



American Model United Nations

International Court of Justice

(November 22, 2005)

Gabcikovo/Nagymaros Projects

Dissenting Opinion

Due to the fact that this court has ruled on this case before, and acknowledging that both parties have agreed to adhere by the rulings of this court, this International Court of Justice has jurisdiction over this case. Considering that, in 1997, this Court gave the parties six months to negotiate a new solution to generate hydroelectric power while also replenishing the environment, and that they failed to implement these provisions. Based on Slovakia's request for an additional judgment from the Court, arguing that Hungary did not observed the 1997 judgment, I believe that:

The observance of the 1977 treaty is becoming impossible, since the State of Hungary doesn't want to accomplish with its obligations, as well as with the negotiations previewed in the 1997 judgment. In this context, and based on the Principle of the sovereignty over natural resources, which is a well-established principle of International law, this Court must respect the will of Hungary to preserve their territory from environmental damages. However, as stated in our first judgment, the State of Hungary signed and ratified the 1977 Treaty, which is still in force, and as consequence obliges this State to respect its clauses. First, I recognize that there were no substantial changes in any circumstances, between 1977 and 1992, which could justify the Hungarian non-observance of the 1977 Treaty.

Second, despite the 1977 Treaty describing that the project must constitute "a single and indivisible operational system of works", it also must be quoted article 56, paragraph 1, of the Vienna Convention on the Law of Treaties, which mentions that: "A treaty which contains no provision regarding its termination and which does not provide for denunciation or withdrawal is not subject to denunciation or withdrawal unless: (...) a right of denunciation or withdrawal may be implied by the nature of the treaty."

The nature of the 1977 Treaty, clearly permits a unilateral termination, since it involves the natural resources of both States, and considering that they are supposed to have jurisdiction over their own territory, they are able to change their opinion, but never without pay the correct and fair compensation to the other part.

This Court issued, in judgment on 25 September 1997, that both Slovakia and Hungary breached their obligations under the treaty on the construction and operation of the Gabcikovo-Nagymaros System of Locks.

The Court, in 1997, also found that Hungary violated the treaty by unilaterally suspending and subsequently abandoning the project, and at this time, I believe that Hungary must pay compensation, in terms of article 36, paragraph 2, of the Resolution 56/83 of the General Assembly, concerning about the "Responsibility of States for internationally wrongful acts", which states that: "The compensation shall cover any financially assessable damage including loss of profits insofar as it is established".

The same solution must be applied to Slovakia, in the case concerning the

violation of the treaty by subsequently unilaterally diverting the Danube River after the notice given by Hungary in 1992. Furthermore, in relation to the diverted water source, the State of Slovakia must be responsible for its internationally wrongful act, under its obligation previewed on article 35, of the Resolution 56/83 of the General Assembly, concerning about the “Responsibility of States for internationally wrongful acts”, which expresses that they must “re-establish the situation which existed before the wrongful act was committed”.

In conclusion, the central point of the 1977 treaty was to improve the economic and environmental conditions of both parties involved. Since this was not being accomplished under the status quo, and a party to the treaty was suffering due to the implementation of the projects, they have a sovereign right to take necessary means to protect their interests, as long as they pay the correct reparation for all the damages caused by their actions.

Justice Coronel
Uruguay

Justice Roberts
Cambodia