

Institution: Permanent Court of International Justice
 Type: Advisory Opinion
 Full Title: *Question of the Monastery of Saint-Naoum (Albanian Frontier)*
 Requested by: Council of the League of Nations
 Party(ies): Britain, France, Italy and Japan
 Dated: September 4th, 1924
 Initiated:¹ June 17th, 1924
 Session: Fifth (Ordinary) Session
 General List No.: 10
 No. (by type): Advisory Opinion № 9
 Authoritative Lang.: French
 Language in File: English Only
 Link: http://www.worldcourts.com/pcij/eng/decisions/1924.09.04_saintnaoum/
 Citation: PCIJ, Ser. B., No. 9, 1924.
 Official Publication: Publications of the Permanent Court of International Justice
 Series B – No. 9; Collection of Advisory Opinions
 A.W. Sijthoff's Publishing Company, Leyden, 1924.
 Language of the Official Publication: French & English

Content:

 Advisory Opinion

<i>in file</i>	<i>in original</i>
pp. 01-17	pp. [06-23]

In the text below original pagination is provided in [square brackets].

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¹ date when the request for an advisory opinion or application was filed with the court Registry

[6] Permanent Court of International Justice

<i>Present:</i>	MM.	Loder,		<i>President,</i>
		Weiss,		<i>Vice-President,</i>
Lord	MM.	Finlay, Nyholm, Moore, de Bustamante, Altamira, Oda, Anzilotti, Huber, Pessoa,		<i>Judges</i>

I.

On June 17th, 1924, the Council of the League of Nations adopted the following Resolution:

The Council of the League of Nations, having been seized by the Conference of Ambassadors, acting on behalf of the Governments of the British Empire, France, Italy and Japan, of the question of the delimitation of the frontier between Albania and the Kingdom of the Serbs, Croats and Slovenes [7] at the Monastery of Saint-Naoum; and having undertaken to give the Conference its opinion with a view to the solution of the problem;

Whereas the decision of the Conference of December 6th, 1922, has been contested by arguments which, together with the arguments on the other side, are contained in the papers forwarded to the Council;

Has the honour to request the Permanent Court of International Justice to give an advisory opinion on the following question:

"Have the Principal Allied Powers, by the decision of the Conference of Ambassadors of December 6th, 1922, exhausted, in regard to the frontier between

Albania and the Kingdom of the Serbs, Croats and Slovenes at the Monastery of Saint-Naoum, the mission, such as it has been recognized by the interested Parties, which is contemplated by a unanimous Resolution of the Assembly of the League of Nations of October 2nd, 1921?"

The Council requests the Governments concerned to supply the Permanent Court with all relevant documents or information. It has the honour to forward to the Court the dossier which has been communicated to it by the Conference of Ambassadors and which may, if necessary, be supplemented later.

The Secretary-General is authorized to submit this request to the Court, together with all the relevant documents, to explain to the Court the action taken by the Council in the matter, to give all assistance necessary in the examination of the question and, if required, to take steps to be represented before the Court.

In conformity with this Resolution, the Secretary-General of the League of Nations on the same day transmitted to the Court the following request for an advisory opinion:

"To the Permanent Court of International Justice.

The Secretary-General of the League of Nations, in pursuance of the Council Resolution of June 17th, 1924, and in virtue of the authorization given by the Council, [8]

Has the honour to submit to the Permanent Court of International Justice an application requesting the Court, in accordance with Article 14 of the Covenant, to give an advisory opinion to the Council on the question which has been referred to the Court by the Resolution of June 17th, 1924.

The Secretary-General will be prepared to furnish any assistance which the Court may require in the examination of the question, and will, if necessary, arrange to be represented before the Court."

In accordance with Article 73 of the Rules of Court, the Request was communicated by the Registry to Members of the League through the Secretary-General, and to the States mentioned in the Annex to the Covenant.

To the Request were attached the dossier¹ concerning the question of Saint-Naoum which the Conference of Ambassadors had sent to the Council of the League of Nations and to which the Council referred in the Resolution quoted above. Furthermore the Secretary-General of the League of Nations had requested the Conference to send direct to the Court all maps likely to be of use to it which the Conference had at its disposal, as also the text of the "Protocols of London and Florence of 1913".

