

INTERNATIONAL COURT OF JUSTICE

REPORTS OF JUDGMENTS,  
ADVISORY OPINIONS AND ORDERS

CASE CONCERNING  
THE GABČÍKOVO-NAGYMAROS PROJECT  
(HUNGARY/SLOVAKIA)

JUDGMENT OF 25 SEPTEMBER 1997

**1997**

COUR INTERNATIONALE DE JUSTICE

RECUEIL DES ARRÊTS,  
AVIS CONSULTATIFS ET ORDONNANCES

AFFAIRE RELATIVE AU PROJET  
GABČÍKOVO-NAGYMAROS  
(HONGRIE/SLOVAQUIE)

ARRÊT DU 25 SEPTEMBRE 1997

tion of the provisions of Article 27 of the 1977 Treaty (see paragraph 18 above), which it submits required prior recourse to the machinery for dispute settlement provided for in that Article.

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46. The Court has no need to dwell upon the question of the applicability in the present case of the Vienna Convention of 1969 on the Law of Treaties. It needs only to be mindful of the fact that it has several times had occasion to hold that some of the rules laid down in that Convention might be considered as a codification of existing customary law. The Court takes the view that in many respects this applies to the provisions of the Vienna Convention concerning the termination and the suspension of the operation of treaties, set forth in Articles 60 to 62 (see *Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970)*, *Advisory Opinion*, *I.C.J. Reports*, 1971, p. 47, and *Fisheries Jurisdiction (United Kingdom v. Iceland)*, *Jurisdiction of the Court, Judgment*, *I.C.J. Reports* 1973, p. 18; see also *Interpretation of the Agreement of 25 March 1951 between the WHO and Egypt*, *Advisory Opinion*, *I.C.J. Reports* 1980, pp. 95-96).

Neither has the Court lost sight of the fact that the Vienna Convention is in any event applicable to the Protocol of 6 February 1989 whereby Hungary and Czechoslovakia agreed to accelerate completion of the works relating to the Gabčíkovo-Nagymaros Project.

47. Nor does the Court need to dwell upon the question of the relationship between the law of treaties and the law of State responsibility, to which the Parties devoted lengthy arguments, as those two branches of international law obviously have a scope that is distinct. A determination of whether a convention is or is not in force, and whether it has or has not been properly suspended or denounced, is to be made pursuant to the law of treaties. On the other hand, an evaluation of the extent to which the suspension or denunciation of a convention, seen as incompatible with the law of treaties, involves the responsibility of the State which proceeded to it, is to be made under the law of State responsibility.

Thus the Vienna Convention of 1969 on the Law of Treaties confines itself to defining — in a limitative manner — the conditions in which a treaty may lawfully be denounced or suspended; while the effects of a denunciation or suspension seen as not meeting those conditions are, on the contrary, expressly excluded from the scope of the Convention by operation of Article 73. It is moreover well established that, when a State has committed an internationally wrongful act, its international responsibility is likely to be involved whatever the nature of the obligation it has failed to respect (cf. *Interpretation of Peace Treaties with Bulgaria, Hungary and Romania, Second Phase*, *Advisory Opinion*, *I.C.J. Reports* 1950, p. 228; and see Article 17 of the Draft Articles on State Responsi-