

**THE INTERNATIONAL COURT OF JUSTICE
AT THE PEACE PALACE
THE HAGUE, THE NETHERLANDS**



**QUESTIONS RELATING TO
REINTRODUCTION OF BEARS**

FEDERAL STATES OF ARCTOS

APPLICANT

V.

REPUBLIC OF RANVICORA

RESPONDENT

MEMORIAL FOR THE APPLICANT

THE 24TH STETSON MOOT COURT COMPETITION 2019-2020

TABLE OF CONTENTS

INDEX OF AUTHORITIES2

STATEMENT OF JURISDICTION4

QUESTIONS PRESENTED5

STATEMENT OF FACTS6

SUMMARY OF ARGUMENT8

ARGUMENT9

**I. THE REPUBLIC OF RANVICORA VIOLATED INTERNATIONAL LAW BY
PROMOTING THE EXTINCTION OF AN ENDANGERED SPECIES AND
REINTRODUCING GREY BEARS INTO RANVICORA9.**

**A. THE REPUBLIC OF RANVICORA VIOLATED ARTICLE 8 FROM THE
CONVENTION OF BIOLOGICAL DIVERSITY (CBD)9**

**B. THE REPUBLIC OF RANVICORA TRANSGRESSED THE THIRD ARTICLE
FROM THE CONVENTION OF BIOLOGICAL DIVERSITY (CBD)
.....10**

**C. THE REPUBLIC OF RANVICORA TRANSGRESSED THE FIFTH ARTICLE
FROM THE CONVENTION OF BIOLOGICAL DIVERSITY (CBD)
.....11**

**II. THE FEDERAL STATE OF ARCTOS DID NOT VIOLATE INTERNATIONAL LAW
WITH RESPECT TO ITS RESPONSES TO RANVICORA’S REINTRODUCTION OF
GREY BEARS.12**

CONCLUSIONS & PRAYERS FOR RELIEF14

INDEX OF AUTHORITIES

TREATIES AND CONVENTIONS

Convention on Biological Diversity, 5 June 1992, 1760 U.N.T.S. 79

Convention on the Conservation of Migratory Species of Wild Animals, 23 June 1979, 1651 U.N.T.S. 333

Appendices I and II of the Convention on the Conservation of Migratory Species of Wild Animals, appendix II, Feb. 23, 2012

Vienna Convention on the Law of Treaties, 23 May 1969, 1155 U.N.T.S. 331

Statute of the International Court of Justice, 26 June 1945, T.S. 993

Conservation of European Wildlife and Natural Habitats (Bern Convention)

United Nations Framework Convention on Climate Change, 01 June 1982, E.T.S. 104

Kyoto Protocol, 20 January 1994, U.N. 189

Paris Agreement, 4 November 2016, E.D.t 187

JUDICIAL DECISIONS

The U.S. Fish and Wildlife Service ("FWS"), under the Endangered Species Act ("ESA"), 1973

Petition for Listing of the Homo sapiens ("HS") species as an Endangered Species Pursuant to Federal Regulation of the Endangered Species Act [50 CFR 424.14(b)]
Earth Community on May 20, 2012.

MISCELLANEOUS

International Court of Justice, Basis of Jurisdiction <https://www.icj-cij.org/en/basis-of-jurisdiction#1>

http://www.un.org/Depts/los/biodiversityworkinggroup/webpage_legal_and_policy.pdf

STATEMENT OF JURISDICTION

_____The Federal State of Arctos [hereinafter Arctos or Applicant] submits the following dispute to the International Court of Justice [Hereinafter this Court or ICJ]. Pursuant to Article 40, paragraph 1 of the Statute of the Court. The present dispute arises out of CBD¹, CMS², Bern Convention and Recommendation No. 158 (2012) and Recommendation 159 (2012).

Noting that the Applicant and the Republic of Ranvicora [hereinafter Ranvicora or Respondent] have not been able to settle this international dispute and that both States are Members of the United Nations and the Character of the United Nations. The Parties agree that the Court has jurisdiction to decide this the jurisdictional questions and state responsibility questions of this matter on the basis of the rules and principles of general international law, as well as all applicable treaties, and based on the Agreed Statements of facts, in order for the Court to determine the legal consequences, including the rights and obligations of the Parties, arising from any judgment on the questions presented in this matter.

¹ Convention on Biological Diversity, 5 June 1992, 1760 U.N.T.S. 79

² Convention on the Conservation of Migratory Species of Wild Animals, 23 June 1979, 1651 U.N.T.S. 333

QUESTIONS PRESENTED

- I. WHETHER THE REPUBLIC OF RANVICORA VIOLATED INTERNATIONAL LAW WITH RESPECT TO ITS GREY BEAR REINTRODUCTION PROJECT.

