

Institution: Permanent Court of International Justice
 Type: Judgment
 Full Title: *Interpretation of Para. 4 of the Annex following Article 179 of the Treaty of Neuilly*
 Requested by: Special Agreement between Bulgaria and Greece
 Party(ies): Bulgaria and Greece
 Dated: September 12th, 1924
 Initiated:¹ July 31st, 1924
 Session: Summary Procedure
 General List No.: 11
 No. (by type): Judgment № 3
 Authoritative Lang.: French
 Language in File: English Only
 Link: http://www.worldcourts.com/pcij/eng/decisions/1924.09.12_neuilly/
 Citation: PCIJ, Ser. A., No. 3, 1924.
 Official Publication: Publications of the Permanent Court of International Justice
 Series A – No. 3, Collection of Judgments
 A.W. Sijthoff’s Publishing Company, Leyden, 1924.
 Language of the French & English
 Official Publication:

Content:

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

Permanent Court of International Justice.

Before : Mm. Loder, | *President,*
Weiss, | *Vice-President,*
Huber, | *Judge.*

The Court,
sitting as a Chamber of Summary Procedure,
composed as stated above;

Whereas by a special agreement signed at Sofia on March 18th, 1924, the Government of His Majesty the King of the Bulgars and the Government of the Greek Republic have decided to "submit to the Permanent Court of International Justice, in its Chamber for Summary Procedure as provided by Article 29 of its Statute and Article 67 and 70 of its Rules of Court, the dispute which has arisen between them in connection with the jurisdiction of the arbitrator appointed by M. Gustave Ador under paragraph 4 of the Annex to Section IV of Part IX of the Treaty of Peace signed at Neuilly on November 27th, 1919"; [5]

Whereas under the terms of this special agreement the Court has to "determine the precise meaning of the last sentence of the first sub-paragraph [French text] of paragraph 4 of the Annex to Section IV, Part IX of the above-mentioned Treaty, replying in particular to the two following questions:

"(1) Does the text above-quoted authorize claims for acts committed even outside Bulgarian territory as constituted before October nth, 1915, in particular in districts occupied by Bulgaria after her entry into the war ?

"(2) Does the text above-quoted authorize claims for damages incurred by claimants not only as regards their property, rights and interests, but also as regards their person, arising out of ill-treatment, deportation, internment or other similar acts?"

Whereas the special agreement above-mentioned was to become effective immediately after the exchange of ratifications at Sofia ;

Whereas ratifications were exchanged in that city on May 29th, 1924 ;

Whereas, in accordance with Article 69 of the Rules of Court, the Parties filed with the Registry on July 31st, 1924, their respective Cases, which have been communicated to those concerned, in accordance with Article 43 of the Court's Statute ;

Whereas the Parties jointly proposed, in accordance with Article 32 of the Rules of Court, that the Court should authorize the submission of Replies, as an exception to the procedure indicated in Article 69 of the Rules ;

Whereas the Court granted this request and the Replies were filed and communicated to those concerned on August 25th, 1924;

Whereas the Court has not found it necessary to institute oral proceedings in the present case;

Having regard to the Conclusions contained in the Cases and Replies of the Parties;

Having regard to the terms of paragraph 4 of the Annex to Section IV of Part IX of the Treaty of Neuilly (Articles 177 to 179) of which the French text (which in case of divergence shall prevail) runs as follows:

"Les biens, droits et intérêts des ressortissants bulgares dans les territoires d'une Puissance alliée ou associée, ainsi que le produit net de leur vente, liquidation ou autres mesures de disposition, pourront être grevés par cette Puissance alliée ou associée: [6]en premier lieu, du paiement des indemnités dues à l'occasion des réclamations des ressortissants de cette Puissance concernant leurs biens, droits et intérêts y compris les sociétés ou associations dans lesquelles ces ressortissants étaient intéressés en territoire bulgare ou des créances qu'ils ont sur les ressortissants bulgares ainsi que du paiement des réclamations introduites pour des actes commis par le Gouvernement bulgare ou par toute autorité bulgare postérieurement au 11 octobre 1915 et avant que cette Puissance alliée ou associée ne participât à la guerre.

