



## Gabcikovo-Nagymaros Project (Hungary v. Slovakia)

**ARGUED: 21 November 2016**

**DECIDED: 21 November 2016**

1 The dissenting opinion is signed and agreed to by Justice Gross

2 I agree with the body of the court that the court has jurisdiction over this case, for the reasons specified in  
3 the majority opinion.

4 I dissent from the majority opinion in their judgment on the Treaty between the Hungarian Peoples Republic  
5 and the Czechoslovak Socialist Republic Concerning the Construction and Operation of the Gabcikovo-Nagymaros  
6 System of Locks, hereinafter referred to as the 1977 Treaty. Articles 53 and, to a greater extent, 62 of the Vienna  
7 Convention on the Law of Treaties, hereinafter referred to as the Vienna Convention, allow for the denouncement  
8 of the 1977 Treaty. Article 53 declares that a treaty is void in the event that it conflicts with a peremptory norm  
9 of international law. Since I believe environmental protection to be a human right and peremptory norm of the  
10 United Nations, I believe the 1977 Treaty to be void. Article 62, paragraph 1 declares that a fundamental change in  
11 circumstances constitutes legal justification for termination of or withdrawal from the treaty, on the conditions that:  
12 A. The existence of those circumstances constituted an essential basis of the consent of the parties to be bound by  
13 the treaty, and B. The effect of the change is radically to transform the extent of obligations to be performed under  
14 the treaty. Since articles 15 and 19 of the 1977 Treaty necessitate protection of nature and water quality as one of the  
15 1977 Treatys obligations, I believe the emergence of environmental issues being foreseen by the scientific community  
16 after the signing of the 1977 Treaty and prior to the withdrawal of Hungary to be a fundamental change significant  
17 enough for the justifiable withdrawal from the 1977 Treaty by Hungary.

18 Furthermore, I agree with the court in their opinion concerning Variant C, for the reasons specified in the  
19 majority opinion, with the single caveat that the Czechoslovak Republic did not violate the 1977 Treaty because it  
20 was, at the point of Variant Cs implementation, void.

21 I dissent from the first and second order of the majority opinion. As I believe the 1977 Treaty to be void, I  
22 believe the 1977 Treaty should not be re-implemented and Hungary should follow no protocol within.

*Signed By*

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Justice Buxton

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Justice Madrigal

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Justice Weeks

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Justice Selvaggi

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Justice Strum

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Justice Ali

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Justice Quinn

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Justice Johnson

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Justice Nelson

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Justice Farley

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Justice Larsen

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Justice Gross

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Justice Harris

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Justice Conizales

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Justice Henning

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Justice Roehm