The Conference duly complied with this demand. ²

At the direct request of the Court, the Conference has also furnished it with a number of supplementary documents. ³

Moreover, some members of the Court having expressed a wish to obtain more complete information on certain points, the Registrar was instructed to send a list of these points to the Secretary-General of the League of Nations. The Secretary-General transmitted this list to the Conference of Ambassadors and the latter sent to the Court either information or documents concerning these points. ⁴

The Court has also had before it all documents of the League of Nations regarding the Saint-Naoum question itself, the admission of Albania to the League of Nations and the settlement of the frontiers of that country. [9]

The Albanian and Serb-Croat-Slovene Governments have submitted to the Court memoranda concerning "the Albanian frontier in the region of Saint-Naoum" and "the question of the Monastery of Saint-Naoum" respectively.

At the request of the Royal Government of the Serbs, Croats and Slovenes and of the Government of Albania respectively, the Court heard, in the course of a public sitting held on July 23rd, 1924, oral statements made, on behalf of the Serb-Croat-Slovene Government, by H.E. M. Spalaikovitch, its Minister at Paris, and, on behalf of the Albanian Government, by M. Gilbert Gidel, Professor at the Faculty of Law of the University of Paris.

The Greek Government, considering that it was in a position to furnish information likely to be of use in the preparation of the opinion, expressed a desire to be allowed to state its views

¹ See Annex 1, page 24.

² See Annex 2, page 25.

³ See Annex 3, page 26.

⁴ See Annex 4, page 26.

on the Saint-Naoum question. The Court acceded to this request and, at the sitting above referred to, heard H.E. M. Kapsambelis, Greek Minister at The Hague.

The representatives of the Governments concerned have supplied the Court, either on their own initiative or at the Court's request, "with a number of additional documents."¹

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II.

Before entering upon an examination of the question in regard to which the Court has been asked for an advisory opinion, the circumstances leading up to the request for this advisory opinion should be shortly indicated.

At the termination of the second Balkan War, in 1912, the Great Powers agreed in principle that an independent State of Albania should be created, which should be neutralised and placed under the administrative and financial control of the Powers. The Treaty of London of May 17/30th, 1913 (Article 3) reserved to them "the task of settling the frontiers of Albania and any other questions regarding Albania". Accordingly the question of the fixing of the frontiers of the new State was submitted to the Conference of Ambassadors which sat at London in 1913. The Conference adopted certain [10] decisions in this connection which are known as the "Protocol of London". Under one of these decisions a Delimitation Commission was created which was at work in 1913, and concluded its work by the final Protocol signed at Florence on December 17th of that year,

Albania, which had in the first place been established as a principality under the sovereignty of the Prince of Wied, became a Republic in 1914; but the Great War prevented the complete fixing of the frontiers of the new State, which was also invaded by the belligerent armies.

When the Peace Conference met at Paris in 1919, it considered that it was competent to deal with the Albanian question amongst others.

From 1920 onwards, Albania entered into relations with the League of Nations, to which

it asked to be admitted. This request was granted by a decision taken by the Assembly of the League of Nations in December 1920. The Resolution regarding its admittance expressly reserved the question of the settlement of the frontiers of the new Member State.

Having been admitted to the League of Nations, Albania brought before the Council the question of the evacuation of its territory — as fixed by the Conference of London of 1913 — by the Serbian and Greek troops. This question made urgent that of the settlement of the frontiers; for Serbia and Greece maintained that the Principal Powers were alone competent to deal with the latter, whereas Albania contended that the League of Nations, as successor to the European concert of nations, should possess this competence. The Assembly of the League of Nations, however, by its unanimous vote of October 2nd, 1921, left the task of settling the Albanian frontiers to the Principal Powers, recommending Albania to accept then and there the forthcoming decision of the Powers on this subject.

At this point the Conference of Ambassadors took its decision of November 9th, 1921, with which the Court will deal in detail at a later stage. A Commission of Enquiry, however, sent by the League of Nations to Albania, drew attention to difficulties which had arisen with regard to the line of the Albanian frontier in the region of the Monastery of Saint-Naoum amongst others; and subsequently the Delimitation Commission established by the decision above mentioned was faced with difficulties in the same region. [11] The British Government drew the attention of the Conference of Ambassadors to these difficulties.