" Le montant de ces sortes de réclamations pourra être fixé par un arbitre désigné par M. Gustave Ador, si celui-ci y consent, ou, à défaut, par le Tribunal arbitral mixte prévu à la Section VI. Ils pourront être grevés en second lieu, du paiement des indemnités dues à l'occasion des réclamations des ressortissants de la Puissance alliée ou associée concernant leurs biens, droits et intérêts sur le territoire des autres Puissances ennemies, en tant que ces indemnités n'ont pas été acquittées d'une autre manière." ¹

¹ For English text, see page 12.

Whereas the purpose of the said paragraph 4 is to determine the categories of indemnities, debts and claims with which an Allied or Associated Power may, as security, charge the property, rights and interests of Bulgarian nationals within the territory of such Allied or Associated Power, as also the net proceeds of their sale, liquidation or other dealings therewith, under the right of retention and liquidation provided for under (b) of Article 177;

Whereas there is nothing to indicate that the said paragraph 4 creates any fresh obligations over and above those imposed on Bulgaria in other clauses of the Treaty ;

Whereas moreover the various classes of claims, with the payment of which the security mentioned in paragraph 4 may be charged, are determined according to different criteria : thus

As regards the payment of "amounts due" referred to in the first paragraph, the criterion is that the property, etc. in question must be in Bulgarian territory ;

As regards "debts" the criterion is that the debtor must be a Bulgarian national; and [7]

As regards the "amounts due" dealt with in the second sub-para-graph of paragraph 4, the criterion is that the property in question must be in the territory of Powers other than Bulgaria belonging to the group of the so-called Central Powers ; whilst

As regards the " acts committed" the language of the article proves, by the use of the expression *ainsi que* (and) and by the repetition of the words *du paiement*. . . (with payment), that the criteria fixed for other categories of claims are not applicable;

Whereas the various classes of claims mentioned in paragraph 4 are not necessarily subject to the same rules of law : thus

The claims in respect of property, etc. arise out of exceptional war measures and therefore are governed by the laws of war; whilst

The claims in respect of "acts committed" refer to events which must have taken place before the interested Power entered the war, so that the law governing peace and neutrality is applicable as concerns them;

Whereas moreover the various classes of claims enumerated in paragraph 4 are only connected with Section VII by reason of the security by which they may benefit under Article 177 (b) ;

As it is not therefore necessary, or even obvious, to interpret the definitions of all these claims, as set out in paragraph 4, on the basis of the criterion established in Article 177 exclusively as regards property, rights and interests of Allied or Associated nationals in enemy territory and in particular in Bulgarian territory;

As, on the contrary, the definition relating to each category of claims mentioned in paragraph 4 should rather be taken in its natural sense, and it should be ascertained in what part of the Treaty the corresponding responsibility has been established ; and

As, consequently, the. interpretations which may have been placed by the Mixed Arbitral Tribunals, when deciding as to the amounts due in respect of exceptional war measures, upon the terms "property, rights and interests in enemy countries" are of no importance in connection with the dispute before the Court;

Whereas the expression "acts committed, etc." is quite distinct from the terms used to indicate the measures falling within the general scope of Article 177 and contains nothing indicating that it only refers to the property as opposed to the person of claimants, [8] or to Bulgarian national territory as opposed to districts occupied by Bulgaria; and

As, quite apart from considerations which may be deduced from the origin of the corresponding clause in the Treaty of Versailles (the case of the *Lusitania*), the expression "acts committed", which must moreover be interpreted taken as it stands, contemplates acts contrary to the law of nations and involving an obligation to make reparation;

Whereas the obligations devolving upon Bulgaria in consequence of the "acts committed" are not based on Article 177 and these obligations can therefore only be based on the Part concerning reparations (Part VII);

As, moreover, if these acts are principally those which may have been committed by Bulgaria during the invasion of Eastern Macedonia, it is clear that they are similar in character to acts committed by invading troops after a formal declaration of war, which acts are contemplated in Part VII (Articles 121-131) dealing with reparations;

