

INTERNATIONAL COURT OF JUSTICE

THE PEACE PALACE THE HAGUE, THE NETHERLANDS

THE CASE CONCERNING

REINTRODUCTION OF BEARS

THE FEDERAL STATES OF ARCTOS

(APPLICANT)

v.

THE REPUBLIC OF RANVICORA

(RESPONDENT)

MEMORIAL FOR THE APPLICANT

2019

TABLE OF CONTENTS

INDEX OF AUTHORITIES	5
STATEMENT OF JURISDICTION	6
DISCUSSIONS	7
MAIN FACTS	8
SUMMARY OF ARGUMENTS	11
ARGUMENTS	13
CONCLUSIONS	21

INDEX OF AUTHORITIES

Weiss, E. B. (1990). Our rights and obligations to future generations for the environment. American Journal of International.

Convenio para la Protección y el Desarrollo del Medio Marino de la Región del Gran Caribe, 24 de marzo de 1983.

Convention on biological diversity. June 1992

Convention on the Conservation of European Wildlife and Natural Habitats. 1979

Recommendation 158 of the standing Committee to the Bern Convention. 2012

Recommendation 159 of the standing Committee to the Bern Convention. 2012

Conservation of Migratory Species of Wild Animals. 1979

Universal Declaration of Animal Rights, 1977.

STATEMENT OF JURISDICTION

The Federal States of Arctos and the Republic of Ranvicora submit the following dispute to the International Court of Justice. Attending that the Article 40 of the Statute of the International Court of Justice, States may bring cases before the Court by special agreement, and both countries are part of the United Nations Circuit and because of that are parts of the Statute of the International Court of Justice.

DISCUSSIONS

1. Is the Republic of Ranvicora responsible for the damages caused by the gray bears, product of their reinstatement to Ranvicora, in the territory of the Federal States of Arctos?
2. Did Arctos incur in any violation of international treaties to which it is a part by allowing its population to attack bears causing death?

FACTS

1. Within the fauna richness of which the continent of Suredia is owner, only three countries had the privilege of being home to the gray bear, countries among them, the Republic of Ranvicora. Being the home almost exclusive to this specimen, the already named Republic held on the shoulders a special duty of protection, care and responsibility on the life and conservation of bears in question.
2. Because of the irresponsible practice of hunting that has been practiced throughout history in the Republic of Ranvicora, of which the gray bears were victim, in the year of 1963 those became extinct, thus representing a loss for both the nation as for the entire region.
3. Refusing to accept the consequence of its harmful act the Republic of Ranvicora in the year 2008 decided to initiate a process of reintroduction of the specimen in question, but it does under the appropriate parameters, since it does not integrate the international community into its plan. For this, enters its territory and right on the border with the Federal States of Arctos gray bears brought from Paddington and Aloysius, even when it is known that various experts in the field questioned this decision and recommended not to do so.
4. In just five years, they already had 20 specimens of this race that started their periods of reproduction and were increasing in number without a real control over them. There was fear on the part of the undersigned that lack of control will leave on the surrounding towns a problem since it had knowledge on the

part of the government of Ranvicora that the bears were moving freely across the border, beyond its "natal" and "traditional" limits.

5. In February 2018 the death of the horse of a farmer belonging to the people of Arctos as a consequence of an attack of a grizzly bear on this same. In the five months following continue these unfortunate events, resulting in a total of seven horses and seven sheep of the region.
6. The protected national bird Trouwborst tern begins to be endangered because of the dangerous approach by the conglomerate of gray bears invaders inside Arctos towards the nests and the birds themselves. There is no control and worries do not stop.
7. Always a believer in diplomacy and good manners, the government of the Federal States of Arctos extends its good offices in communication to the Republic of Ranvicora and emphasizes the already known situation and strongly asks you to take control of the bears, because it is evident that in addition to having contravened the norms and customs of international law that regulate wildlife, this situation of "reintroduction of gray bears" has gotten out of their hands and their bears are making disasters beyond their borders. Under this logic and always a believer in peaceful solutions, this government proposed to the Republic of Ranvicora a simple and fair solution to the problem: that it carries out a control over the bears, but that it also compensates the farmers of Arctos who have been affected with the action of gray bears.

