

PROTOCOL ON THE SOLUTION OF LITIGATIONS RELATING TO THE CONVENTION ON THE PROTECTION OF THE ALPS (ALPINE CONVENTION)

The Republic of Austria,
the French Republic,
the Federal Republic of Germany,
the Italian Republic,
the Principality of Liechtenstein,
the Principality of Monaco
the Republic of Slovenia
the Swiss Confederation,
and
the European Community,

Contracting Parties to the Convention on the Protection of the Alps (Alpine Convention), in their mutual intention to create an effective procedure for consultation and conciliation of disputes regarding the Alpine Convention and its Protocols,
have agreed as follows:

Article 1

Whenever there is any dispute between the Contracting Parties regarding the interpretation or application of the Alpine Convention or one of its Protocols, the Contracting Parties shall firstly aim to reach a settlement by a system of consultations.

Article 2

If, following the invitation sent in writing by one of the Parties concerned to pursue the consultation procedure, no agreement is reached to settle the dispute within a period of 6 months, one of the Parties may have recourse to an arbitration procedure by sending a written communication to the other Party and to the Presidency of the Alpine Conference, for the purpose of settling the dispute in

accordance with the provisions set forth in this respect. The Presidency will immediately notify all the Contracting Parties.

Article 3

To proceed with arbitration pursuant to article 2, an arbitration panel consisting of three members will be formed as follows:

- a) Each Disputant will nominate one member of the arbitration panel. If one of the Disputants does not nominate a member within 60 days of receiving the notification as at article 2 from the Presidency, the member will be nominated by the Secretary-General of the Permanent Court of Arbitration at The Hague within the following 30 days on request from the other Disputant.
- b) The Chairman of the arbitration panel will be nominated by mutual agreement between the two members designated in accordance with letter a) above. If no agreement is reached within 120 days of receiving the notification as at article 2 from the Presidency, the Chairman will be nominated by the Secretary-General of the Permanent Court of Arbitration at The Hague within a further 30 days on request from one of the Disputants.
- c) Once appointed, the members of the arbitration panel may only be dismissed by mutual agreement between the Disputants.
- d) The positions becoming vacant will be assigned by the methods prescribed for the initial nomination.

Article 4

1. Each Contracting Party has the right to inform the arbitration panel of its opinion in relation to the dispute.
2. When a Contracting Party considers it has an interest of a juridical nature in relation to the object of the dispute, it may request to the arbitration panel to be allowed to intervene in the case.

Article 5

Unless the Disputants decide otherwise, the arbitration court will determine its own Internal Regulations.

Article 6

The Disputants shall refrain from adopting any measure that could compromise or prejudice the award of the arbitration panel. On request from one of the Disputants, the arbitration panel has the power to indicate cautionary measures that must be taken to protect the respective rights of each Disputant.

Article 7

Unless the Disputants have agreed otherwise, the arbitration court will define which language or official languages of the Alpine Convention will be used during the procedure.

Article 8

1. The Disputants shall facilitate the work of the arbitration panel and, specifically, using every means at their disposal:
 - a) they will provide the panel with all the relevant documents and information and
 - b) they will allow the panel, if necessary, to summon witnesses or experts and to receive their evidence.
2. All the documents and information submitted to the arbitration panel's attention by one of the Disputants must, by that Disputant, be simultaneously brought to the knowledge of the other Disputant.

Article 9

The panel will pronounce its sentence in accordance with international law and the provision of the Alpine Convention and its Protocols.

Article 10

The absence of one of the Parties or its lack of defence will not constitute an obstacle to continuing the proceedings. Before pronouncing the final sentence, the arbitration panel must ensure that the application is justified in terms both of substance and from a legal point of view.

Article 11

The arbitration panel will pronounce its definitive award within 6 months from the date it is fully constituted, unless deeming it necessary to defer the period for a maximum of 6 months.

Article 12

Both as regards the legal issues arising from the arbitration proceedings and the substance matters, decisions reached by the arbitration panel are by a majority of its members. The arbitral award is final and binding on the Disputants. The arbitration panel must publish the motivations for such award. The Disputants shall promptly implement the arbitrations panel's decision.

Article 13

Unless the arbitration panel decides otherwise due to special circumstances in the specific case, the arbitration costs, including the fees to its arbitrators, will be equally borne by the Disputants.

Article 14

The Chairman of the arbitration panel shall inform the Disputants and the Presidency of the Alpine Conference about the result of the arbitral award. The President forwards the results of the award to the Contracting Parties and to the observers, in accordance with article 5 (5) of the Alpine Convention.

Article 15

1. The denunciation of this Protocol is only admissible at the same time as denouncing the Alpine Convention.
2. However, this Protocol continues to be applicable to the denouncing Parties as regards the proceedings in progress on the date the denouncement comes into effect. These proceedings shall continue until their conclusion.

Article 16

1. This Protocol shall be open for signature by the Contracting Parties to the Alpine Convention and the European Community on 31 October 2000 and from 6 November 2000 in the Republic of Austria as the depositary.
2. This Protocol shall enter into force for the Contracting Parties which have expressed their agreement to be bound by the said Protocol three months after the date on which three States have deposited their instrument of ratification, acceptance or approval.
3. For Parties which express their agreement to be bound by the Protocol at a later date, the Protocol shall enter into force three months after the date of deposit of the instrument of ratification, acceptance or approval. After the entry into force of an amendment to the Protocol, any new Contracting Party to the said Protocol shall become a Contracting Party to the Protocol, as amended.

Article 17

The depositary shall, in respect of this Protocol, notify each State referred to in the Preamble and the European Community of:

- a) each signature,
- b) the deposit of each instrument of ratification, acceptance or approval,
- c) each date of entry into force,
- d) each declaration made by a Contracting Party or signatory,
- e) each denunciation notified by a Contracting Party, including the date on which it becomes effective.

In witness whereof the undersigned, being duly authorised thereto, have signed this Protocol.

Done at Lucerne on 31 October 2000 in the French, Italian, Slovene and German languages, the four texts being equally authentic, the original text being deposited in the Austrian State Archives. The depositary shall send a certified copy to each of the signatory Parties.