

INTERNATIONAL COURT OF JUSTICE

Peace Treaties with Bulgaria, Hungary and Romania.

The advisory case concerning the "Interpretation of Peace Treaties with Bulgaria, Hungary and Romania" will be before the Court in public hearing at the Peace Palace on Tuesday, February 28th, 1950, at 11 a.m.

The following background information has been prepared by the Press Officer of the U.N. Information Centre, London.

The Hague, February 25th, 1950.

In the background of the issue coming up before the International Court of Justice for an advisory Opinion next Tuesday is the question which was discussed by the General Assembly last spring and again in autumn in connection with the "Trial of Church Leaders in Bulgaria and Hungary" and the "Observance in Bulgaria, Hungary and Romania of Human Rights and Fundamental Freedoms". It is clearly understood, however, that the Court is not expected to go into the substance of the matter, which is the alleged violation of the human rights provisions of the United Nations Charter and the Peace Treaties. The Court's advisory opinion is chiefly sought on certain legal questions concerning the application and the working of the machinery that has been designed under the Peace Treaties for the settlement of disputes between the parties concerned.

Four questions have been put to the Court by the General Assembly last autumn. They aim at establishing (1) whether there exist any disputes; (2) if so, whether there is any obligation on the part of the three Governments concerned to bring the Peace Treaty provisions for the settlement of these disputes into play; and (3) what unilateral action, if any, can be taken for this purpose by the other Parties to the Treaties if the three Governments concerned refuse to co-operate.

As far as the United Nations was concerned, the issue first came up when Australia and Bolivia asked the spring 1949 session of the General Assembly to include in its agenda items with regard to the trials of Church leaders in Bulgaria and Hungary. In the face of opposition, mainly from the Soviet Union, the Assembly decided to discuss the question and then, on April 30th, 1949, it adopted a resolution in which it expressed "deep concern at the ... alleged violation of human rights" in Bulgaria and Hungary. The resolution referred to the human rights provisions of the Peace Treaties and the United Nations Charter, and recalled that one of the purposes of the United Nations was the promotion and encouragement of respect for human rights and fundamental freedoms for all.

Against this, the legality of the debate before the Assembly and the subsequent request to the Court were contested by the Soviet Union and others, including the Governments concerned, on the grounds that they were attempting to deal with a matter which was a purely domestic concern. By embarking on a discussion of the subject and then by

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asking the Court for an advisory opinion, the Assembly was interfering in internal affairs, it was stated, and violating Article 2 paragraph 7 of the Charter which expressly provided that "nothing in the Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any State". In denying the competence of the Assembly it has also been pointed out that the Peace Treaties provided their own procedure and thereby did in fact bar the General Assembly and the Court from concerning themselves with the issue. As for the specific position of the Court, its competence was also questioned on the ground that the three States concerned were neither members of the United Nations nor Parties to the Court's Statute.

Before the spring session of the Assembly finished, a diplomatic correspondence on the question had been initiated by the United Kingdom and the United States, whose Governments at the beginning of April 1949 addressed notes to Bulgaria, Hungary and Romania, alleging a number of violations of the human rights articles of the Peace Treaties and calling upon those Governments for a remedy. This action was described as an opening step towards setting the Treaty procedure in motion, according to which (1) any dispute concerning the interpretation or execution of the Treaty, which is not settled by direct diplomatic negotiations, shall be referred to the Three Heads of Mission; (2) any dispute, not resolved by them within a period of two months shall be referred to a Commission composed of one representative of each party and a third member selected by mutual agreement of the two parties from nationals of a third country; and (3) should the two parties fail to agree within a period of one month upon the appointment of the third member, the Secretary-General of the United Nations may be requested by either party to make the appointment.

The attempts to invoke the Treaty machinery for the settlement of disputes did not prevail. The Soviet Union and the three countries concerned maintained their positions. This was the situation when the Assembly took the matter up again in autumn 1949. After a lengthy debate the Assembly then adopted on October 22nd, 1949, a resolution in which it expressed its continuing interest in the matter and it also voiced the opinion that "the refusal of the Governments to cooperate in its efforts to examine the grave charges with regard to the observance of human rights and fundamental freedoms justifies this concern of the General Assembly". By the same resolution the Assembly also decided to submit four questions to the International Court of Justice. These questions read as follows:

"I. Do the diplomatic exchanges between Bulgaria, Hungary and Romania on the one hand and certain Allied and Associated Powers signatories to the Treaties of Peace on the other, concerning the implementation of Article 2 of the Treaty with Bulgaria and Hungary and Article 3 of the Treaty with Romania, disclose disputes subject to the provisions for the settlement of disputes contained in Article 36 of the Treaty of Peace with Bulgaria, Article 40 of the Treaty of Peace with Hungary, and Article 38 of the Treaty of Peace with Romania?"

In the event of an affirmative reply to question I:

"II. Are the Governments of Bulgaria, Hungary and Romania obligated to carry out the provisions of the Articles referred to in question I, including the provisions for the appointment of their representatives to the Treaty Commissions?"

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In the event of an affirmative reply to question II and if within thirty days from the date when the Court delivers its opinion, the Governments concerned have not notified the Secretary-General that they have appointed their representatives to the Treaty Commissions, and the Secretary-General has so advised the International Court of Justice:

"III. If one party fails to appoint a representative to a Treaty Commission under the Treaties of Peace with Bulgaria, Hungary and Romania where that party is obligated to appoint a representative to the Treaty Commission, is the Secretary-General of the United Nations authorized to appoint the third member of the Commission upon the request of the other party to a dispute according to the provisions of the respective Treaties?"

In the event of an affirmative reply to question III:

"IV. Would a Treaty Commission composed of a representative of one party and a third member appointed by the Secretary-General of the United Nations constitute a Commission, within the meaning of the relevant Treaty articles, competent to make a definitive and binding decision in settlement of a dispute?"

At the Court's public hearings on Tuesday Dr. Ivan Kerno, United Nations Assistant Secretary-General for legal matters, is expected to make a statement on behalf of the Secretary-General. Oral statements will then be made on behalf of the United Kingdom (by Mr. G.G. Fitzmaurice) and by the United States (Mr. Benjamin V. Cohen). The public hearing is likely to last two or three days.

Written statements have so far been submitted by the Governments of Australia, Bulgaria, Byelorussian Soviet Socialist Republic, Czechoslovakia, Hungary, Romania, Ukrainian Soviet Socialist Republic, United Kingdom, United States of America and the Union of Soviet Socialist Republics.