8. Unfortunately, the Ranvicora government does not assume its facts and vehemently refuses to make compensation.
9. The deaths of the native fauna of Arctos continued, this especially affected the regional farmers, so they began to request protection from the government. In January 2019, four of the bears that were carrying out excesses in the region died.
10. On April 22th of 2019, in an attack perpetrated by a grey female bear to two kids, one of them passed away on the other it's seriously injured with serious consequences that will last for the rest of his life. As an answer and demonstrating the compromise and protectionist role of the State, it's generated a regulation that allows the defense of the citizens to bear attacks, allowing them the use of weapons as a way of protection.
11. The government of Ranvicora decides to communicate with the undersigned on June 5, 2019 requesting that the measure should be revoked since it affected its repayment plan when months before it had taken the decision to continue with it even if the subscribed requested control.
12. On June 23 of the same annuity the government of Arctos answers the communication and declares that it will not be held responsibility for any action since contrary to the government of Ranvicora this has acted in favor of its duty of care to the avoid damage beyond the border.
13. Despite the good will of the Arctos government, it is impossible to arrive at a compromise formula through the use of compositional systems, for the

government of Ranvicora refuses to accept the consequences of his irresponsible actions, so it has been necessary to turn to an impartial third party, this honorable court, to settle the differences.

MAIN POINTS OF THE ACCUSATION

- The Republic of Ranvicora IS RESPONSIBLE for the violation of the Convention for Biological Diversity¹ hereafter referred to as CBD more precisely in articles 3, 5 and 8 specifically for not ensuring that environmental activities carried out within its jurisdiction they will not affect the environment of other states.
- Similarly, IS RESPONSIBLE for the violation of paragraph b of the second paragraph of article 11 of the Bern Convention² by not having exercised strict control over the reintroduction of grey bears as these species are not native to the territory.
- Likewise, IT IS RESPONSIBLE BECAUSE IT CONTRADICTED with its acting recommendations 158³ and 159⁴ of 2012 of the Standing Committee to the Bern Convention, in a beginning having carried out the translocation of the bears without this being strictly necessary, and did not delimit the area in which the bears were to be developed or ensure in any way that their

¹ Convention on biological diversity. June 1992

² Convention on the Conservation of European Wildlife and Natural Habitats. 1979

³ Recommendation 158 of the standing Committee to the Bern Convention. 2012

⁴ Recommendation 159 of the standing Committee to the Bern Convention. 2012

adaptation would be healthy and would not cause inconvenience to other States.

- In addition, IS RESPONSIBLE UNDER the Convention on the Conservation of Migratory Species of Wild Animals⁵ from now CMS sets out the preventive measures that States Parties must take to control transit and development of animals that can become invasive by their very wild nature as is the case with grey bears.
- With regard to the accusations made by the Republic of Ranvicora, it remains to be said that, as the grey bears are not endemic species of the Federal States of Arctos and in view of the special circumstances that have arisen in the territory with savage attacks by bears on the civilian population CMS⁶ and in accordance with national laws, is permitted and not in violation of any covenant or treaty to which this nation is a party the use of violence for purposes of protection of the HUMAN SPECIES against these animals.
- For the foregoing, the Republic of Ranvicora, IS RESPONSIBLE for the violation of different international norms contained in treaties of which it is a State party, as well as being responsible for omission for damages done by gray bears within the territory of Arctos among which are the death of a minor.

⁵ Conservation of Migratory Species of Wild Animals. 1979

⁶ Conservation of Migratory Species of Wild Animals. 1979

ARGUMENT

As can be seen from the account of the facts of the matter in question, the Republic of Ranvicora is internationally responsible for the events that happened in Arctos as a result of the violation of the treaties about fauna and flora in which it is a State party. And it is not only for the damages in the current ecological balance, but for not taking care of the duty of protect the environment for the future generations, and with it, going against the sustainable development goals more precisely the fifteen one about life on land, because the States should promote the conservation of the environments and Ranvicora with its non-measure acts putting in an unnecessary risk the fauna of the region. In words of E. Brown Weiss ⁷“The current generation has the responsibility to manage the care of natural resources for the new generations” (Weiss, 1990), so that Ranvicora failed to the future generatios when using, as the Convention for the Protection and Development of the Marine Environment of the Wider Caribbean Region would refer, a no environmentally healthy management of the reintroduction of the bears.

We must not fail to recognize that in our world at the forefront there are rights for animals and there is a universal declaration of animal rights adopted by the International League of animal rights and that is in its article 3 literal 4 says that:

“Every animal belonging to a wild species, has the right to live free in its own natural, terrestrial, aerial or aquatic environment and to reproduce”.⁸

⁷ Weiss, E. B. (1990). Our rights and obligations to future generations for the environment. American Journal of International.

⁸ Universal Declaration of Animal Rights, article 5, 1977.