The Conference, having in this way been made cognizant of the matter, requested the Delimitation Commission to transmit to it, in accordance with the instructions given to the Commission, the reasoned opinions of each of the Allied Commissioners and of the Commissioners of the interested States. The opinions of all the Commissioners were sent separately to the Conference on November 5th, 1922. Further the Albanian and Serb-Croat-Slovene Governments each submitted a series of special notes dealing with the history of the Monastery of Saint-Naoum and with its importance from other points of view. These steps subsequently led to the decision taken by the Conference on December 6th, 1922, whereby the Monastery was allotted to Albania. This is the decision which forms the subject of the present request for an advisory opinion.

Five months later, the Yougoslav Government asked for the revision of this decision. An

¹ See Annex 5, page 27.

exchange of notes with the Albanian and Yougoslav delegations followed, after which the Conference considered it necessary to submit the question to further examination, and to this end instructed a small Committee to prepare a report. Since no agreement could be arrived at in the Committee, the Conference asked its juridical committee, the so-called drafting committee, for an opinion. As, nevertheless, divergent opinions with regard to the allocation of the Monastery of Saint-Naoum continued to prevail, the Conference then took a decision which was communicated to the Secretary-General of the League of Nations by a letter of June 5th, 1924, signed by M. Poincare and running as follows:

[Translation]

On behalf of the Conference of Ambassadors, and in accordance with its resolution of June 4th, 1924, I have the honour to request you to be so good as to place before the Council of the League of Nations at its next session the following communication:

The decision of the Conference of Ambassadors with regard to the Serbo-Albanian frontier at the Monastery of Saint-Naoum has given rise to certain protests calculated to endanger the maintenance of peace. The Conference therefore, before [12] pronouncing a decision, has the honour to submit to the Council of the League of Nations, in accordance with precedent, the following question for an opinion:

"Have the Principal Allied Powers, by the decision of the Conference of Ambassadors of December 6th, 1922, exhausted, in regard to the Serbo-Albanian frontier at the Monastery of Saint-Naoum, the mission which was recognized as belonging to them by the Assembly of the League of Nations on October 2nd, 1921?

"Should the League of Nations consider that the Conference has not exhausted its mission, what solution should be adopted in regard to the question of the Serbo-Albanian frontier at Saint-Naoum?"

The Conference will send you as soon as possible, in support of this request for an

opinion, a memorandum of the facts to which the documents relating to the question asked will be annexed.

This is the letter which led to the Council's above-mentioned Resolution of June 17th, 1924.

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III.

The question put to the Court, by the Resolution of the Council of June 17th, 1924, is whether the Principal Allied Powers have, by the decision of the Conference of Ambassadors of December 6th, 1922, exhausted (*épuisé*) in regard to the boundary at the Monastery of Saint-Naoum, "the mission, such as it has been recognized by the interested Parties", which was "contemplated (*visée*) by the unanimous Resolution of the Assembly of the League of Nations of October 2nd, 1921".

This enquiry does not raise any question as to whether the Conference of Ambassadors, in rendering its decision of December 6th, 1922, was authorized to act as the agent of the Principal Allied and Associated Powers for that purpose. It was obviously necessary for the Principal Allied Powers, in settling the boundaries of Albania, to act through some agency, and the Conference of Ambassadors was the agency authorized to discharge that function. [13]

The Resolution of the Assembly of October 2nd, 1921, states the fact that the Serb-Croat-Slovene State and Greece had recognized the Principal Allied and Associated Powers "as the appropriate body to settle the frontiers of Albania", and these States and Albania voted with the other Members of the League of Nations in favour of the Resolution of October 2nd, 1921, which was unanimously adopted, and their representatives have also on several occasions acquiesced in the competence of that body.

The Conference of Ambassadors, in its Resolution: of June 4th, 1924, itself characterises its mission as the mission "recognized as belonging to the Principal Allied Powers by the Assembly of the League of Nations on October 2nd, 1921."

Subsequent to this Resolution of the Assembly, the Conference of Ambassadors adopted its decision of November 9th, 1921. This decision was signed by the representatives of the British Empire, France, Italy and Japan in the Conference, and is in its title described as a decision taken by the governments of these countries for the purpose of fixing the frontiers of Albania. It commences with a preamble in which it is stated that the tracing of the frontiers of Albania, as it was established in 1913 by the Conference of Ambassadors of London, is confirmed, and that, moreover, the southern frontiers of Albania have been delimited on the spot by the Delimitation Commission, which drew up the final Protocol of its work at Florence on December 17th, 1913. Subsequently the Conference's decisions are enumerated under five headings, of which those of interest to the Court in the present question are as follows:

(1) The recognition by the signatory Governments of the Government of Albania, constituted as a sovereign and independent State.

