

## **Legal Writing and Oral Advocacy in International Law**

**Fall 2015**

### *Altea v. Bundy*

#### **Application initiating legal proceedings**

On 8 October 2015 the Government of the Republic of Altea (Altea) filed in the Registry of the International Court of Justice (ICJ or Court) an Application instituting proceedings against the Republic of Bundy (Bundy) in respect of a dispute concerning massive, serious and flagrant violations of human rights and of international humanitarian law alleged to have been committed in breach of the 'International Bill of Human Rights', other relevant international instruments and mandatory resolutions of the United Nations Security Council. In the Application instituting proceedings Altea requested the Court to render a provisional measures order indicating that Bundian armed forces withdraw immediately from the territory of Altea. With regard to the merits of the case brought before the Court, Altea claims that the serious violations of human rights and of international humanitarian law of which it complained are a result of acts of armed aggression perpetrated by Bundy on the territory of Altea, in flagrant breach of its sovereignty and territorial integrity, as guaranteed by the Charter of the United Nations.

#### **Background to the case**

The relations between Altea, Bundy, and some other neighboring countries have been quite tense over the last ten years. The central governments control over their respective territories has its limitations, because of the general weakness of State institutions, as well as because of the difficult terrain and under-developed public infrastructure. There are several armed groups operating near the border areas and there are rumors that some of them receive considerable military and logistical support from neighboring States. Especially problematic is the Allied Liberation Front (ALF), which operating from Altean territory has launched several attacks on Bundian villages near the border. Well-informed intelligence sources estimate ALF's membership at round 900 persons under the overall command of the fearsome General Dredd. Another extremely violent armed group is the Lord's Army of Relief and Salvation (LARS), which operating from Bundian territory launches attacks on Altean villages situated close to the border. This armed group of about 750 fighters is under the overall command of General Kaponi. Thousands of civilians from both countries have lost their lives in the last

five years due to armed clashes between governmental armed forces and armed groups and tens of thousands of persons have fled the areas close to the border. Due to this dire situation, in January 2014 President Utanabuti of Altea invited Bundy to deploy its troops in eastern Altea, since the modestly equipped Altean army did not have the necessary resources to control its remote eastern provinces.

The 25 January 2014 bilateral agreement between the Altean and Bundian governments states obliquely that ‘their respective armies would co-operate in order to ensure security and peace along the common border.’ The mandate of Bundian armed forces is to neutralize ALF and other anti-Bundian fighters operating in the border area and to secure the border region. However, after reports of serious violations committed in eastern Altea by the Bundian armed forces and affiliated armed groups started to surface, on 15 May 2015 President Utanabuti declared that Bundian armies should start withdrawing immediately from the territory of Altea. On 25 May 2015 the Altean government stated that eyewitnesses fleeing from those areas to the Altean capital, as well as recent reports from highly regarded international NGOs spoke of burning of houses of persons suspected of supporting opposing armed groups, of conscripting and enlisting in the armed forces of persons under 15 years of age, and looting of private property and of natural resources in eastern Altea by Bundian armed forces and affiliated armed groups. Rape and sexual assault are widespread in the border areas and are used as a method of war by armed groups, including ALF and LARS. Moreover, there are allegations that governmental armed forces are also guilty of such criminal behavior.

Towards the end of May 2015 the Altean government asked the UN Security Council to refer this situation to the International Criminal Court (ICC) so that those most responsible for war crimes and crimes against humanity could be brought to account. Responding through its spokesperson, on 1 June 2015 the Bundian government stated that their investigators were closely looking into these serious allegations of misconduct by its armed forces. However, to the extent that there would have been any violations of human rights and humanitarian law, officers and soldiers of the Bundian army had acted contrary to instructions given or had exceeded their authority. As to international law violations on the part of armed groups operating in those areas, the spokesperson stated that they had no control over them and could not be held responsible for acts of third parties. The Bundian government promised a swift investigation into these allegations. So far, however, no criminal proceedings have been instituted before Bundian courts against any Bundian military personnel deployed in Altea.

Seeing that Bundian armed forces continued to remain in Altean territory, during the UN General Assembly general session starting on 1 September 2015 President Utanabuti denounced what he called the continued unlawful occupation of Altean territory. Moreover, he warned that if the requested withdrawal was not completed by 10 September, he would order his armed forces to militarily engage Bundian armed forces in self-defence, under article 51 of the UN Charter. Speaking after him, President Lang of Bundy retorted that Bundian armed forces were deployed on the basis of an invitation from Altea and a subsequent bilateral agreement, and in any case they would remain in that area as long as necessary ‘in order to secure Bundy’s legitimate security interests’. Under these circumstances, the UN Security Council, meeting in an urgent session on 5 September 2015, adopted a resolution emphasizing the principles of sovereignty and good neighborly relations, noting the importance of maintaining and restoring international peace and security, and calling on both sides to refrain from escalating the conflict. At the end of its resolution, the Security Council added that it would decide at a later time whether the situation necessitated a referral to the ICC and that it remained seized of the matter.

### **Applicable law**

For the purposes of this case both States, members of the United Nations, are party to all relevant main international treaties in the field of human rights and humanitarian law and have made a declaration accepting the jurisdiction of the ICJ under Article 36(2) of the ICJ Statute. Additionally, both of them are parties to the ICC Statute as of 15 May 2015.

### **Submissions by the Parties**

Altea has brought a lot of evidence before the Court, emanating from different sources, including UN reports, NGO reports, a report prepared over 2015 by an international group of experts commissioned by Altea, and many witness statements. Bundy disputes the veracity and the relevance of most of these reports and documents. Altea has asked the Court to render an order indicating the following provisional measure:

- Bundy withdraws immediately all of its armed forces and affiliated armed groups from Altean territory;

Furthermore, Altea has asked the Court to adjudge and declare that:

- Bundy has committed an act of aggression by not withdrawing its forces when so requested;

- By the conduct of its armed forces Bundy has violated several articles of the Geneva Conventions of 1949 and Additional Protocol 1 of 1977 and rules of customary international humanitarian law.
- Bundy has violated the following human rights instruments, namely the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social, and Cultural Rights (ICESCR); the Convention on the Rights of the Child (CRC); and, the Convention on the Elimination of Discrimination Against Women (CEDAW).
- Bundy must cease forthwith from all these violations of international law and make adequate reparations to Altea.

On its part, Bundy has asked the Court to deny all of these requests as unfounded and without merit. Additionally, Bundy has asked the Court to find that armed activities taking place within the territory of Altea threaten international peace and security by endangering the security of the citizens and the territorial integrity of Bundy.

### **Deadline and other general instructions for the submission of the Altean memorial**

You have been asked by the Altean government to represent the Republic of Altea before the ICJ. The Court has set **28 October** as the date for the submission of memorials by the parties to this dispute.

Prepare a memorial setting out in the necessary detail the position of Altea in these international legal proceedings, based on the submissions listed above.

The memorial should not consist of more than **4000 words, including footnotes**, but excluding the table of contents and other annexes. **The document should not exceed 14 pages.**

**For more detailed instructions see the ‘Exam Instructions’ in the course webpage.**