In an attempt to remedy this situation, the so-called "Reintegration of the Grey Bears" was initiated to the territory of Ranvicora and these decide which bears brought from the countries Paddington and Aloysius, will be located at the border they share with Arctos, however, no communication is generated with that country and it is at this moment where the first violation of an international treaty of which Ranvicora is a party arises. This treaty is article 5 on the cooperation of the CBD⁹, which reads as follows:

Article 5. Cooperation Each Contracting Party shall, to the extent possible and as appropriate, cooperate with other Contracting Parties, directly or, where appropriate, through the competent international organizations, for areas beyond national jurisdiction, and for other matters of common interest for the conservation and sustainable use of biological diversity.

In light of this article, Ranvicora should have collaborated with the government of Arctos to regulate the issue of the border because it was known that when the border between these nations was full of farms and forests there was the possibility of transit one nation to another, in addition, the presence of the two States was necessary to comply with article 8¹⁰ of the same convention as regards the regulation of the creation of a protected area in which bears should be adapted and reproduce at least in the first years of reintroduction.

⁹ Convention on biological diversity. Article 5. June 1992

¹⁰ Convention on biological diversity. Article 8. June 1992

The lack of foresight and planning in developing and implementing the return of the bears led him to the violation of Article 8 of the CBD by not creating a system of protected areas or areas where special measures need to be taken to conserve biological diversity; in observance of the fact that the bears were not in their home habitat and their stay in the host country was for the purpose of their permanent settlement in the host country. In addition to the literal h¹¹ ibidem obliging states to control alien species that threaten ecosystems and when Arctos warned about the attacks perpetrated by bears in the territory, Ranvicora ignored them and did not exercise any control but continued not to create the protected areas, which allowed the transnational transit of these bears to continue and the damage to Arctos' native farmers continued to occur.

Similarly, it is not possible to ignore the fact that paragraph (i) of the aforementioned treaty text states that:

“(l)... Where a significant adverse effect on biological diversity has been identified in accordance with Article 7, it shall regulate or order relevant processes and categories of activities;”¹²

And when it was announced that the grey bears were attacking the Trouwborst tern, founded on national cooperation and environmental responsibility, More than ever, the State of Ranvicora should have exercised control over its reincorporated wild

¹¹ Convention on biological diversity. Article 8. June 1992

¹² Convention on biological diversity. Article 8. June 1992

animals and even reconsidered whether the resulting environmental imbalance was a fair price for the region.

All this series of omissions degenerated into the violation of the guiding principle of the convention, which rests in article three of the convention and obliges States to ensure that the activities carried out within them do not affect the environment. from other states or areas outside the national jurisdiction. It is evident how the safety, environment and ecological diversity of the Republic of Arctos was affected with the death of various animals and even the end of a child's life was ended and life was affected in decent conditions of another product of the attacks of These wild animals.

Not only with its actions did it contravene the convention but also the decisions of the Convention on Biological Diversity, especially the VIII / 27 dealing with foreign species, in article 17 when it urges States parties to carry out border control with respect to animals , recognizing that these may invade other national territories and it is well known that animals in transit and adaptation process may have different behaviors than usual, since these perform recognition of the area they inhabit and being new in the territory do not know about the limits as contemplated in CMS Resolution 11.28¹³ when dealing with invasive alien species (IAS)

The IAS according to said convention “can lead to the extinction or decrease of the population figures of some local species, as well as changes in migration patterns, and that the natural behavior of migratory species can lead to negative interactions with IAS not only in its areas of reproduction, rest and wintering, but also during

¹³ Conservation of Migratory Species of Wild Animals. 1979

migrations, which may result in cumulative impacts of IAS "for this reason it insists the States parties such as Ranvicora" prevent, reduce and / or strictly control the introduction of exotic species, and control and / or eliminate those already introduced"

However, again, Ranvicora omitted to comply with the recommendations of the CMS and did not control the species that he introduced even when that same recommendation contemplates, the possibility that these become invasive, did not care for the bears in his territory and did not it allowed the Arctos to take care of its premises, since this one was not informed about the translocation that was being executed in its border.

Therefore, according to Article 18¹⁴, the roads should be created and a body of guards must be provided with the appropriate knowledge and training to control the spread of the foreign species that is incorporated into the territory. There is no evidence that the Republic of Ranvicora complied with this, moreover, everything indicates that no such protocol was followed, since the bears had the possibility of freely transiting between the States parties to this issue.

However, this was not the only convention violated by the Republic of Ranvicora, another of these was the Bern Convention, more specifically in its article 11 literal b having not strictly regulated the introduction of non-native species, since although , this species was endemic to this national territory, its extinction occurred because of the excessive house of the same and when trying to give it a reintegration it is a non-

¹⁴ Conservation of Migratory Species of Wild Animals. Article 18. 1979

native species that tries to nativize in that territory, Therefore, the control carried out to this should have been, as contemplated by the convention, strict. It was not observed in any way in the execution of this project that even specific control was given to the process of specimen adoption, in the understanding that the collars that the bears used only helped their location, but not even having this data Exactly on their location, the Ranvicora government took some measure to control the transnational transit of these animals.

