no effect.

III. With regard to the consequences of the dissolution of communities:

1. that the relations to be dissolved by the dissolution of a community are those which existed in law up till that date between the community as a juridical person and, on the one hand, its members who can no longer expect from it the services which it formerly rendered them and who will be entitled to benefit by the liquidation of its property, and, on the other hand, the territorial State, which will be released from the treaty obligations which it had previously assumed in relation to the community and will become the owner of its immovable property upon payment to the Commission of the value of such property;

2. that when the Convention speaks of the property of communities, it does not mean private patrimonial rights which emigrants might in certain circumstances possess in re aliena in respect of such property, but the whole of the movable and immovable property included in the patrimony which these communities possessed as juridical persons;

3. that in order to decide what relations are to be severed in the event of the dissolution of a community, the moment in time to be taken is that at which the dissolution in law of the community takes place, and not that of its dissolution in fact which may have occurred in the past;

4. that the Convention applies to communities dissolved in fact before its entry into force. As regards such communities the rules to be applied as regards their dissolution in law are the same as those applicable to the communities referred to in Article 7 of the Convention.

IV. With regard to the allocation of the proceeds of the liquidation of communities:

1. that if the Mixed Commission does not succeed in discovering the possessors of rights in rem to the liquidated property of a dissolved community, it must allocate the value of such property to the State to which the said community is racially akin; [p19]

2. that as regards communities dissolved in fact before the entry into force of the Convention, the rules to be applied with regard to the allocation of the proceeds of the liquidation of their property are the same as those applicable to the communities referred to in Article 7 of the Convention. ♦

II.

[17] Before answering the questions put, the Court considers it necessary to recall the general purpose which the Greco-Bulgarian Convention of November 27th, 1919, respecting emigration, was designed to fulfil, as also those of its provisions which have to be applied and the scope of which should therefore be clearly defined.

[18] The Greco-Bulgarian Convention concerning emigration constitutes, according to its Preamble, the execution of Article 56, paragraph 2, of the Peace Treaty concluded the same day between the Allied and Associated Powers and Bulgaria. This article forms part of the provisions

relating to the protection of minorities.

[19] This shows the close relationship existing between the Convention and the general body of the measures designed to secure peace by means of the protection of minorities.

[20] It was in this spirit, as stated in the Preamble, that the Principal Allied and Associated Powers considered it opportune that the reciprocal and voluntary emigration of minorities in Greece and Bulgaria should be regulated by the Convention. It follows that this Convention cannot apply to persons other than those who formed minorities-in either one country or the other.

[21] The general purpose of the instrument is thus, by as wide a measure of reciprocal emigration as possible, to eliminate or reduce in the Balkans the centres of irredentist agitation which were shown by the history of the preceding periods to have been so often the cause of lamentable incidents or serious conflicts, and to render more effective than in the past the process of pacification in the countries of Eastern Europe.

[22] With these objects in view, the Convention not only lays down that the departure of persons wishing to emigrate is not to be hindered in any way, but also contains clauses [p20] designed to prevent the material losses which their emigration might entail upon them.

[23] Furthermore, but always in the same spirit, the Convention seeks to stabilize emigrations which have taken place in the past and, with this object, gives to these former emigrants - mostly refugees who had fled in consequence of wars or acts of violence - the possibility of recovering, if not the actual property, at all events the value of the property which they had been compelled to abandon on their departure.

[24] In both cases it will readily be understood that, without these clauses regarding property, there would have been hesitation in the reciprocal emigration desired by the Powers, and the permanent settlement of the former refugees would have remained a matter of uncertainty for lack of encouragement. The general purpose of the Convention would thus have been compromised.

[25] In these circumstances, the Convention makes provision first and foremost (Articles 1, 2, 3, 4, 5, 6, 7) for emigration subsequent to the Convention and carried out in accordance with its terms, and, secondly and subsidiarily, in a special clause deals with emigration previous to the entry into force of the Convention. This clause constitutes Article 12.

[26] It should be observed that the Convention, by its provisions, which lay down the conditions under which the right of emigration is to be exercised by the respective nationals of the two States, which remove any obstacles which might interfere with their departure - save of course for a serious conviction under the ordinary law - which fix conditions as regards age, as also conditions respecting married women and children and which, in the case of the former refugees, stipulate that departure is to be followed by settlement, has clearly indicated that it was individuals who were entitled to take advantage of its terms.

[27] Nevertheless, the material benefits which from time immemorial in the East individuals of the same race, religion, language and traditions, have derived from uniting into communities, are well known.

[28] Accordingly, the Convention does not confine itself to protecting the separate property of individuals (Article 2, [p21] paragraphs, Article 6, paragraph 1, and Article 7), but also aims at securing for them, subject to certain conditions and formalities, the possibility of taking away with them the movable property and of receiving the value of the immovable property of the communities which are dissolved by reason of their emigration, collective property thus being assimilated to individual property.

[29] In the light of these preliminary observations, the various questions put to the Court call for the following remarks:

Questions Drawn up by the Mixed Commission.

1 ♦ "What is the criterion to be applied to determine what is a community within the meaning of the Convention, inter alia under Article 6, paragraph 2?"

[30] By tradition, which plays so important a part in Eastern countries, the "community" is a group of persons living in a given country or locality, having a race, religion, language and traditions of their own and united by this identity of race, religion, language and traditions in a sentiment of solidarity, with a view to preserving their traditions, maintaining their form of worship, ensuring the instruction and upbringing of their children in accordance with the spirit and traditions of their race and rendering mutual assistance to each other.

