

Article 33

Tribunals empowered to hear all cases mentioned in article 34 shall be set up in suitable places situated on or in proximity to the Rhine.

The Governments of the riparian States shall exchange information relating to the setting up on their territories of tribunals for Rhine navigation and to such changes as may be made to the number, location and jurisdiction of these tribunals.

Article 34

The Rhine navigation tribunals shall have jurisdiction:

- I. in criminal matters, to investigate and judge all infringements of regulations regarding navigation and river police;
- II. in civil matters, to hand down summary judgement in disputes concerning:
 - a) the payment and amount of dues for pilotage, crantage, weighing, port and wharfage;
 - b) obstructions caused by individuals to the use of tow-paths;
 - c) damage caused by boatmasters or raftsmen during a voyage or in a collision;
 - d) complaints against owners of draught-horses employed in towing vessels upstream for damage caused to property.

Article 34 bis

The Rhine navigation tribunals shall also have jurisdiction, in accordance with article 34 II c), if the parties are bound by a contract, notwithstanding article 35 ter; their jurisdiction shall not, however, extend to actions arising out of a contract and directed against a vessel for damage caused by it to persons or property on board.

Article 35

Jurisdiction in criminal matters (art. 34 I) shall lie with the Rhine navigation tribunal of the area in which the offence is alleged to have been committed and in civil matters with the tribunal of the area in which payment should have been made (art. 34 II a)) or where the damage is alleged to have occurred (art. 34 II b), c), d)).

Article 35 bis

When, in the case of article 34 II c), the damage took place on the territories of two riparian States or when it is impossible to determine on what territory the damage took place, jurisdiction shall lie with the tribunal which is the only one before which the case is brought or is the first one before which the case is brought.

When a tribunal of one of the States has decided that it has no jurisdiction in the matter, the tribunal of the other State shall be regarded as having jurisdiction.

Article 35 ter

In a civil action, the parties may agree to take their case before a Rhine navigation tribunal other than the one whose jurisdiction is provided for by articles 35 and 35 bis, or, if national legislation does not prohibit this, another jurisdiction or court.

Article 36

The procedure of Rhine navigation tribunals shall be as simple and expeditious as possible; no security shall be required from foreigners by reason of their nationality.

The judgement shall enumerate the facts which give rise to the case, the questions to be decided in accordance with the result of the investigation and the reasoning on which it is based.

The steersman or raftsman may not be prevented from continuing his voyage on account of proceedings begun against him when he has furnished the security stipulated by the judge.

Article 37³

When the case involves an amount greater than 20 special drawing rights as defined in article 32 of this Convention, the parties may lodge an appeal and have recourse for this purpose either to the Central Commission (art. 43) or to the High Court of the country in which the judgement has been given (art. 38).

If an appeal is to be made to the Central Commission, it shall be notified to the tribunal which heard the case in the first instance, within 30 days of the judgement being legally published according to the official practice in use in each State. This notification shall be accompanied by a specific declaration that it is intended to place the matter before the Central Commission. This notification shall also be forwarded to the other party in the dispute at the domicile elected in the first hearing or, in the absence of such domicile, at the tribunal. The notification to the tribunal shall be in accordance with the legal practice required by the law of the land.

Within 30 days from the date of notification of appeal, the appellant shall present to the tribunal which rendered the first judgement a memorandum setting forth the reasons for this appeal to a higher court. The tribunal shall communicate this memorandum to the other party, who shall be required to reply within the time-limit which shall be stipulated for this purpose. These documents, together with the report of the proceedings at the first hearing shall be transmitted to the Central Commission (art. 43).

If the appellant fails to comply with the formalities prescribed in this article, the appeal shall be considered null and void.

In the event that an appeal is to be made to the Central Commission, the tribunal may, at the request of the successful party in the case, order the provisional execution of the original judgement, deciding, however, according to the law of the land, whether the plaintiff should furnish security beforehand.

³ Text of Additional Protocol No. 3 to the Revised Convention for Rhine Navigation of 17 October 1979.

Article 37 bis

When in a single litigation the plaintiff and the defendant have both appealed within the legal time allowed, one to the Central Commission and the other to the higher national court, the court which first received an appeal shall hear both appeals.

The appeal which is brought before the Central Commission shall be regarded as lodged as soon as it has been notified, in the form and under the conditions provided for in paragraph 2 of article 37, to the tribunal which rendered judgement in the first instance. If the two appeals were lodged on the same day, the court before which the defendant has made his appeal shall hear the appeals.

Each appeal court shall ascertain whether an appeal has already been lodged with the other appeal court.

The appeal court which is not competent within the terms of paragraph 1 shall refer the case, at the request of the appellant, to the court which is competent to hear the appeals within the terms of the aforementioned paragraph. When the appeal to the court which is not competent is lodged within the prescribed period, the period of appeal shall be regarded as having been observed also as far as the other appeal court is concerned.

The costs of the appeals shall also include such costs as, according to the legislation of the court which is not deemed to be competent, have been incurred by the appeal procedure undertaken.

Article 38

Each riparian State shall designate once and for all the higher court to which appeal may be made against judgements given on its territory by the tribunals of first instance for Rhine navigation.

This court must be located in a town situated on or not too distant from the Rhine.

If an appeal is lodged with this court, the procedure to be followed shall be in accordance with the legislation in force in that country.

Article 39

Proceedings connected with Rhine navigation shall not require the use of stamped paper or the payment of fees to judges or clerks of the court. The parties shall have no costs to bear other than those of witnesses or experts and their summons together with those of notification, postage, etc., in accordance with the normal tariffs for court proceedings.

Article 40

Judgements by the Rhine navigation tribunals in each of the riparian States shall be enforceable in all the other States with due observance of the procedure prescribed by the laws of the land in which they are enforced.

Judgements and other decisions, writs of summons and notices of adjournment in cases pending before the Rhine navigation tribunals shall be considered in each of the States, for the purpose of notification, as having been issued by the authorities of that State.

With regard to persons having a known domicile in one of the riparian States, writs and notices in the above cases shall be served at that domicile.

Article 40 bis

1. Each Contracting State shall undertake to make punishable the infringements referred to in article 32 of the Convention either:
 - a) by the procedure laid down in articles 32 to 40 of the Convention;
 - or
 - b) by a particular judicial procedure or by an appropriate administrative procedure.

2. A Contracting State which has recourse to the procedures referred to in paragraph 1.b) shall be required to ensure that:
 - a) territorial jurisdiction belongs to the authority of the area in which the infringement has been committed;
 - b) the decisions impose fines only within the limits laid down in article 32 of the Convention;
 - c) the said decisions are not put into force until at least one week has elapsed after notification of the person concerned;
 - d) the person concerned has the opportunity of lodging an appeal within that period and of obtaining by this means examination and trial of the case by the Rhine navigation tribunal of the area in which the infringement was committed.

3. The provision of the first and third paragraphs of article 36, article 39 and the second paragraph of article 40 and the assurance of notification at the domicile laid down in the third paragraph of article 40 shall be equally applicable to the procedures laid down in paragraph 1.b).

4. The method of appeal against decisions taken as a result of the procedures referred to in paragraph 1.b) to the higher court of the Contracting State by virtue of article 37 of the Convention may be replaced by another appropriate means of appeal to another higher judicial body of the same State, without prejudice to the possibility of making an appeal to the Central Commission.

5. Executive decisions taken as a result of the procedures referred to in paragraph 1.b) shall have the same validity in law as the judgements and other decisions of the Rhine navigation tribunals, and shall be enforced in the other Contracting States by the authorities responsible for enforcing the decisions of the Rhine navigation tribunals.