However, with regard to resolution 158 of 2012 of the Standing Committee to the Bern Convention, it is recommended to the States parties; in the first article:

“Undertake conservation translocations only if aimed to deliver a demonstrable conservation benefit in terms of species viability or ecological function. Translocation should therefore be justified, with development of clear objectives, a long-term or permanent management plan, identification and assessment of risks, and with the specification of clear measures of performance ”¹⁵

In the fifth article:

“Consider particularly the ecological risks, including the risk of gene escape in any risk analysis”¹⁶

In attention to these articles it is possible to ensure that the translocation of gray bears did not attend to a character of necessity but really of interest on the part of the State, since it was possible the ecological adaptation of this ecosystem to the

¹⁵ Recommendation 158 of the standing Committee to the Bern Convention. 2012

¹⁶ Recommendation 158 of the standing Committee to the Bern Convention. 2012

absence of this species, since 1963 until 2008 there was no presence of it in the area and there is no record of any ecological disaster besides the disaster itself of extinction. So, this translocation paid more attention to cultural interests and in some ways to a national whim, which is dangerous, because something as complex as the retrofitting of an entire species to a new habitat, in which in the past they were in danger until reaching the point of extinction, can not attend to the whims of the rulers.

Due to the lack of foresight and cooperation with the border country, the ecological risks that this translocation could entail were not evaluated, the most obvious and alarming being the risk for other endemic species in the area with which these bears had never had such contact. like the Trouwborst tern. It cannot a national whim on an already extinct species, endanger another endemic species, since this would generate a real ecological imbalance that without the translocation, or perhaps, with the respective cares that did not exist, could have been foreseen.

Continuing with this common thread, recommendation 159 of 2012 of the same committee, in its second article is about:

“Take further steps to develop ecological networks, to promote and enhance the permeability of landscapes generally, and also enhance their protected areas networks, as appropriate, by increasing the extent of existing sites, designating new sites and establishing buffer zones, and ensuring they are sustainably and adaptively managed ”¹⁷

¹⁷ Recommendation 159 of the standing Committee to the Bern Convention. 2012

An issue that was not foreseen by the Republic of Ranvicora as it did not design any plan to develop ecological protection networks for the species irresponsibly introduced into the territory, this recommendation also insists that protection should be carried out in areas that require it, which, as has been demonstrated previously, was not carried out by Ranvincora. Thus exposing the safety of bears and wildlife and surrounding populations.

All this forced the Federal States of Arctos to take measures to protect their civilian population and the fauna that lives on the border with the Republic of Ranvicora, it was decided to allow citizens to defend themselves from bears after respecting the life of animals, one of these savages will end the life of one of the minors who lived in the area and generate brutal permanent injuries to another child of the territory. In attention to the protection of the rights of children and adolescents, as well as all citizens, the State allowed attacks on bears that attempt to attack either the people or animals in the area. This decision is taken under the Vienna convention since the other states cannot interfere in making internal decisions in the countries and this decision was taken in the exercise of the sovereign power of internal order. In the same way and contrary to the accusation made by the Republic of Ranvicora, there is no violation of the CMS since it enables this type of action in article 3, numeral 5 literal d¹⁸, when stating that special circumstances enable States to take measures that threaten the survival of the species and there is no circumstance more special than that of citizen security and ecological balance.

^{18 18} Conservation of Migratory Species of Wild Animals. Article 3. 1979

CONCLUTION

Due to the aforementioned changes, the Federal States of Arctos request that the Republic of Ranvicora be condemned for the violations and violations of the treaties of international law of which it is a state party and for this reason it covers international responsibility.

The violations that have already been exposed and explained have jeopardized the ecological balance of two nations by incorporating, taking the required measures, in their territory foreign wild animals that became invaders in another country and threatened the life of the natives animals of the invagded and against a bird of special territorial protection, in addition to that they have generated the death of a minor and have caused serious and permanent wounds in another. This lack of responsibility by a State is not admissible, so Ranvicora must respond and compensate Arctos and the victims of these accidents.

There is no record that the measures required and accepted by the international community have been taken.

However, regarding the accusation that is made to the country of Arctos by allowing the use of weapons and attacks in situations that require special protection against bears, it is not an attack on any type of treaty because even the treaty that prevents The use of violence against animals, contemplates the existence of special cases in which this is the only measure and in Arctos is going through a process of special situations thanks to the poor care of Ranvicora with his bears. It is because of this,

that this great court must acquit Arctos in the face of this charge that is nothing more than the Ranvicora government without assuming its responsibility.