



INTERNATIONAL COURT OF JUSTICE

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Press Release

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Request for Interpretation of the Judgment of 15 June 1962 in the case concerning the Temple of Preah Vihear (Cambodia v. Thailand) (Cambodia v. Thailand)

The Court finds that the 1962 Judgment decided that Cambodia had sovereignty over the whole territory of the promontory of Preah Vihear

THE HAGUE, 11 November 2013. The International Court of Justice (ICJ), the principal judicial organ of the United Nations, today rendered its Judgment in the case concerning the Request for Interpretation of the Judgment of 15 June 1962 in the Case concerning the Temple of Preah Vihear (Cambodia v. Thailand) (Cambodia v. Thailand).

In its Judgment on Cambodia's request for interpretation, the Court

(1) Finds, unanimously, that it has jurisdiction under Article 60 of the Statute to entertain the Request for interpretation of the 1962 Judgment presented by Cambodia, and that this Request is admissible;

(2) Declares, unanimously, by way of interpretation, that the Judgment of 15 June 1962 decided that Cambodia had sovereignty over the whole territory of the promontory of Preah Vihear, as defined in paragraph 98 of the present Judgment, and that, in consequence, Thailand was under an obligation to withdraw from that territory the Thai military or police forces, or other guards or keepers, that were stationed there.

Historical background

The Temple of Preah Vihear is situated on a promontory of the same name in the eastern part of the Dangrek range of mountains, "which, in a general way, constitutes the boundary between the two countries in this region — Cambodia to the south and Thailand to the north". In 1904, France (of which Cambodia was then a protectorate) and Siam (as Thailand was then called) concluded a treaty which provided for the establishment of a Mixed Commission for delimiting the frontier between the two territories.

The final stage of delimitation entailed the preparation of maps, one of which was entitled "Dangrek — Commission of Delimitation between Indo-China and Siam". On this map, the frontier passed to the north of Preah Vihear, thus leaving the Temple in Cambodian territory.

Following Cambodia's independence, Thailand occupied the Temple of Preah Vihear in 1954. On 6 October 1959, Cambodia seized the Court by unilateral application. The above-mentioned map was attached to Cambodia's Application as Annex I and referred to as the "Annex I map" in the subsequent proceedings before the Court.

On 15 June 1962, the Court rendered its Judgment in the case concerning the Temple of Preah Vihear (Cambodia v. Thailand), the operative part of which read as follows:

"The Court,

finds that the Temple of Preah Vihear is situated in territory under the sovereignty of Cambodia;

finds in consequence, that Thailand is under an obligation to withdraw any military or police forces, or other guards or keepers, stationed by her at the Temple, or in its vicinity on Cambodian territory; and

that Thailand is under an obligation to restore to Cambodia any objects of the kind specified in Cambodia's fifth Submission which may, since the date of the occupation of the Temple by Thailand in 1954, have been removed from the Temple or the Temple area by the Thai authorities."

On 28 April 2011, Cambodia filed an Application requesting interpretation of the Judgment rendered on 15 June 1962.

At the close of its Application, Cambodia asked the Court to adjudge and declare that:

"The obligation incumbent upon Thailand to 'withdraw any military or police forces, or other guards or keepers, stationed by her at the Temple, or in its vicinity on Cambodian territory' (point 2 of the operative clause [of the 1962 Judgment rendered by the Court in 1962]) is a particular consequence of the general and continuing obligation to respect the integrity of the territory of Cambodia, that territory having been delimited in the area of the Temple and its vicinity by the line on the Annex I map, on which the Judgment of the Court is based."

Reasoning of the Court

1. Jurisdiction and admissibility

The Court recalls that Cambodia's Request for interpretation of the 1962 Judgment was made by reference to Article 60 of the Statute. That Article provides that "[i]n the event of dispute as to the meaning or scope of [a] judgment, the Court shall construe it upon the request of any party". After examining whether the conditions indicated in Article 60 are satisfied, the Court concludes that there is a dispute between the Parties as to the meaning and scope of the 1962 Judgment relating to three specific aspects thereof. First, there is a dispute over whether the 1962 Judgment did or did not decide with binding force that the line depicted on the Annex I map constituted the frontier between the Parties in the area of the Temple. Secondly, there is a closely related dispute concerning the meaning and scope of the phrase "vicinity on Cambodian territory", referred to in the second operative paragraph of the 1962 Judgment. Lastly, there is a dispute regarding the nature, continuing or instantaneous, of Thailand's obligation to withdraw its personnel imposed by the second paragraph of the operative part. The Court further notes that the Request filed by Cambodia is admissible in as far as it is aimed at obtaining interpretation and does not seek to obtain an answer to questions not decided with binding force, or to achieve a revision of the Judgment.

2. The interpretation of the 1962 Judgment

The Court first indicates that, in determining the meaning and scope of the operative clause of the original Judgment, it will, in accordance with its practice, have regard to the reasoning of that Judgment to the extent that it sheds light on the proper interpretation of the operative clause. Further, the Court states that the written pleadings and the record of the oral proceedings in 1962 are also relevant to the interpretation of the Judgment, as they show what evidence was, or was not, before the Court and how the issues before it were formulated by each Party. The Court then turns to the operative part of the 1962 Judgment.