- II. WHY THE FEDERAL STATES OF ARCTOS DID NOT VIOLATE ANY INTERNATIONAL LAW WITH RESPECT TO ITS RESPONSES TO RAVINCORA'S REINTRODUCTION OF GREY BEARS.

STATEMENT OF FACTS

The Federal States of Arctos and the Republic of Ranvicora are neighboring sovereign states located in the continent of Suredia in the Northern Hemisphere. Arctos is located to the north of Ranvicora. The area along the 75 km border between the two countries consists primarily of forests and privately owned farms. Both Parties are members of the United Nations and the Statute of the International Court of Justice.

For centuries, Ranvicora, Paddington and Aloysius have been the habitat of the grey bears, a species that is listed as Endangered on the IUCN Red List of Threatened Species.

Grey bears went extinct in Ranvicora in 1963, primarily due to overhunting and habitat destruction. In 2008, the Government of Ranvicora began considering the possibility of reintroducing grey bears on Ranvicora. In between the years of 2008 and 2013 the Government of Ranvicora worked with a team of scientists and other professionals to plan a reintroduction project to bring grey bears back to Ranvicora.

There are no historic or fossil records of grey bear presence in Arctos. Because grey bears historically migrated only within Ranvicora and has not lived in Arctos, the Government of Ranvicora did not inform or consult with other countries about the reintroduction project and did not assess the potential impacts of the reintroduction project with other countries.

The grey bear's range in Paddington and Aloysius has been shifting poleward due to climate change. Therefore, the only suitable habitat to sustain a viable grey bear population was in the northern part of Ranvicora, near the border with Arctos, however, questioned whether this region was part of the grey bear's historic range.

When the reintroduction project began the nearest release to Arctos was about 50 km to the border. Henceforth, a grey bear was spotted in Arctos not far from the Arctos-Ranvicora border. Afterwards, the grey bears habitating in Arctos began the chaos, creating fear among the Arctos' citizens, harming other endangered species and killing a child.

The diplomatic correspondence between the two States failed to resolve the dispute regarding the reintroduction grey bears and its effects.

SUMMARY OF ARGUMENTS

- I. **RANVICORA HAS VIOLATED CUSTOMARY AND TREATY INTERNATIONAL LAW.** It failed to fulfill its obligations under the Articles 3, 5 and 8 of the CBD³ and various CBD decisions (taking into consideration Decision VIII/27 and related). Also, violated Article 11 of the Bern Convention and the Standing Committee to the Bern Convention towards the recognition the grey bear as non-native, invasive alien species in Arctos.

- II. **THE REPUBLIC OF ARCTOS ACTED WITHIN THE INTERNATIONAL LAWS AND TREATIES.** The Federal State of Arctos has acted in accordance with the duty to prevent transboundary harm, and remedy the transboundary harm that Ranvicora has caused. Arctos' responses are permissible under CMS article III (5)(d) and are appropriate pursuant to the exceptions in article 9 of the Bern Convention.

³ Convention on the Conservation of Migratory Species of Wild Animals, 23 June 1979, 1651 U.N.T.S. 333

ARGUMENTS

I. THE REPUBLIC OF RANVICORA VIOLATED INTERNATIONAL LAW BY PROMOTING THE EXTINCTION OF AN ENDANGERED SPECIES AND REINTRODUCING GREY BEARS INTO RANVICORA

A. THE REPUBLIC OF RANVICORA VIOLATED ARTICLE 8 FROM THE CONVENTION OF BIOLOGICAL DIVERSITY (CBD)

As positioned in the statement facts, in 1963, the grey bears were listed as endangered species IUNC Red List of Threatened Species on Appendix II of the Bern Convention, and on the Appendix I of CMS. The Republic of Ranvicora was aware of this fact and deliberately kept hunting and developing urban areas in the natural habitat of these wild animals. Thus, causing the extinction of grey bears within the Republic of Ranvicora.

Taking into consideration the 8th article, section k of the Convention of Biological Diversity (CBD)⁴, which states that each contracting party shall develop or maintain necessary legislation and/or other regulatory provisions for the protection of threatened species and population.

⁴ Convention on Biological Diversity, 5 June 1992, 1760 U.N.T.S. 79

The Republic of Ranvicora had knowledge that the grey bear was in listed in the IUCN Red list of Threatened Species, and kept by letting its inhabitants hunt and invade the bear's habitat to the point where there species became extinct. Violating article 8 form CBD⁵, leading to the repercussion of declaring the grey bear as extinct in the Republic of Ranvicora , creating its own national tragedy. All this, due to an action lead by the country's negligence and lack of regulations.

B. THE REPUBLIC OF RANVICORA TRANSGRESSED THE THIRD ARTICLE FROM THE CONVENTION OF BIOLOGICAL DIVERSITY (CBD)

Taking into consideration the events caused by the Republic of Ranvicora in the need to “redeem” the repercussions of the excessive hunting and habitat destruction permitted by Ranvicora, the State began to execute its reinsertion plan, causing a negative effect to the Federal States of Arctos.