Whereas Article 121 of the Treaty of Neuilly is drawn up in such general terms, both *ratione materiae* and *mtione temporis*, that it quite naturally includes reparation for losses and sacrifices involved by military operations previous to the declaration of war;

As again the occupation of Greek territory in 1916 by Bulgaria was undoubtedly the result of the fact that Bulgaria had joined in the war which was already proceeding ;

Whereas Article 121 defines in general terms the obligation to make reparation and limits it to the payment of the total capital sum of two and a quarter milliards francs gold ; and

As Part VII creates certain additional obligations as concerns reparations and defines them in Articles 125-128;

As therefore responsibility for the "acts committed" mentioned in paragraph 4 does not involve an additional obligation to make reparations, distinct from that described in Article 121, and as therefore the amounts due in respect of these "acts committed" are included in the total capital sum mentioned in Articles 121 and 122;

Whereas the correctness of this view is also confirmed by the fact that the Greek Government itself has interpreted the notion of "reparation" in this sense, when in 1919 it submitted to the [9] Reparation Commission the final lists of damages sustained by Greece or its nationals;

As therefore, the decision given in March 1921 by the Reparation Commission fixing the moment of Greece's entry into the war, for the purposes of the Treaty of Versailles, as June 27th, 1917, is not opposed to an interpretation which appears to be that of the two Contracting Powers at the time of the conclusion of the Treaty of Neuilly;

Moreover, as Part VII of this Treaty differs considerably from the corresponding Part of the Treaty of Versailles and as, in particular, Article 121 of the former does not contain the clause of paragraph 2 of Article 232 of the Treaty of Versailles concerning the period of belligerency of the respective Allied or Associated Powers against Germany, so that interpretations which may apply in the case of one Treaty do not necessarily apply in the case of the other;

Whereas this view is also indicated by the general principles of interpretation, since an obligation imposed on one Contracting Party cannot be based on the fact that it is mentioned in the annex to a section of a Treaty dealing with a different matter;

Whereas, moreover, the determination of the moment at which a state of war came into existence between Bulgaria and Greece is not one of the questions submitted by the Parties to the Court for its decision ;

FOR THESE REASONS

The Court decides

That the last sentence of the first sub-paragraph of paragraph 4 of the Annex to Section IV of Part IX of the Treaty of Neuilly should be interpreted as authorizing claims in respect of acts committed even outside Bulgarian territory as constituted before October 11th, 1915, and in respect of damage incurred by claimants not only as regards their property, rights and interests but also as regards their person; [10]

That reparation due on this ground is within the scope of the reparation contemplated in Article 121 and consequently is included in the total capital sum mentioned in Articles 121 and 122.

Done in French and English, the French text being authoritative.

At the Peace Palace, The Hague, this twelfth day of September one thousand nine hundred and twenty four, in three copies, one of which is to be placed in the Archives of the Court and the others to be forwarded to the Agents of the Government of His Majesty the King of the Bulgars and of the Government of the Greek Republic respectively.

(Signed) Loder,

President.

(Signed) Å. Hammarskjöld,

Registrar.

Annex.

Treaty of Neuilly,
Article 179, Annex, Paragraph 4
(*English text.*)

"All property, rights and interests of Bulgarian nationals within the territory of any Allied or Associated Power and the net proceeds of their sale, liquidation or other dealing therewith may be charged by that Allied or Associated Power in the first place with payment of amounts due in respect of claims by the nationals of that Allied or Associated Power with regard to their property, rights and interests, including companies and associations in which they are interested, in Bulgarian territory, or debts owing to them by Bulgarian nationals, and with payment of claims growing out of acts committed by the Bulgarian Government or by any Bulgarian authorities since October 11th, 1915, and before that Allied or Associated Power entered into the war. The amount of such claims may be assessed by an arbitrator appointed by M. Gustave Ador, if he is willing, or if no such appointment is made by him, by an arbitrator appointed by the Mixed Arbitral Tribunal provided for in Section VI. They may be charged in the second place with payment of the amounts due in respect of claims by the nationals of such Allied or Associated Power with regard to their property, rights and interests in the territory of other enemy Powers, in so far as those claims are otherwise unsatisfied."