(2) The constitution of a Delimitation Commission composed of four members appointed by the said Governments, to trace on the spot the northern and north-eastern frontier line of Albania under the conditions laid down in the decision.

(3) Instructions given to this Commission to the effect that, amongst other things, the Commission should rectify the line fixed in 1913 by the Conference of Ambassadors of London in particular in four different localities, one of which is the district of Lim, where the line is to be drawn "in such a way as to allot to Albania the town [14] of Lim and thus to assure, on the borders of Lake Ochrida, the economic communications between Elbasan and Koritza".

(4) Powers for the Commission to take into consideration the requests formulated on behalf of the governments of the States situated on either side of the frontier line to be traced, ensuring, however, that any rectifications which may be made shall not involve the transfer of more than a minimum of the population.

(5) The preparation by the Commission, at the end of its work, of a Protocol which shall be submitted for approval to the governments signatory to the present decision.

The character of the decision of November 9th, 1921, has been discussed before the Court. Its legal foundation is to be found in the fact that the Principal Powers, acting through the Conference of Ambassadors, had the power to render a decision.

The Serb-Croat-Slovene Kingdom has declared that it bowed to this decision, as appears from the note addressed to the Conference on November 14th, 1921, by H.E. M. Pachitch, President of the Council of Ministers and Minister of Foreign Affairs of the Serb-Croat-Slovene Kingdom. In that note, M. Pachitch says:

"Placed in this situation, the Royal Government states, with the greatest regret, and under protest, that it bows to the decision of the Conference of Ambassadors, in order to avoid the dangerous consequences of non-acceptance, while remaining firmly convinced that subsequent events connected with order and peace in the Balkans will vindicate the anticipations of the Royal Government, and the work of fixing the frontier on the ground will supply proof of the justice of its point of view."

Albania, for its part, declared in a Note dated November 16th, 1921, that it would accept the decision, whilst likewise expressing its regret and protesting against the alteration of the frontiers to its detriment.

The decision of November 9th, 1921, which was taken in execution of the mission which the Supreme Council and subsequently the Assembly of the League of Nations, as also the States concerned, had recognized as belonging to the Conference of Ambassadors, [15] and which the latter States had accepted, is definitive as far as it goes. In Advisory Opinion No. 8 concerning the affair of Jaworzina, the Court, in a question closely resembling that of Saint-Naoum, stated the general legal considerations determining the nature and effects of a decision of this kind. The Court now refers to this opinion.

The Conference of Ambassadors continued its labours and on January 17th, 1922, it approved detailed instructions for the Delimitation Commission.

In the year 1922, when this Commission was at work, Great Britain, on September 27th, sent a note to the Conference of Ambassadors, pointing out that a difference of opinion had arisen in the Serbo-Albanian Delimitation Commission regarding the Monastery of Saint-Naoum, in consequence of the fact that the text of the Protocol of London of 1913, as modified by the Conference of Ambassadors on November 9th, 1921, was capable of different interpretations.

It was at this stage that the Conference of Ambassadors, after considering all the data

submitted to it, took the following decision on December 6th, 1922:

"It was decided to inform the Serbo-Albanian Boundary Commission and the Albanian and Yugo-Slav Governments that the Conference has agreed to allocate the Saint-Naoum Monastery to Albania."

The reasons for this decision are specified in the letter sent by the Conference to the Serb-Croat-Slovene Minister at Paris on December 23rd, 1922. These reasons were firstly that the Protocol of London of 1913 specified that the western and southern shore of Lake Ochrida from the village of Lim to the Monastery of Saint-Naoum should form part of Albania; and secondly, that as this clause did not state explicitly to which of the two States — Yougoslavia or Albania — this Monastery should be attributed, the Conference found itself compelled to pronounce on the question.

The decision of December 6th, 1922, which, in the view of the Conference, constituted an act necessary for the fulfilment of the mission entrusted to it, is based on the same powers as that of November 9th, 1921; it therefore has the same definitive character and the same legal effect as that decision. [16]

The Serb-Croat-Slovene State has protested against the decision of December 6th, 1922, on the ground that the mission of the Conference of Ambassadors was not merely to settle the frontiers of Albania, but to settle these frontiers in conformity with the decisions of the Protocol of London of 1913.