Noting that the Republic of Ranvicora violated article 3 of the CBD⁶. Article that states the principle of the international law of the sovereign right of each contracting party to exploit their own resources pursuant to their own environmental policies, with the responsibility to ensure that those activities do not cause damage to the environment of other States or areas beyond the limits of national jurisdiction.

⁵ Convention on Biological Diversity, 5 June 1992, 1760 U.N.T.S. 79, Article 8

⁶ Convention on Biological Diversity, 5 June 1992, 1760 U.N.T.S. 79, Article 3

This article was clearly violated by the Republic of Ranvicora as they did not inform or consult with other countries about the reintroduction project, knowingly that grey bears are migrating due to a climate-induced range shift.

With that in mind, the republic of Ranvicora made the decision to execute the reintroduction project near the border of the Federal State of Arctos with the consciousness that there was a possibility that the bears would migrate to the north crossing the Ranvicora-Arctos border, due to climate induced range shift and the previous tracking records of the bears on the territories of Paddington and Aloysius.

Unfortunately, what was a possibility, became a reality. The grey bears that were reintroduced into Ranvicora, migrated to the Federal State of Arctos affecting the biological diversity of the Applicant, by killing endangered Trouwborst tern eggs and nestling, farmers' horses and sheeps, apple orchards, a child and left with permanent injuries risking the another minor's life.

Beyond shadow of doubt, it is well concluded that the Ranvicora's negligence, materialized through its reinsertion plan, lead to the point of impairing killing endangered species in Arctos and the murder of a child.

C. THE REPUBLIC OF RANVICORA TRANSGRESSED THE FIFTH ARTICLE FROM THE CONVENTION OF BIOLOGICAL DIVERSITY (CBD)

The Republic of Ranvicora infringed with article 5 of the CBD⁷. Article that states that every contracting party shall cooperate with other contracting parties, for the conservation and sustainable use of biological diversity.

⁷ Convention on Biological Diversity, 5 June 1992, 1760 U.N.T.S. 79

Article that was clearly violated by the Republic of Ranvicora through the diplomatic note sent to the Applicant by the Respondent on 21 August 2018, that stated “The Government of Ranvicora has dedicated significant time and resources to reestablish and conserve this ecologically and culturally important endangered species... Contributing to the conservation of endangered species and biodiversity”.

The statement cited in the previous paragraph is contrary to the facts that happened. Due to the fact that in 1963 the Republic of Ranvicora did not had the appropriate care to conserve a cultural important endangered species, by letting its citizens hunt and destroy the grey bear’s habitat.

On the other hand, the Government of Ranvicora states that is dedicated to conserve ecologically and culturally important endangered species, but when the Applicant informed the Respondent about the grey bears killing Trouwborst tern (an endangered species in Arctos) and ask to stop the reintroduction project due to the negative effects that is causing to the Federal State of Arctos, the Republic of Ranvicora responded that the Federal State of Arctos should paid the affected subjects any compensations for the harms the grey bears that were reintroduced unnaturally by the Republic of Ranvicora caused.

II. THE FEDERAL STATE OF ARCTOS DID NOT VIOLATE INTERNATIONAL LAW WITH RESPECT TO ITS RESPONSES TO RANVICORA’S REINTRODUCTION OF GREY BEARS.

The Federal States of Arctos acted in accordance with its obligation and responsibility to protect the national species, wild and lifes. The responses Arctos effectuated were in order to secure the hams the Republic of Ranvicora brought to Arctos. Not only Arctos isn't able to fall into the legal assumption accused of, even if it would have, the Federal States of Arctos are permitted to operate the way it did aludding the third article, Appendix I, section 5, clause b of the Convention of the Conservation of Migratory Species of Wild Animals (CMS)⁸. This article specifies that Parties that are Range States of a migratory species may take the animal's life on extraordinary circumstances so require. Still, even though the circumstances of the killing Arctos' endangered species and the injuring and killing of children is considered as a justifiable and urgent extraordinary situation, The Federal States of Arctos is not a Range State. Therefore, the interests that prevails is the prevention of any further harms. Harms brought by the negligence of the Republic of Ranvicora.

⁸ Convention on the Conservation of Migratory Species of Wild Animals, 23 June 1979, 1651 U.N.T.S. 333

CONCLUSIONS & PRAYERS FOR RELIEF

The Federal State of Arctos, respectfully requests the ICJ to adjudge and declare that:

- I. The Republic of Ranvicora violated international law with respect to its grey bear reintroduction project
- II. The Federal State of Arctos did not violate international law with respect to its responses to Ranvicora's reintroduction of grey bears

Respectfully Submitted,
AGENTS OF APPLICANTS