[31] Nowhere is evidence to be found that the Greco-Bulgarian Convention of November 27th, 1919, regarding emigration intended, by some special stipulation, to depart in any of its provisions and particularly in Article 6, paragraph 2, from this general traditional conception.

[32] On the contrary, the aim and object of the Convention, its connection with the measures relating to minorities, the desire of the signatory Powers, to which the whole Convention bears witness, that the individuals forming the communities should respectively make their homes permanently among their own race, the very mentality of the population concerned - everything leads to the conclusion that the Convention regards the conception of a "community" from the point of view of this exclusively minority character [p22] which it has had for centuries past in the East, and in which it played so important a part both under the Turkish Empire and at the time of the recognition of the independence of the States which emerged from the old Turkish provinces or dependencies.

[33] The question whether, in deciding on the application of the Convention, a particular community does or does not conform to the conception described above is a question of fact which it rests with the Mixed Commission to consider having regard to all the circumstances.

[34] In order to fulfil the purpose for which they existed, and in order to meet the common needs of their members, it was necessary that the communities should have property at their disposal, that they should have a patrimony, no matter what legal form their possession of it might take, or what the local law might be as regards the granting or withholding of juridical personality so as to enable them to be capable in law of owning property.

[35] The existence of communities is a question of fact; it is not a question of law. In actual fact the communities ordinarily possessed property. The Convention itself recognizes this by referring expressly to the property, movable

[36] The question whether, according to local law, a community was or was not recognized as a juridical person, may be of some importance from the point of view of the form which its possession of property took. But the situation of fact is not thereby altered and there is nothing in the provisions of the Convention respecting the property "belonging to communities" to indicate that only those communities which have been accorded special legal recognition by the local legislation are meant. If that had been its meaning, the Convention would have been in conflict with the object which it was designed to achieve, namely, to facilitate emigration as much as possible.

[37] Article 6, paragraph 2, when it mentions communities of which emigrants may be members,

adds the words "(including churches, convents, schools, hospitals or foundations of any kind whatever)". [p23]

[38] In this connection, two hypotheses must be considered both of which are covered by the Convention.

[39] A church, convent, school, hospital or any other foundation may, indeed, constitute a more or less important part of the property belonging to a community. If so, it is covered by the terms of Article 6, paragraph 2, and Article 7 of the Convention, which grant to emigrants the property or the value of the property belonging to their communities.

[40] But by these establishments may also be meant particular institutions of which emigrants may be members or beneficiaries, which have a separate existence and which in some cases even have been accorded special recognition by the local legislation. In such cases, the effect of Article 6, paragraph 2, of the Convention is to assimilate such churches, convents, schools, hospitals or foundations to communities, so as to secure to emigrants, who are members or beneficiaries of these institutions, the same rights in respect of the property thereof as in respect of property belonging to communities.

[41] With regard to the first question drawn up by the Mixed Commission, the conclusion is thus reached that the conception of a community within the meaning of the Greco-Bulgarian Convention regarding emigration is the historical and traditional conception, - that the question whether, according to local law, a community was or was not recognized as a distinct juridical person, need not be considered from the point of view of the Convention, - that in point of fact the communities possessed property - and that churches, convents, schools, hospitals or foundations having a separate existence are, when persons who are members or beneficiaries thereof emigrate, assimilated to communities.

2❖ "What conditions must be satisfied in order to cause the Mixed Commission provided for in the Convention to dissolve a community such as is meant by the Convention ?"

[42] The existence of a community being, as already stated, a question of fact and not of law, the same must hold good [p24] as regards its dissolution, which is also a question of fact and not of law.

[43] The Convention contains no definition of dissolution; it confines itself to providing for cases where dissolution may occur.

[44] The powers conferred by the Convention upon the Mixed Commission relate to the measures to be taken after dissolution has taken place. But since dissolution is not the result of legal proceedings, the Mixed Commission is not called upon itself to dissolve a community, but simply to verify whether dissolution has taken place, in order then to carry out the measures prescribed in this event by the Convention.

[45] On the other hand, in order that a community must be regarded as dissolved from the point of view of the Convention, and in order that the Commission may thereupon take the measures consequent on such dissolution, it follows from Article 6, paragraph 2, that certain conditions must be fulfilled. It rests with the Commission to satisfy itself that they are fulfilled.

[46] In the first place, the dissolution of the community must be the consequence of the emigration of persons who were members of it.

[47] In the second place, it is essential that, as a result of this emigration, of its extent and in general of the conditions in which it has taken place, the community should be unable to perform

its task and fulfil its purpose.

[48] These are questions of fact which the Commission must decide, and it has all the powers necessary for this purpose under Article 9 of the Convention.

[49] Furthermore, if it happened that a community, in the ? sense of the Convention, had received special legal recognition under the local law, some special local legal proceeding; might on that account be necessary in order that the community should be dissolved in the eyes of the local law. That, however, would be a proceeding outside the functions of the Mixed Commission and extraneous to the dissolution of the community as contemplated by the Convention. [p25]

3❖ "What is to be understood by such dissolution? What relations are to be dissolved? What is the period by reference to which the existence of such relations is to be established ?"