The Serb-Croat-Slovene State maintains that the decision of November 9th, 1921, conferred a vested right upon it, by establishing the principle that the frontier was to be that fixed in 1913, except as otherwise expressly provided; and that since no special provision was made as regards the Monastery of Saint-Naoum, the terms of the Protocol of 1913, which attributed it to Serbia, remained in force.

It is clear that this contention, is indissolubly connected with the question whether the Albanian frontier at the Monastery of Saint-Naoum was actually fixed in 1913 or not. If this was not the case, it is also clear that no vested right in favour of the Serb-Croat-Slovene State as

regards the delimitation of this frontier can result from the Protocol of London. The Commission of Enquiry of the League of Nations and the Albanian Delimitation Commission were of opinion that the frontier line at this spot had been left unsettled.

This opinion was shared by the Conference of Ambassadors, who for this reason, and in order to complete the task entrusted to them, regarded it as logically their duty to decide the point left in doubt. All the subsequent acts of the Conference, and in particular the decision of 1922, were the outcome of this conviction.

The Court is of opinion that the documents placed before it and the arguments adduced on this point do not suffice to prove that the Conference of Ambassadors was mistaken in holding that the Albanian frontier at Saint-Naoum had not been definitely fixed in 1913.

It also considers that the Conference, whose mission it was to "settle the frontiers of Albania", had, in the fulfilment of its task, a certain amount of latitude as regards this point amongst others.

The reasons on which the Court bases its opinion in this respect are as follows.

On March 19th, 1913, a proposal was made on behalf of the Italian Government in the following terms: [17]

[*Translation.*]

"The frontier will leave the southern shore of Lake Ochrida between the Monastery of Saint-Naoum which will remain outside Albania and the village of Starova."

An annex to a dispatch sent on April 22nd, 1913, by the Austro-Hungarian representative in London to the Ministry of Foreign Affairs at Vienna, is expressed in similar terms:

[*Translation.*]

"The frontier will leave the western shore of Lake Ochrida near the village of Lin and, crossing the lake, will proceed towards the southern shore to a point situated between the Monastery of Saint-Naoum which will remain outside Albania and the

village of Starova."

On the other hand a certified document transmitted to the Court by the Conference of Ambassadors, on June 21th, 1924, and called: *Protocole établi par la Conférence de Londres de 1913, pour la délimitation de la frontière méridionale de l'Albanie*, contains the following paragraph:

[*Translation.*]

"The limits of the territories where it is to operate will be, on the west, the mountains separating the coastal region attributed to Albania, as far as Phthelia, from the valley of Argyrocastro. On the north-east, the boundary of the former Ottoman Casa of Koritza. Between these two regions, the line indicated in M. Venizelos' memorandum will form the northern limit of the Commission's work. To the south and south-east, the work will extend as far as the line proposed by Austria and Italy.

"The coastal region as far as Phthelia, including the Isle of Sasseno, the region to the north of the Greek line, as also the former Casa of Koritza, with the western and southern shore of Lake Ochrida, from the village of Lim as far as the Monastery of Saint-Naoum will form part of Albania."

The decision of August 11th, 1913, runs as follows: [18]

[*Translation.*]

"(1) The territories over which the Commission's work will extend cannot be left undetermined. Their limits will be, on the west, the mountains separating the coastal region attributed to Albania as far as Phthelia, from the valley of Argyrocastro. On the north-east, the boundary of the former Ottoman Casa of Koritza; between these two regions, the line indicated in the memorandum submitted by M. Venizelos to the meeting will form the northern limit of the Commission's work; while to the south and south-east it will extend as far as the line proposed by Austria-Hungary.

"(2) It is hereby decided that the whole of (*intégralement*) the coastal region as far

as Phthelia, including the island of Sasseno, the region to the north of the Greek line and the former Ottoman Casa of Koritza, together with the western and southern shore of Lake Ochrida from the village of Lin as far as the Monastery of Sveti-Naoum shall form part of Albania."

This decision, of which the Court possesses a certified true copy, reproduces textually the communication made by Count Mensdorff on August 8th and which was supported by the Marquis Imperiali, Prince Lichnowsky and Sir Edward Grey, while the Ambassadors of France and Russia desiring to consult their Governments, reserved their opinion.

It is to be observed that the word *intégralement* (the whole of) is not found in the document transmitted to the Court on June 21st, 1924. In the opinion of the Court, however, this word is of no importance.

