



# STATE RESPONSIBILITY

**Introduction into International Law**



# CONTENTS

- 1) Sources of Law of State Responsibility**
- 2) Material Law of State Responsibility**
- 3) Circumstances Precluding Wrongfulness**
- 4) Content of the International Responsibility of a State / Remedies**

# SOURCES OF LAW OF STATE RESPONSIBILITY

- Domain of customary law, only particular international treaties
- Draft Articles on Responsibility of States for International Wrongful Acts

# MATERIAL LAW OF STATE RESPONSIBILITY

- Two attributes:
- **A) International Legal Obligation and Breach of Such Obligation**
  - Breach: Action and/or omission
  - It is irrelevant for the breach of international legal duty, whether under municipal law such conduct would be characterized as legal.
- **B) Attributability to a State**
  - Draft Articles → *...person or group of persons is in fact acting on the instructions of, or under the direction or **control of**, that State in carrying out the conduct.....*
  - Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America), Merits, Judgment, I.C.J. Reports 1986

# CIRCUMSTANCES PRECLUDING WRONGFULNESS

- **Consent** (Art. 20 of the Draft Articles)
  - E.g. *The approval of one State that other State's military aircrafts pass through the former's airspace*
- **Self-defense** (Art. 21 of the Draft Articles)
  - State's "inherent" right
- **Countermeasures** (Art. 22 of the Draft Articles)
  - Gabčíkovo-Nagymaros Project case
- **Force majeure** (Art. 23 of the Draft Articles)
  - (a) the act in question must be brought about by an irresistible force or an unforeseen event; (b) which is beyond the control of the State concerned; and (c) which makes it materially impossible in the circumstances to perform the obligation
- **Distress** (Art. 24 of the Draft Articles)
- **Necessity** (Art 25 of the Draft Articles)

# Content of the International Responsibility of a State / Remedies

- Two results
  - **A) To cease the wrongful conduct**
  - **B) To provide remedies → Reparation**
    - **Restitution** (to re-establish the situation which existed before the wrongful act)
    - **Compensation** (to cover any financially assessable damage including loss of profits insofar as it is established)
    - **Satisfaction** (obligation to give satisfaction for the injury caused by that act insofar as it cannot be made good by restitution or compensation)