[50] Since, as has been seen, the existence of a community is, within the meaning of the Convention, only a question of fact, and since the dissolution itself is also a question of fact, dissolution is the cessation of the existence of a community. The community ceases to exist, and ceases to exist in all respects. It would be useless to argue that a community which has disappeared in fact continues to exist in law, and that this continued legal existence necessitates a "dissolution in law". Such a situation could only arise if the communities must, within the meaning of the Convention, be recognized as juridical persons and, as has been seen, this is not the case.

[51] As regards the "relations" destroyed by dissolution, the very nature of a community shows that these relations are bonds of solidarity uniting the individuals who are members of the community and involving mutual rights and obligations for these individuals.

[52] If by "relations" are meant the various relations implied by the existence of the community, it will be seen that the dissolution of the community terminates not only the relations of the individual members of the community one with another, but also their relations with the community itself, as well as the relations between the community and third parties.

[53] Lastly, as regards the moment of time by reference to which the existence of such "relations" is to be established, in principle this moment is clearly that immediately preceding the dissolution of the community; on this dissolution the application of the measures provided for by the Convention is dependent.

[54] If however the dissolution of a community only takes place as the result of several consecutive emigrations, the last of these involving dissolution, it is a question to be considered in each particular case, and it will rest with the Commission to ascertain whether, and if so to what extent, the earlier [p26] emigrations have contributed to the dissolution, and to decide whether they should be taken into consideration for the purposes of the distribution of the property of the community.

4❖ "What attitude is to be observed by the Mixed Commission in cases where it does not succeed in discovering the 'ayants droit' (persons entitled) referred to in Article 10, paragraph 2, of the Convention ?"

[55] If it is borne in mind that the object of the Greco-Bulgarian Convention was to facilitate the emigration of individuals to the country to which they are racially akin, that the Convention provides for the dissolution of communities precisely because of this emigration and that, in order to encourage individuals to emigrate, it affords them the possibility, conditional upon their emigration, of benefiting individually from the property of the community, it will be evident that this dividing up of the property is a favour exclusively reserved to persons entitled to avail

themselves of the terms of the Convention.

[56] Since the measures provided for by the Convention are designed to benefit emigrants, the Mixed Commission must only intervene in order to satisfy itself that a community is dissolved upon the application of individuals made personally, or on their behalf, establishing their right to avail themselves of the Convention and, thereby, their right to invoke its terms with a view to claiming the allotment to them of movable property or of a portion of the value of the immovable property belonging to the dissolved community.

[57] When the property of a dissolved community is liquidated, no matter when this dissolution has taken place, the only ayants droit (persons entitled) therefore are the emigrant members of the community who establish their title and claim liquidation on the ground of dissolution.

[58] It is therefore difficult to see how, at any rate at that moment, the ayants droit (persons entitled) would not be known.

[59] Nevertheless, it may happen that among the ayants droit (persons entitled) who were known at that time, there may be some who subsequently cannot be traced in spite of the efforts of the [p27] Commission. In such a case, the Commission should inform the governments concerned of the fact and they will take the necessary steps, in accordance with their respective laws, to ensure that the value is duly paid to the persons entitled to receive it under the terms of the Convention.

Questions Drawn up by the Bulgarian Government.

1 ♦ "Seeing that the Convention deals with voluntary emigration and that a community, being a legal fiction, only exists in virtue of the law of the country in question, whose frontiers it cannot transcend, can it be admitted 'that a community may emigrate in virtue of the Convention, or does it not logically follow that, where the Convention speaks of the property of communities, this must be understood to mean any private property rights which emigrants may eventually possess in respect of such property ?"

[60] The various statements upon which this question is based cannot be regarded as either correct or relevant.

[61] In the first place the Convention does not deal with voluntary emigration only, since in Article 12 it also deals with former refugees.

[62] In the second place, as has already been seen in connection with the first question of the Mixed Commission, it is incorrect to regard the "community" as a legal fiction existing solely by the operation of the laws of the country.

[63] In the third place, the question whether a community, within the meaning of the Convention, may or may not emigrate is a question irrelevant to the application of the Convention which, as has been seen, has for its object the emigration of individuals. The individual members of the community, and they alone, can under certain conditions carry away the movable property of the community and receive the value of its immovable property. [p28]

[64] As regards any private property rights which emigrants may possess in respect of the property of the community, these rights form part of the "pecuniary rights" of emigrants expressly mentioned and protected by Article 2, paragraph 2, of the Convention. They should not be confused with the movable and immovable property belonging to the community, in regard to which Articles 6, paragraph 2, and 7 of the Convention provide for distribution in kind as regards the former and liquidation followed by distribution of the value as regards the latter.

2♦ "The Mixed Commission being an executive body entrusted with the duty of facilitating emigration and liquidating existing rights of emigrants, and not with the creation of fresh rights, what body would be competent to order the eventual dissolution of a community, and what laws would such body be required to observe in such a case ?"

[65] The Convention does not confine itself to entrusting the Commission with the liquidation of the immovable property of emigrants; it also entrusts it (Article 6, paragraph 2), where necessary, with the distribution to emigrants of the movable property and of the proceeds of the liquidation of the immovable property (Articles 7 and 10) belonging to communities.

Moreover, since the community is not a creation of the local law but has an existence in fact, its dissolution is also a question of fact; this dissolution has not to be pronounced by any "competent body", as might possibly be the case if the community itself had been constituted and recognized in accordance with some local law. The rights of members are not therefore created by a decision of the Commission but arise out of the Convention itself.

