

Gabčíkovo-Nagymaros Project (Hungary v. Slovakia, 1997)

On 2 July 1993 the Governments of the Republic of Hungary and of the Slovak Republic notified jointly to the Registry of the Court a Special Agreement, signed at Brussels on 7 April 1993, for the submission to the Court of certain issues arising out of differences which had existed between the Republic of Hungary and the Czech and Slovak Federal Republic regarding the implementation and the termination of the Budapest Treaty of 16 September 1977 on the Construction and Operation of the Gabčíkovo-Nagymaros Barrage System and on the construction and operation of the “provisional solution”. The Special Agreement records that the Slovak Republic is in this respect the sole successor State of the Czech and Slovak Federal Republic. In Article 2 of the Special Agreement, the Court was asked to say : (a) whether the Republic of Hungary was entitled to suspend and subsequently abandon, in 1989, the works on the Nagymaros project and on that part of the Gabčíkovo project for which the Treaty attributed responsibility to the Republic of Hungary ; (b) whether the Czech and Slovak Federal Republic was entitled to proceed, in November 1991, to the “provisional solution” and to put into operation from October 1992 this system (the damming up of the Danube at river kilometre 1,851.7 on Czechoslovak territory and the resulting consequences for the water and navigation course) ; and (c) what were the legal effects of the notification, on 19 May 1992, of the termination of the Treaty by the Republic of Hungary. The Court was also requested to determine the legal consequences, including the rights and obligations for the Parties, arising from its Judgment on the above-mentioned questions. Each of the Parties filed a Memorial, a Counter Memorial and a Reply accompanied by a large number of annexes.

In June 1995, the Agent of Slovakia requested the Court to visit the site of the Gabčíkovo-Nagymaros hydroelectric dam project on the Danube for the purpose of obtaining evidence. A “Protocol of Agreement” was thus signed in November 1995 between the two Parties. The visit to the site, the first such visit by the Court in its 50-year history, took place from 1 to 4 April 1997 between the first and second rounds of oral pleadings.

In its Judgment of 25 September 1997, the Court asserted that Hungary was not entitled to suspend and subsequently abandon, in 1989, the works on the Nagymaros project and on the part of the Gabčíkovo project for which it was responsible, and that Czechoslovakia was entitled to proceed, in November 1991, to the “provisional solution” as described by the terms of the Special Agreement. On the other hand, the Court stated that Czechoslovakia was not entitled to put into operation, from October 1992, the barrage system in question and that Slovakia, as successor to Czechoslovakia, had become Party to the Treaty of 16 September 1977 as from 1 January 1993. The Court also decided that Hungary and Slovakia must negotiate in good faith in the light of the prevailing situation and must take all necessary measures to ensure the achievement of the objectives of the said Treaty, in accordance with such modalities as they might agree upon. Further, Hungary was to compensate Slovakia for the damage sustained by Czechoslovakia and by Slovakia on account of the suspension and abandonment by Hungary of

works for which it was responsible, whereas, again according to the Judgment of the Court, Slovakia was to compensate Hungary for the damage it had sustained on account of the putting into operation of the dam by Czechoslovakia and its maintenance in service by Slovakia.

On 3 September 1998, Slovakia filed in the Registry of the Court a request for an additional Judgment in the case. Slovakia considered such a Judgment necessary because of the unwillingness of Hungary to implement the Judgment delivered by the Court on 25 September 1997. In its request, Slovakia stated that the Parties had conducted a series of negotiations of the modalities for executing the 1997 Judgment and had initialled a draft Framework Agreement, which had been approved by the Slovak Government. However, according to the latter, Hungary had decided to postpone its approval and had even disavowed it when the new Hungarian Government had come into office. Slovakia requested the Court to determine the modalities for executing the Judgment, and, as the basis for its request, invoked the Special Agreement signed at Brussels on 7 April 1993 by itself and Hungary. After the filing by Hungary of a statement of its position on Slovakia's request, the Parties resumed negotiations and informed the Court on a regular basis of the progress in them.

By a letter from the Agent of Slovakia dated 30 June 2017, the Slovak Government requested that the Court "place on record the discontinuance of the proceedings [instituted by means of the request for an additional Judgment in the case] and . . . direct the removal of the case from the List". In a letter dated 12 July 2017, the Agent of Hungary stated that his Government "d[id] not oppose the discontinuance of the proceedings instituted by means of the Request of Slovakia of 3 September 1998 for an additional judgment".

By a letter to both Agents dated 18 July 2017, the Court communicated its decision to place on record the discontinuance of the procedure begun by means of Slovakia's request and informed them that it had taken note that both Parties reserved their respective right under Article 5, paragraph 3, of the Special Agreement of 7 April 1993 between Hungary and Slovakia to request the Court to render an additional judgment to determine the means of executing its Judgment of 25 September 1997.