The first operative paragraph. The Court notes that the meaning of this paragraph is clear. In that paragraph, the Court ruled on Cambodia's principal claim by finding that the Temple was situated in territory under the sovereignty of Cambodia. The Court states, however, that it will be necessary to return to the scope of the first operative paragraph once the Court has examined the second and third operative paragraphs.

The second operative paragraph. The Court notes that the principal dispute between the Parties concerns the territorial scope of the second operative paragraph, namely the territorial extent of the "vicinity" of the Temple of Preah Vihear. In this regard, the Court finds that the limits of the promontory of Preah Vihear, to the south of the Annex I map line, consist of natural features. To the east, south and south-west, the promontory drops in a steep escarpment to the Cambodian plain. To the west and north-west, the land drops in a slope, less steep than the escarpment but nonetheless pronounced, into the valley which separates Preah Vihear from the neighbouring hill of Phnom Trap, a valley which itself drops away in the south to the Cambodian plain. The Court further considers that Phnom Trap lay outside the disputed area and that the 1962 Judgment did not address the question whether it was located in Thai or Cambodian territory. Accordingly, the Court concludes that the promontory of Preah Vihear ends at the foot of the hill of Phnom Trap, that is to say, where the ground begins to rise from the valley. In the north, the limit of the promontory is the Annex I map line, from a point to the north-east of the Temple where that line abuts the escarpment to a point in the north-west where the ground begins to rise from the valley, at the foot of the hill of Phnom Trap. The Court considers that the second operative paragraph of the 1962 Judgment required Thailand to withdraw from the whole of the territory of the promontory, thus defined, to Thai territory any Thai personnel stationed on the promontory.

Relationship between the second operative paragraph and the rest of the operative part. The Court considers that the territorial scope of the three operative paragraphs is the same: the finding in the first paragraph that "the Temple of Preah Vihear is situated in territory under the sovereignty of Cambodia" must be taken as referring, like the second and third paragraphs, to the whole of the territory of the promontory of Preah Vihear.

The Court finally notes that, in the present proceedings, Thailand has accepted that it has a general and continuing legal obligation to respect the integrity of Cambodian territory, which applies to any disputed territory found by the Court to be under Cambodian sovereignty. Therefore, the Court does not need to examine the nature, continuing or instantaneous, of the obligation to withdraw contained in the second operative paragraph.

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The Court affirms that the Temple of Preah Vihear is a site of religious and cultural significance for the peoples of the region and is now listed by UNESCO as a world heritage site. In this respect, the Court recalls that under Article 6 of the World Heritage Convention, to which both States are parties, Cambodia and Thailand must co-operate between themselves and with the

international community in the protection of the site as a world heritage. In addition, each State is under an obligation not to “take any deliberate measures which might damage directly or indirectly” such heritage. In the context of these obligations, the Court wishes to emphasize the importance of ensuring access to the Temple from the Cambodian plain.

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Composition of the Court

The Court was composed as follows: President Tomka; Vice-President Sepúlveda-Amor; Judges Owada, Abraham, Keith, Bennouna, Skotnikov, Cañado Trindade, Yusuf, Greenwood, Xue, Donoghue, Gaja, Sebutinde, Bhandari; Judges ad hoc Guillaume, Cot; Registrar Couvreur.

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Judges Owada, Bennouna and Gaja append a joint declaration to the Judgment of the Court; Judge Cañado Trindade appends a separate opinion to the Judgment of the Court; Judges ad hoc Guillaume and Cot append declarations to the Judgment of the Court.

A summary of the Judgment appears in the document “Summary No. 2013/2”, to which summaries of the opinion and declarations are annexed. In addition, this press release, the summary and the full text of the Judgment can be found on the Court’s website (www.icj-cij.org) under “Cases”.

Note: The Court’s press releases do not constitute official documents.

The International Court of Justice (ICJ) is the principal judicial organ of the United Nations. It was established by the United Nations Charter in June 1945 and began its activities in April 1946. The seat of the Court is at the Peace Palace in The Hague (Netherlands). Of the six principal organs of the United Nations, it is the only one not located in New York. The Court has a twofold role: first, to settle, in accordance with international law, legal disputes submitted to it by States (its judgments have binding force and are without appeal for the parties concerned); and, second, to give advisory opinions on legal questions referred to it by duly authorized United Nations organs and agencies of the system. The Court is composed of 15 judges elected for a nine-year term by the General Assembly and the Security Council of the United Nations. Independent of the United Nations Secretariat, it is assisted by a Registry, its own international secretariat, whose activities are both judicial and diplomatic, as well as administrative. The official languages of the Court are French and English. Also known as the “World Court”, it is the only court of a universal character with general jurisdiction.

The ICJ, a court open only to States for contentious proceedings, and to certain organs and institutions of the United Nations system for advisory proceedings, should not be confused with the other — mostly criminal — judicial institutions based in The Hague and adjacent areas, such as the International Criminal Tribunal for the former Yugoslavia (ICTY, an ad hoc court created by the Security Council), the International Criminal Court (ICC, the first permanent international criminal court, established by treaty, which does not belong to the United Nations system), the Special Tribunal for Lebanon (STL, an independent judicial body composed of Lebanese and international judges, which is not a United Nations tribunal and does not form part of the Lebanese judicial system), or the Permanent Court of Arbitration (PCA, an independent institution which assists in the establishment of arbitral tribunals and facilitates their work, in accordance with the Hague Convention of 1899).

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