[66] For the same reasons the question of the applicability of any particular legislation cannot arise. [p29]

3♦ "Whichever views be adopted, i.e. whether, the case is considered to be one of liquidation merely of emigrants' property rights over the property of the communities or one of liquidation in general of the property of the communities, must it not on either hypo-thesis be recognized that the liquidation must extend to the private property of the moral person which is constituted by a commune, a commune being the typical example of a community ?"

[67] The "commune" is a territorial district constituted by public municipal law as an administrative and political unit, and remaining the same no matter who its inhabitants may be. The conception of a community, within the meaning of the Convention, and its characteristic features are foreign to this unit of the internal organization of a country.

[68] In actual fact, it may happen that a community by itself constitutes the entire population of a commune and that consequently it is the community which exercises the rights and fulfils the obligations of the inhabitants of a commune. Should, however, this community disappear for any reason, should the population change in this administrative district, the commune continues to exist notwithstanding, for it owes its existence not to the fact of the presence within its boundaries of inhabitants of some particular race, religion or traditions, but to the sovereign law of the State.

[69] If a community forming the whole population of a commune possesses property therein, and if its members emigrate, it is easy to see that this property will have to be liquidated; but it would be inconceivable if, by reason of this emigration, property belonging to the commune itself were to be liquidated. It is evident that such property, since it does not belong to the community, cannot be liquidated on the ground of emigration.

[70] Of course, if emigrants possessed individual rights in respect of property jointly belonging to the inhabitants of a commune, such rights must be respected and would be protected as provided by Article 2 of the Convention. [p30]

Questions Drawn up by the Greek Government.

1♦ "What is, in view of their origin and development, the nature of the communities referred to in Article 6, paragraph 2, and Article 7 of the Convention of Neuilly ? Do they enjoy, in law or in fact, a personality which confers upon them some of the attributes of a moral person and in particular the right to possess a patrimony separate from that of their members ?"

[71] This question gives rise to the same observations as those made in regard to the first question of the Mixed Commission, and there is no need to repeat them.

2❖ "Do the communities possess the characteristic of being connected as minorities and racial groups with the country in which the majority of the population is of the same race? What are eventually the consequences, as regards the allocation of their property, where their members, as contemplated by Article 10 of the Convention, are dispersed or absent (in the legal sense of the term) ?"

[72] It follows from the observations already made with regard to the Mixed Commission's first question that communities are of a character exclusively minority and racial.

[73] On the other hand, whatever reasons may be advanced in support of the allocation to the State to which a community is racially akin of the value of the property of such community when dissolved, if the members thereof are dispersed or absent, these reasons are foreign to the aim and object of the Convention. The latter was in no way intended to lighten by this means the burden which might devolve upon this State as a result of an influx of population for the needs of which it has to provide. [p31]

[74] As has been stated, the only persons entitled to benefit by the Convention and able to invoke it in order, in certain circumstances, to have allotted to them the property or the value of the property of a dissolved community, are the emigrant members of such community. To them alone the allocation of the property is reserved. The intention of the Convention is by this means to facilitate or stabilize their emigration.

[75] There is nothing in the Convention justifying the deduction that the relations existing between communities and the country to which they are racially akin give that country any sort of claim in respect of the movable property or of the proceeds of the liquidation of the immovable property of dissolved communities; this holds good even if all the former members have established themselves in the territory of that country.

3❖ "On what conditions should the dissolution of the communities be made to depend ?"

[76] This question gives rise to the same observations as have already been made with regard to the second question of the Mixed Commission, and there is no need to repeat them.

4❖ "Does the Convention of Neuilly deal with communities dissolved before its entry into force ? Should the same rules be applied as regards the dissolution of these communities and the allocation of the proceeds of the liquidation of their property as apply in the case of the communities referred to in Article 7 of the Convention ?"

[77] The Convention in its various clauses only deals with communities in so far as concerns their property which, following upon their dissolution as a consequence of emigration, the Convention devotes to the benefit of persons who were their members. The provisions with reference to individuals cannot be extended to communities.

[78] Similarly, and from the point of view of the Convention, it is, as has been stated, impossible to contemplate a survival [p32] in law of a community which has in fact ceased to exist and is dissolved.

[79] Entirely different is the question whether Article 12, securing to persons who had emigrated before the coming into force of the Convention the value of property left behind them in the country which they have quitted, also gives them the right to claim the value of the property of

communities of which they were members and which have been dissolved as a consequence of their emigration.

[80] In regard to this it should be observed that the object of Article 12 is to allow certain persons to have the benefit of the Convention to whom Articles 1 to 11 are not applicable. Though it would be contrary to all sound rules of interpretation to change the system of these articles by extending their application to persons not contemplated by them, it seems on the other hand to be in harmony with the aim and spirit of this article to give to persons who have already emigrated in respect of the "property left by them" the same economic advantages as are secured by the Convention to future emigrants. It follows that just as persons emigrating subsequently to the Convention participate in the property of the community the dissolution of which is brought about by their emigration, so former refugees ought to have the possibility of participating in the proceeds of the liquidation of property belonging to a community of which they were members and the dissolution of which resulted from their departure.

5❖ "If the application of the Convention of Neuilly is at variance with a provision of internal law in force in the territory of one of the two Signatory Powers, which of the conflicting provisions should be preferred - that of the law or that of the Convention ?"

[81] In the first place, it is a generally accepted principle of international law that in the relations between Powers who are contracting Parties to a treaty, the provisions of municipal law cannot prevail over those of the treaty.

