

CHORZÓW FACTORY CASE

MONIKA WOSIK

PAWEŁ JĘDRYSIAK

INTRODUCTION

- Legal issues:
 - ✓ The role of national law in international court proceedings
 - ✓ Succession of states
 - ✓ Protection of rights acquired
 - ✓ Estimation of property damage

CALENDARY

- 1915 – Agreement between Bayerische Stickstoffwerke and German Reich
- 1919 – Factory is sold by German Reich to Oberschlesische Stickstoffwerke
- 10.01.1920 – Treaty of Versailles entries into force
- 1920 – Poland takes over the ownership of German citizens and companies controlled by them on territory of the Polish Republic
- 1920 – Management of Chorzów factory is taken over by Oberschlesische

CALENDARY

- 20.03.1921 – The plebiscite of Silesia
- 15.05.1922 – Poland and Germany signed a contract in Geneva defining the rules for the treatment of german citizens' assets in plebiscite areas
- 1.07.1922 – Entry into the court register the Polish Treasury as the factory owner
- 10.11.1922 – The Oberschlesische initiates proceedings before the arbitration tribunal and before the court in Katowice.
- 13.09.1928 – The tribunal renders its judgment

CONTENTS OF JUDGMENT

- „The Polish Government is obliged to pay, as reparation to the German Government, compensation corresponding to the losses suffered by the German companies as a consequences to such proceedings.”

THE ROLE OF DOMESTIC LAW IN INTERNATIONAL COURT PROCEEDING

- The Court is certainly not called to interpret Polish law but nothing precludes the tribunal from deciding whether Poland was acting in accordance with its obligations to Germany under the Geneva Convention.

RESPONSIBILITY OF THE STATE

- Any violation of obligations under international law entails an obligation to repay

Reparation is an inevitable consequence of the failure to apply the convention. The existence of a principle establishing a commitment to carry out reparations is an element of positive international law.

EFFECTS OF RESPONSIBILITY

- Reparation must, to what extent it is possible to erase all consequences of a prohibited act and restore a state that would probably exist if the action was not carried out. Restitution in kind or if it is not possible, payment of the amount the corresponding value that would require restitution in kind; compensation, if required, for damage caused by a long-term loss caused, which can not be restitution in kind or payment made in its places - these are the basic rules that serve to determine the appropriate compensation for damage caused by an act contrary to international law.

STATE RESPONSIBILITY FOR DAMAGE CAUSED TO CITIZENS OF ANOTHER COUNTRY

- The most frequently used form of reparations is the payment of compensation corresponding to the amount of damage suffered by the citizens of the injured party, resulting from an act inconsistent with international law.
- This form was chosen by Germany in the present case

ESTIMATION OF PROPERTY DAMAGE

- When estimating the damage caused by an unlawful act, only the value of the property, rights and interests which have been infringed, as well as only the owner, who is a person for which the claim for damages is brought, as well as the damage being the measure of the reparations demanded, caused to him, should be taken into account.

THANK YOU FOR YOUR ATTENTION

