

**REPORTS OF INTERNATIONAL
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**RECUEIL DES SENTENCES
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Decision No. 20 (France) v. United Mexican States

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HÉLÈNE BIMAR (FRANCE) *v.* UNITED MEXICAN STATES*(Decision No. 31 of October 19, 1928.)*

PROOF OF LOSS. Documentary and oral testimony *held* sufficient proof that claimant suffered damage by acts of Constitutionalist forces, whose character as such was also a matter of common knowledge.

RESPONSIBILITY FOR ACTS OF FORCES. Looting of residence and storehouse, outrage and violence against claimant, and expelling claimant by threats with death by Constitutionalist forces *held* covered by Article III of the Convention.

DAMAGES. The absence of precise data concerning the value of the looted goods, and the lack of precaution on the part of the claimant who at the approach of the revolutionary forces kept jewels and securities in her countryhouse are taken into account in assessing damages.

ALLOWANCE OF INTEREST. The French Commissioner having proposed to allow interest at a rate of three per cent per annum running from the day of the termination of the Commission's activities, and the Mexican Commissioner having agreed with this proposal, without prejudice, however, to his observations on the subject in the *Pinson* Case, the Presiding Commissioner, making the same reservation, declares that he will conform henceforth on this point to the opinion of the majority.¹

Cross-reference: Annual Digest, 1927-1928, p. 280.

(Text of decision omitted.)

DECISION No. 20

(March 5, 1929. Decision by President and French Commissioner only. R.G.P.C., 1936, Part 2, page 10.)

ENDING OF TERM OF TRIBUNAL.—ABSENCE OF ONE OF MEMBERS OF TRIBUNAL.—STATUS OF CLAIMS PREVIOUSLY ARGUED AND DECLARED CLOSED.—JURISDICTION OF TRIBUNAL COMPOSED OF MAJORITY OF MEMBERS TO DECIDE UPON CLAIMS PREVIOUSLY ARGUED.—REOPENING OF PROCEEDINGS. Under Article VII, final paragraph, of the *compromis*, the tribunal was required to decide upon each claim presented to it within six months from the closing of oral arguments on such claim. In view of the nearing expiration of such term, *held*, by a majority of the members of the tribunal and in the absence of the Mexican Commissioner, that claims previously argued and declared closed shall be reopened for argument and examination.

Comments: Carlston, *The Process of International Arbitration* (New York, 1946). sec. 13.

Lc Commissaire Président de la Commission franco-mexicaine et le Commissaire de la République française, réunis à Paris, en vue d'examiner la

¹ For the opinions concerning the question of the interest expressed by the Mexican Commission and by the Presiding Commissioner in the *Pinson* Case, see above, p. 327 *et seq.*

situation créée par l'expiration éventuelle du délai de 6 mois visé à l'article VII (dernier alinéa) de la Convention franco-mexicaine des réclamations du 25 septembre 1924, concernant une série d'affaires plaidées et déclarées closes au cours de la première période des sessions, prévue dans la Convention additionnelle du 12 mars 1927, et,

Considérant qu'à ce jour les Commissaires soussignés, n'ont pas reçu l'opinion de leur collègue mexicain relative à aucune des affaires déclarées closes et que par déférence pour lui ils désirent ne pas rendre de sentence à la majorité, avant que ce dernier ait pu donner son avis,

Considérant qu'un supplément d'information paraît nécessaire sur les affaires déjà plaidées et qu'il n'a pas été possible de l'obtenir dans les délais voulus,

Considérant qu'à ce jour les Commissaires soussignés ne savent pas si les deux périodes de neuf mois prévues dans la Convention du 12 mars 1927 seront séparées par une interruption de plusieurs ou si, au contraire, aucune solution de continuité n'est à envisager,

Considérant que dans l'éventualité où aucune interruption des travaux de la Commission ne serait admise, le délai prévu à l'article VII arrive à expiration à la date du 6 de ce mois pour deux affaires et dans les jours suivants pour plusieurs autres réclamations et que par conséquent les Commissaires soussignés ne peuvent plus différer leur résolution,

En conséquence, les Commissaires soussignés, vu l'article 39 du Règlement de procédure et se prononçant à la majorité en l'absence de leur collègue mexicain,

Décident de rouvrir les débats et poursuivre l'examen de la cause dans toutes les affaires déjà plaidées et déclarées closes et dans lesquelles une sentence n'est pas encore intervenue.

DECISION No. 21

(*June 3, 1929. Decision by President and French Commissioner only. R.G.P.C., 1936, Part 2, pages 10-11.*)

EXTENSION OF TERM OF TRIBUNAL.—AUTHORITY OF PRESIDENT OF TRIBUNAL TO FUNCTION DESPITE UNILATERAL REVOCATION OF SUCH AUTHORITY BY ONE OF THE PARTIES. The term of the tribunal, as extended by the Convention of March 12, 1927, expired December 26, 1928, but, on April 17, 1927, by exchange of notes provided for in such convention, such term was further extended for a term of nine months. On May 2, 1929, M. Verzijl, in his capacity as President of the tribunal, received a communication from the Mexican Government requesting a postponement of the session of the tribunal because of the inability of the Mexican Commissioner to attend. On May 7, 1929, the Mexican Government requested the French Government to select a third arbitrator in view of the asserted expiration of the functions of M. Verzijl, as President, on December 26, 1928. On May 24, 1929, M. Verzijl, as President, convoked the tribunal to meet on May 29, 1929. *Held*, by a majority of the members of the tribunal, the Mexican Commissioner not participating, that M. Verzijl has not ceased to be and remains President and that the tribunal is regularly convened.

Cross reference: Annual Digest, 1929-1930, p. 424.

Comments: Carlston, *The Process of International Arbitration* (New York, 1946), sec. 13.