[82] In the second place, according to Article 2, paragraph 1, and Article 15 of the Greco-Bulgarian Convention, the two [p33] Governments have undertaken not to place any restriction on the right of emigration, notwithstanding any municipal laws or regulations to the contrary, and to modify their legislation in so far as may be necessary to secure the execution of the Convention.

[83] In these circumstances, if a proper application of the Convention were in conflict with some local law, the latter would not prevail over the Convention.

[84] FOR THESE REASONS,

The Court

is unanimously of opinion that the answers to the questions submitted to it are as follows

I. - Answers to the questions drawn up by the Mixed Commission:

1❖ The criterion to be applied to determine what is a community within the meaning of the articles of the Convention, inter alia Article 6, paragraph 2, is the existence, of a group of persons living in a given country or locality, having a race, religion, language and traditions of their own, and united by the identity of such race, religion, language and traditions in a sentiment of solidarity, with a view to preserving their traditions, maintaining their form of worship, securing the instruction and upbringing of their children in accordance with the spirit and traditions of their race and mutually assisting one another.

From the point of view of the Convention, the question whether, according to local law, a community is or is not recognized as a juridical person need not be considered; communities can, in fact, possess property; churches, convents, schools, hospitals or foundations existing as distinct entities are, when the persons who are members or beneficiaries thereof emigrate, assimilated to communities.

2❖ The Mixed Commission, provided for by the Convention, has not itself to dissolve communities. In the meaning of the Convention, the dissolution of a community is a fact [p34] which must be verified by the Commission. It must result from the exercise of the right of

emigration by the members of such community, and this emigration must involve the disappearance of the community or render it impossible for it to carry out its mission or fulfil its object.

3♦ By the dissolution of a community is to be understood the breaking up of the community and the cessation of its existence in all respects.

The "relations" dissolved are those which united the members of the community. Dissolution terminates the mutual relations of individuals as members of the community as well as their relations with the community itself and the relations between the community and third Parties. The existence of these relations should in principle be determined by reference to the moment of time immediately preceding the dissolution of the community.

4♦ The idea of the Convention is not to admit the dissolution of a community and the liquidation of its property in the absence of individuals, members of such community, who manifest their desire to profit by the terms of the Convention ; it is therefore difficult to see how the ayants droit (persons entitled) will not be known at the time of the liquidation.

Should there be some who subsequently, notwithstanding the efforts of the Commission, cannot be traced, the Commission must inform the governments concerned, with whom it will-rest, in accordance with their respective laws, to take the necessary steps to ensure that the proceeds of liquidation are duly paid to those entitled to them under the Convention.

II. - Answers to the questions drawn up by the Bulgarian Government:

1♦ Private patrimonial rights which emigrants may have in respect of the property of the community form part of the "pecuniary rights" of emigrants, and these rights are expressly mentioned and protected by Article 2, paragraph 2, of the Convention; they are not to be confused with the property belonging to the community and dealt with in Article 6, paragraph 2, and Article 7. [p35]

2♦ The dissolution of a community being a fact, it has not to be pronounced by any body and, so far as regards the application of the Convention, there is no need to ascertain what particular law is applicable.

3♦ The liquidation by the Mixed Commission of the property of a community, within the meaning of Article 6, paragraph 2, and of Article 7, does not apply to the private property of the commune.

III. - Answers to the questions drawn up by the Greek Government:

1♦ The reply to this question has been given in paragraphs 1 and 2 of the reply to the first question of the Mixed Commission.

2♦ Communities, within the meaning of the Convention, are of a character exclusively minority and racial. The State to which they are racially akin does not from this circumstance derive any right to the movable property or to the proceeds of the liquidation of the immovable property of a dissolved community whose members are dispersed or absent.

3♦ The reply to this question has been given in connection with the second question of the Mixed Commission.

4♦ The Convention is only applicable to communities dissolved before its entry into force on the ground of emigration so far as regards the application of the liquidation of their property. A dissolved community cannot get the benefit of Article 12, because it cannot comply with the conditions laid down in that article. Former emigrants are given the possibility of participating in the division of the proceeds of the liquidation of the property of the community of which they were members before its dissolution.

5♦ Should a proper application of the Convention be in conflict with some local law, the latter would not prevail as against the Convention. [p36]

[85] Done in French and English, the French text being authoritative, at the Peace Palace, The

Hague, this thirty-first day of July one thousand nine hundred and thirty, in two copies, one of which is to be deposited in the archives of the Court and the other to be forwarded to the Council of the League of Nations.

(Signed) D. Anzilotti,
President.

(Signed) ♦. Hammarskj♦ld,
Registrar [p37]

Annex 1.

[Translation [FN1]]

[FN1] Translated by the Secretariat of the League of Nations

Convention Between Greece and Bulgaria Respecting Reciprocal Emigration [FN2]

[FN2] The exchange of ratifications took place at Paris, on the 9th August, 1920

Signed at Neuilly-Sur-Seine, November 27th, 1919.

[Official French text forwarded on August 25th, 1920, by the Minister of Greece in London, for registration. The registration of this Convention took place on August 25th, 1920.]