The contention of the Serb-Croat-Slovene State is that the Italian proposal cited above serves to show that the decisions of 1913, and consequently also the decision of 1921, should be interpreted as meaning that the Monastery of Saint-Naoum has been allocated to Serbia, because that proposal, to which the documents of the London Conference quoted above allude when speaking of the "line proposed by Austria and Italy", or "by Austria-Hungary", contains the words ". . . the Monastery of Saint-Naoum which will remain outside Albania".

On this subject the following observations should however be made: [19]

The whole of the proposal of March 19th constitutes a complete frontier line for Southern Albania, running from Lake Ochrida to the Ionian Sea. The same may be said of the Austrian line of April 22nd.

If, however, the object of the proposals in question was to settle the Serbo-Albanian frontier, this was not the case as regards the "Protocol" or the decision of August 11th. The latter, in its first paragraph, has for its object the determination "of the district over which the work of the Delimitation Commission shall extend" and, in its second paragraph, the decision as to the territories "to be allotted to Albania". The Court quotes the text of the decision of August 11th as being the final decision; it points out, however, that the terms of the "Protocol, etc." are not in contradiction with this text but confirm it.

According to the first paragraph, the limit of the district in which the Commission is to work to the south of Lake Ochrida is the Austro-Italian line which passes to the west of Saint-

Naoum. The district in question is, however, defined — and this is important to note — *reckoning from the side formerly Ottoman*. This is to be seen from the expressions, which otherwise would be unintelligible, stipulating that the limit of the area worked over should be (reckoning from Greece) *on the west* "the mountains which separate the coastal region allotted to Albania, as far as Phthelia, from the valley of Argyrocastro", and "*on the north-east* the frontier of the former Ottoman Casa of Koritza", whilst between the districts of Koritza and Argyrocastro the Venizelos line would form "the *northern* limit of the area" and "on the south and *south-east* (reckoning from Serbia), the area would extend as far as the line proposed by Austria-Hungary.

In the district to the south of Lake Ochrida the Austro-Italiari line therefore constituted the *extreme western limit* of the work of the Commission.

This interpretation serves to explain certain facts of a military nature brought forward by Serbia, namely that in 1913, owing to an ultimatum from Austria, the former country withdrew its troops beyond that line; that in 1915 the occupation of the Central Powers stopped short at the same line; and that at the Armistice this line further formed the line of demarcation between the Serbian and the Italian occupation.

The above conclusion is further strikingly confirmed by the letter [20] sent on April 4th, 1922, by the Conference of Ambassadors to the Albanian Delegation in Paris, with regard to the establishment of a neutral zone between Mount Gramos and Lake Ochrida. The object of this zone was "to allow the Commission (of Delimitation) full freedom of action for carrying out its work"; its western frontier was a line which in the neighbourhood of Saint-Naoum almost coincides with the Austro-Italian line of 1913 ("a line starting, from Lake Ochrida on a level with Stratowa and following the Fogradec — Kortza road from Stratowa... (22/IV/22)" — ". . . . Starowa, from there it would follow the high ground east of the Stratowa — Koritcha road (22/IV/13).") The difference is naturally to be explained by the considerations of a military nature which were bound to influence the fixing of one of these limits.

As regards the frontier which the Commission had to settle in this district, the London decision of August 11th, 1913, in its second paragraph fixes it when it determines which districts shall "henceforth" form an integral part of Albania and gives their limits. It follows that the reference, contained in the first paragraph of the decision of August 11th, to the Austro-Hungarian line has not necessarily the meaning which Serbia desires to give it. The frontier at

Saint-Naoum, far from having been fixed in favour of the latter country, had indeed remained undetermined, as the Ambassadors' Conference thought. In fact, as regards determining it, the second paragraph of the decision of August 11th seems to give no further guidance than the single expression: *jusqu'à*. As regards that expression the following is to be observed:

One possible interpretation of the expression *jusqu'à* is that Saint-Naoum is included in Albania; another that it is excluded from that country. The Court considers it impossible to affirm which of these interpretations should be accepted. Numerous instances have been cited of the use of this expression (*jusqu'à*) both in an inclusive and in an exclusive sense. The Court does not think it possible to affirm that the meaning of this word in connection with a place like the Monastery of Saint-Naoum necessarily implies either its inclusion or exclusion. It should, however, be observed that in the same paragraph, side by side with the expression *jusqu'à Saint-Naoum*, is to be found the expression: *jusqu'à Phthelia* which is shown by the facts of the case to mean: Phthelia inclusive". [21]

A map which has been submitted to the Court and which is described as that sent by Yugoslavia to the Conference of Ambassadors with the note of protest dated June 19th, 1923, that is to say the map annexed to the instructions given to the Austro-Hungarian Commissioners on the Albanian Frontier Delimitation Commission, contains a frontier line leaving Saint-Naoum outside Albania. It is alleged that the map represents the decision of London. Even admitting, however, that the line marked on this map is that referred to at the end of the first paragraph of the decision of August 11th, 1913, it must be observed that this line, according to what has been said above, did not necessarily represent the Albanian frontier. Moreover the map in question is unsigned and its authentic character is not established.

The Serb-Croat-Slovene State has further relied on a principle which, it alleges, was adopted at the Conference of London, namely that all disputed areas on the borders of Albania and Serbia containing Christian orthodox sanctuaries of national or historical importance, which during the Balkan wars had been redeemed from Mussulman domination, should be allocated to Serbia. There is, however, no official document relating to the adoption of this principle, nor anything justifying the conclusion that this principle was applied to Saint-Naoum.

In short, an analysis of the texts emanating from the London Conference leads to no definite conclusion.

It appears from the foregoing that there are forcible arguments in favour of the possible alternative interpretations of the terms of these texts as regards the Monastery of Saint-Naoum. In these circumstances it is impossible to say that their terms are sufficiently precise to indicate how the frontier at Saint-Naoum should be run. In fact, the frontier line at the Monastery has only been fixed by the decision of December 6th, 1922.

This decision has also been criticised on the ground that it was based on erroneous information or adopted without regard to certain essential facts. The Court refers to what it has already said regarding the definitive character of the decisions in question, and does not feel called upon to give an opinion on the question whether such decisions can — except when an express reservation to that effect has been made — be revised in the event of the [22] existence of an essential error being proved, or of new facts being relied on. But even if revision under such conditions were admissible, these conditions are not present in the case before the Court.

These arguments make it necessary for the Court to ascertain whether, over and above the group of circumstances which led to that decision, there exist new facts or facts unknown at the time when the decision was taken; in other words, whether, as alleged by the Serb-Croat-Slovene State and Greece, the Conference of Ambassadors allocated the Monastery to Albania simply because it was unacquainted with new facts, or unaware of facts already in existence, which, if taken into consideration, would have led to a contrary decision.

As concerns new facts, there are none in the present case. It is true that, according to a communication received by the Court from the Conference of Ambassadors, the Conference was unacquainted with the documents sent by the Serb-Croat-Slovene State in support of its claim for revision until June 1923. But in the opinion of the Court fresh documents do not in themselves amount to fresh facts. No new fact — properly so-called — has been alleged.

As regards facts not known, Yugoslavia has mainly relied on the proposals made in 1913 at the Conference of Ambassadors, which, in its contention, are of peculiar importance for the purposes of the interpretation of the decision made at London.

It is however difficult to believe that the members of the Conference of Ambassadors were unacquainted with these documents, which are in no sense secret. The application of the

London Protocol to determine the Serbo-Albanian frontier was proposed by the Conference of Ambassadors itself, and the Conference obviously did so with full knowledge of the facts, that is to say after acquainting itself with the documents relative to the London Conference of 1913.

It is moreover to be noted that the documents relied on by the Serb-Croat-Slovene State do not in the least — as has already been demonstrated — prove that the Protocol of London attributed the Monastery of Saint-Naoum to Serbia.

In these circumstances there is also no ground for the application for a revision of the decision of December 6th, 1922. [23]

FOR THESE REASONS

The Court is of opinion

that the Principal Allied Powers, by the decision of the Conference of Ambassadors of December 6th, 1922, have exhausted, in regard to the frontier between Albania and the Kingdom of the Serbs, Croats and Slovenes at the Monastery of Saint-Naoum, the mission, such as it has been recognized by the interested Parties, which is contemplated by a unanimous Resolution of the Assembly of the League of Nations of October 2nd, 1921.

Done in French and English, the French text being authoritative, at the Peace Palace, The Hague, this fourth day of September, nineteen hundred and twenty-four, in two copies, one of which is to be deposited in the archives of the Court, and the other to be forwarded to the Council of the League of Nations.

(Signed) Loder,

President.

(Signed) Å. Hammarskjöld,

Registrar.