As provided in Article 56, paragraph 2, of the Treaty of Peace with Bulgaria, concluded the 27th November, 1919, and in accordance with the decision of the Principal Allied and Associated Powers of 27th November, 1919, to the following effect:

"Having regard to Article 56, paragraph 2, of the Treaty of Peace with Bulgaria, the Principal Allied and Associated Powers consider it opportune that the reciprocal voluntary emigration of the racial, religious and linguistic minorities in Greece and Bulgaria should be regulated by a convention concluded between those two Powers in the terms decided upon this day",

The undersigned Plenipotentiaries of Greece, of the one part,
And of Bulgaria, of the other part,
After exchanging their full powers, respectively found in good and due form, have agreed as follows:

Article 1.

The High Contracting Parties recognize the right of those of their subjects who belong to racial, religious or linguistic minorities to emigrate freely to their respective territories.

Article 2.

The High Contracting Parties undertake to facilitate by all the means at their disposal the exercise of the right referred to in Article 1, and not to place directly or indirectly any restriction on the right of emigration, notwithstanding laws or regulations to the contrary, which in this respect shall be deemed to be without effect. [p38]

In particular, the exercise of the right of emigration shall not affect the pecuniary rights of the emigrants, as these may exist at the moment of emigration.

Article 3.

No obstacle shall be placed in the way of the departure of a voluntary emigrant for any reason whatever, save in case of a final sentence to imprisonment for an infraction of ordinary law. In case of a sentence which is not yet final, or of penal proceedings under ordinary law against an emigrant, he shall be handed over to the authorities of the country to which he is going by the authorities of the prosecuting country with a view to his trial.

Article 4.

The right of voluntary emigration belongs to every person over 18 years of age. It may be exercised during a period of two years from the date of constitution of the Mixed Commission provided for in Article 8, by means of a declaration before its representatives. A declaration of intention to emigrate on the part of a husband shall imply a declaration by his wife; a declaration of intention to emigrate on the part of parents or guardians shall imply a declaration by their children or wards under 18 years of age.

Article 5.

Emigrants shall lose the nationality of the country which they leave the moment they quit it and shall acquire that of the country of destination from the moment of their arrival there.

Article 6.

Persons who, in execution of the foregoing provisions, exercise the right of emigration, shall be free to take with them or to have transported their movable property of every kind without any duty, whether export or import, being levied from them on this account.

Similarly, in cases where the right of emigration is exercised by members of communities (including churches, convents, schools, hospitals or foundations of any kind whatever) which on this account shall have to be dissolved, the Mixed Commission provided for in Article 8 shall determine whether and in what circumstances such members shall have the option of freely taking with them or having transported the movable property belonging to the communities. [p39]

Article 7.

Real property, rural or urban, belonging to voluntary emigrants or to the communities to which Article 6 refers, shall be liquidated in accordance with the following provisions by the Mixed Commission provided for in Article 9.

Article 8.

Within a period of three months from the entry into force of the present Convention, a Mixed Commission shall be created, composed of one member nominated by each of the contracting States concerned and of an equal number of members of a different nationality, from among whom also the president shall be chosen, who shall moreover be nominated by the Council of the League of Nations.

Article 9.

The Mixed Commission shall have the duties of supervising and facilitating the voluntary emigration referred to in the present Convention and of liquidating the real property of emigrants.

It will fix the conditions of emigration and of liquidation of real property.

In general, the Mixed Commission shall have full powers to take the measures rendered necessary by the execution of the present Convention and to decide all questions to which this Convention may give rise.

The decisions of the Commission shall be by majority; the President shall have the casting vote.

Article 10.

The Mixed Commission shall have full power to have a valuation made of real property, the interested Parties being heard or duly summoned to a hearing.

The government of the country where the liquidation takes place shall pay to the Mixed Commission, under conditions to be fixed by the latter, and for transmission to the rightful Parties, the value of the real property liquidated, which shall remain the property of the said government.

Article 11.

Funds shall be advanced to the Mixed Commission by the States concerned with a view to facilitating emigration and under conditions fixed by the Commission. The Commission shall advance to emigrants, according to the funds available, the value of their real property. [p40]

Article 12.

Persons who before the entry into force of the present Convention have left the territory of one of the contracting States and have already established themselves in the territory of the State to which they belong by race, religion or language, shall have a right to the value of the property left by them in the country which they have left, such value to be that resulting from the liquidation which will be made of the property by the Mixed Commission.

Article 13.

The expenses of the maintenance and working of the Mixed Commission and its agencies shall be borne by the governments concerned in proportions to be determined by the Commission.

Article 14.

The present Convention does not prejudice the rights accruing to the persons concerned under the provisions of treaties or conventions concluded or to be concluded for the regulation of current matters.

Article 15.

The High Contracting Parties undertake to make in their respective legislation the modifications necessary to secure the execution of the present Convention.

Article 16.

Within the period of one year from its entry into force, the present Convention shall be open to the adhesion of States with a common frontier with one of the signatory States.

Such adhesion shall be notified through diplomatic channels to the Government of the French Republic and by it to the signatory or acceding States, and also to the Mixed Commission. It shall have effect a fortnight after the notification to the French Government.

The present Convention shall be ratified and the respective ratifications shall be deposited in Paris by the Signatory Powers at the same time as their ratifications of the Treaty of Peace signed at Neuilly-sur-Seine on the 27th November, 1919. It shall enter into force at the same time as the said Treaty shall enter into force as between Greece and Bulgaria. [p41]

Done at Neuilly-sur-Seine the twenty-seventh November, one thousand nine hundred and nineteen, in one copy, which shall remain deposited in the archives of the Government of the French Republic, and of which authentic copies shall be given to each of the signatory Powers.

(L. S.) (Signed) Eleftherios Veniselos.

(L. S.) (Signed) N. Politis.

(L. S.) (Signed) Al. Stamboliiski.

Certified true copy.

London, the 25th August, 1920.

The Minister of Greece:

(Signed) D. Caclamanos. [p42]

Annex 2.

I. - Documents Transmitted by the Secretariat of the League of Nations:

Convention between Greece and Bulgaria respecting reciprocal emigration (Neuilly-sur-Seine, November 27th, 1919).

Regulations concerning the reciprocal and voluntary emigration of the Greek and Bulgarian minorities (Athens, March 6th, 1922).

Extracts from the Minutes of the fifty-eighth Session of the Council of the League of Nations (7th meeting, January 16th, 1930).

Letter from the President of the Greco-Turkish Mixed Emigration Commission to the Secretary-General of the League of Nations (March 5th, 1930).

Annex:

Decisions taken by the Greco-Turkish Mixed Emigration Commission with respect to communities:

Decision XVIII (April 4th, 1924).

◆ XIX (◆ ◆, ◆).

◆ XXIII (May 27th, ◆).

◆ XLV (July 26th, 1928).

Letter from the President of the Greco-Bulgarian Mixed Emigration Commission to the Secretary-General of the League of Nations (March 6th, 1930).

Letter from the Secretary-General of the League of Nations to the Registrar of the Court (March 17th, 1930).

II. - Extracts from the Minutes of the Mixed Commission and of Its Sub-Committees.

(Transmitted either by the Secretariat of the League of Nations, or by the Bulgarian or Greek Governments, or by the Mixed Commission. - In addition to these extracts, the latter has sent to the Court a complete set of its minutes.)

[43] Meeting of the Commission:

Sent by:

No. 357 (Decision 797 L. 9)

L. of N. M. C.

◆	367	(◆ 817 L. 10)	L. of N.	M. C.	
◆	374		L. of N.		
◆	381		L. of N.	M. C.	
◆	382		L. of N.	M. C.	
◆	385	(Decision 843 B. 78)	L. of N.	M. C.	
◆	415	(Interpretation of the			
◆		Decision 5. 87)			Bulg.
◆	432	(with annexes)	L. of N.		
◆	436	(◆ ◆)	L. of N.		
◆	438				Bulg.
◆	476	(Decision 1027 G. 366)			Bulg.
◆	492	(◆ 1088 G. 390)			Bulg.
◆	504		L. of N.		
◆	505		L. of N.		
◆	506		L. of N.		
◆	519		L. of N.		
◆	525		L. of N.		
◆	535				Greece

Meetings of Sub-Committees:

No.	I.	4	L. of N.	
		695	L. of N.	
		710	L. of N.	
		711	L. of N.	
◆	III.	345	L. of N.	
◆	IV.	526 a		Bulg.
		527 a		Bulg.
		Decision (Nameche) of		
		February 1930		Bulg.
◆	VI.	208	L. of N.	
		219	L. of N.	
◆	VII.	Annex to Decision 367		M. C.

III. - DOCUMENTS TRANSMITTED BY THE PRESIDENT OF THE MIXED COMMISSION:

Letter from the President of the Greco-Bulgarian Mixed Emigration Commission to the Registrar of the Court (March 6th, 1930).

Statement of the circumstances of fact and of law which gave rise to the Mixed Commission's desire to obtain the Court's opinion (March 4th, 1930).

Series of volumes containing the Mixed Commission's decisions:

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❖ II.	F-G
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Statement concerning the mission and work of the Mixed Commission (May 1929).

Interpretation of Article 12 of the Convention, memorandum of Commandant de Roover (June 6th, 1921).

Memoranda Nos. 1, 2, 3 and 4:

1. Interpretation of Article 12 of the Greco-Bulgarian Convention (June 6th, 1921).

2. Memorandum concerning the fate of property abandoned by Bulgarians in Eastern Thrace or by Turks in the new Bulgarian territories (September 21st, 1921).

3. The restitution of real estate to Bulgarian refugees and the right of the latter in certain circumstances to avail themselves of the Treaty of Minorities (December 22nd, 1921). [p44]

4. Memorandum concerning the right of emigrants to have their property valued by the Mixed Commission in relation to the governments' right of expropriation (April 12th, 1923).

Report by Commandant de Roover on his mission in Bulgaria (February 23rd, 1922).

New method of work (October 18th, 1926).

File containing various forms (1 A, 2 A, 3 A, 1 B, 2 B, 3 B, 4, 5).

IV. - Documents Transmitted by the Bulgarian Government:

Memorial of the Bulgarian Government (March 12th, 1930). Observations of the Bulgarian Government (April 17th, 1930).

Annexes:

Note on Bulgarian jurisprudence and on orthodox canon law.

Extract from : Orthodox Canon Law (1904), by Dr. Nicodemus Milas, Bishop of Dalmatia and Istria.

Protocol signed at Geneva on September 29th, 1924, between the representative of the Greek Government and the President of the Council of the League of Nations.

Idem, with the Bulgarian Minister for Foreign Affairs.

Observations of those members of the Mixed Commission appointed by the League of Nations, with regard to the situation of emigrants in Greece and Bulgaria (March 2nd, 1925).

Enquiry concerning the events at Tarlis (1924).

Documents concerning the character of the religious community at Varna:

Message from the Patriarch of Constantinople of the year 1865, concerning the appointment of Bishop Ioachim of Varna, addressed to the Orthodox Christians of Varna, and in which the latter are requested to receive the Bishop, to obey him, etc. This message is drawn up in Bulgarian and in Greek.

Copy of the letter, dated February 28th, 1867, addressed by the same Bishop to the Patriarch of Constantinople and in which the Bishop complains that of 90 villages in his diocese hardly ten, which have a Greek population, accept his authority.

Letter from the same Metropolitan Ioachim, dated April 3rd, 1866, addressed to the inhabitants of Baltchik and Mangalia, in which he complains that he is not paid - written in Bulgarian and in Greek.

Letter from the same Metropolitan, dated March 16th, 1865, addressed to the inhabitants of Baltchik, written in Bulgarian and Greek, with regard to the dismissal of a priest and the appointment of another.

Documents concerning certain churches at Plovdiv (Philippopolis):

Photographs (two) of pages 11 and 12 of the codex of the Metropolitan of Plovdiv, sub 14, dating from February 1783, concerning the settlement of accounts for the building of the church of St. Marina.

The codex is signed by the notables of Plovdiv, the majority being Bulgarian, and approved by Bishop Cyrillus.

Photograph of three sheets of a subscription list of March 15th, 1837, for the construction of the church of St. Paraskeva, which shows the donators, with two exceptions, are Bulgars and that amongst the donators are purely Bulgar villages (Avradala [Koprivchtiza], Dervent, Adjar). [p45] Documents concerning the monastery of St. Vrach situated to the north of the village of Kouklen, and that of Batchkovo, district of Stanimaka. (Region of Plovdiv.)

A part of the principal facade of the church of the convent of St. Vrach.

The same facade enlarged, clearly showing the Bulgarian inscriptions.

Photograph of a marble slab with an inscription in Bulgar, of 1696, recording the construction of the fountain of the monastery.

Seven photographs of holy books of the same monastery written in Bulgar, dating from the XIVth century, except one of the year 1695, which are in the National Library of Plovdiv.

Extract in translation from Chapter 24 of the statutes (Typicon) for the foundation and administration of the convent of Batchkovo, the original of which is in the Library of the University of Bucharest (Roumania).

Extract in translation from the History of the Bulgars, by Const. Iretchek, Chap. XXIX.

Bundle of seven letters (in translation) written by Naiden Gueroff, of Philippopolis (Plovdiv), or addressed to him and to be found in his papers, which are published in two volumes by the Academy of Science of Sofia.

Five extracts from the manuscript of Constantine Mouravenoff, written in 1870, which is in the National Library at Sofia.

Minutes of meetings Nos. 526 a and 527 a of the Nameche Sub-Committee.

The Bulgarian Official Gazette, June 23rd, 1922 (Rules of the Mixed Commission).

The Bulgarian Official Gazette, May 2nd, 1928 (law ratifying the Molloff-Caphandaris Agreement).

V. - Documents Transmitted by the Greek Government:

Memorial of the Greek Government (March 10th, 1930).

Annexes:

Draft agreement regarding reciprocal emigration in the Balkans submitted on October 24th, 1919, to the Commission for new States and the protection of minorities by M. N. Politis, Greek Minister for Foreign Affairs.

Interpellation of M. Karandzoulof at the meeting of March 22nd, 1927.

Communique of the Bulgarian Ministry for Foreign Affairs regarding an appeal from the Macedonian National Committee.

Extracts from TheTimes (April 14th and 18th, 1927).

Extracts from the paper Makedonia, of Sofia, the organ of the Macedonian Revolutionary Committee (April 18th and 20th, 1927).

Observations of the Greek Government (April 23rd, 1930).

Annex:

Letter of the Greek delegation to the Greco-Bulgarian Mixed Emigration Commission (February 14th, 1930).

Four letters of the Bulgarian Diplomatic Agent at Constantinople addressed to His Holiness the

(Ecumenical Patriarch:

Letter sub No. 43 of January 13/25, 1890.

❖ ❖ ,, 278 of March 6th, 1891.

❖ ,, ,, 1059 of August 13/25, 1891.

,, ,, ,, 2224 of October 9/21, 1896. [p46]

Title Deeds:

(a) Title Deed sub 9482 dated March 28th, 1884, in the name of the Greek religious community of Philippopolis (with French translation).

(b) Title Deed sub № 1 of January 3rd, 1903, in the name of the Greek religious community of Bourgas represented by the Metropolitan of Anchialos, Mgr. Vassilios, and Kyriazi Thanassof (with French translation).

A receipt for the payment of tax sub No. 49917 given by the tax collector Thodorofi and made out in the name of the religious community of Varna (with translation into French).

Verbatim minutes of 21st session of the Sobranie, in which on page 1187 is to be found the speech of M. Bouroff, Bulgarian Foreign Minister.

Three numbers of the Bulgarian paper Makedonia (Nos. 1080, 1081 and 1082, of May 22nd, 23rd and 26th, 1930), containing three articles by M. Roumenoff.

An authentic copy of a judgment of the Civil Court of Varna, sub No. 237, dated October 4th, 1879.

An original declaration dated March 12th, 1884, concerning the delimitation of the property ceded by the community of Varna to His Highness the Prince of Bulgaria.

Plan of payment of December 8th, 1922.

The Molloff-Caphandaris Agreement of December 9th, 1927.

Report of the Commission of Enquiry into the frontier incidents between Bulgaria and Greece (Geneva, 1925).

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