

STATEMENT OF AGREED FACTS
CASE CONCERNING S/RES/3272 AND THE CHOLERA EPIDEMIC

(The Kingdom of Arcadia v. The Republic of Ruvetia)

11 of January 2019

1. The Applicant, the Kingdom of Arcadia, is an island nation and one of the least developed countries. It is situated in the Pacific Ocean with a population of 10 million people. It has a gross domestic product of 10 billion US Dollar. The Respondent, the Republic of Ruvetia, is a large developed country with a gross domestic product of 3,500 billion US Dollar and a population of 80 million people. The country is situated in the heart of Europe.
2. Since 1707 a royal family has ruled Arcadia. Though the country developed into a parliamentary democracy as early as 1909, its development had been severely hampered by repeated outbreaks of cholera. It was not before the introduction of new sanitary standards by then newly elected government in 1950 that further cholera outbreaks were prevented. Between 1950 and September 2017, there has been no reported case of cholera.
3. Still, this achievement did not allow for a steady development of Arcadia as it has struggled with religious extremists ever since the royal family came to power. These extremists have been acting under the name “Government of God” (GoG) and refuse any other leadership than God’s. These extremists have consistently worked on a plan to overthrow the royal family. However, these plans originally did not include violence. Until the early 1990s, their fight against the monarchy only entailed public protests as well as the burning of royal symbols and pictures of the respective monarch.
4. Due to a change in the leadership of GoG in 1991, the group turned to violence and completely abandoned its prior strategy of peaceful protests. Arcadia has been a target of terrorist attacks ever since. Though the first attacks only involved lootings, GoG later preferred suicide bombers to spread death and fear among the Arcadians. As these bombings intensified and happened almost weekly since 2010, the Arcadian government endeavored to investigate GoG’s financial sources as their massive attacks would be impossible without foreign support. In 2012, the Arcadian secret service discovered that the GoG group was largely financed via bank accounts in developed countries. Private supporters of GoG would use numbered bank accounts in those states to actively finance GoG. Hence, GoG’s supporters stayed anonymous and Arcadia found itself unable to uncover the financiers behind GoG. The Arcadian government, however, discovered that over 70% of the money used to finance GoG were transferred to GoG via banks and bank accounts in Ruvetia.
5. Upon that discovery, the King of Arcadia urged the government of Ruvetia to stop those banks from financing terrorisms and take effective measures to prevent such events in the future, e.g. closing suspicious bank accounts or freezing assets. The government of Ruvetia refused Arcadia’s request strongly. The Prime Minister of Ruvetia made a public statement on that matter saying: “The Republic of Ruvetia is a peaceful country which condemns all forms of terrorism or extremism. Therefore, we, the Ruvetian People, feel deeply insulted by the accusations made by the King of Arcadia regarding the alleged

financing of terrorism from our territory. Ruvetia is not responsible for the actions taken (or not taken) by the banks operated within its territory, nor is it obliged to restrain any banking activities that might have detrimental effects on other states.”

6. Even after repeated terrorist attacks throughout the next five years, Ruvetia did not change its position. Nevertheless, Arcadia consistently lobbied for international rules restraining banking activities that eventually finance terrorism. This effort gained momentum after other states also experienced heavy terrorist attacks. In early 2016, a majority of states agreed that financing terrorism needed to be regulated swiftly under international law. As those states represented a majority in the UN Security Council they strived for quick actions by the Security Council.
7. In July 2016, the Security Council decided to take action and adopted in an emergency meeting the following Resolution S/RES/3272. Eight members voted in favor of the Resolution, whereas six members voted against the Resolution. China did not appear at the session, all other permanent members voted in favour of the Resolution.

“United Nations Security Council Resolution 3272

3 July 2016

The Security Council,

Recalling that any act of international terrorism constitutes a threat to international peace and security,

Reaffirming the need to combat by all means, in accordance with the Charter of the United Nations, threats to international peace and security caused by terrorist acts,

Deeply concerned by the increase of terrorist acts in various regions of the world,

Acting under Chapter VII of the Charter of the United Nations,

1. *Decides* that all member States shall:

(a) Prevent and suppress the financing of terrorist acts;

(b) Criminalize the willful provision or collection, by any means, directly or indirectly, of funds by their nationals or in their territories with the intention that the funds should be used, or in the knowledge that they are to be used, in order to carry out terrorist acts;

(c) Freeze without delay funds and other financial assets or economic resources of persons who commit, or attempt to commit, terrorist acts or participation or facilitate the commission of terrorist acts; of entities owned or controlled directly or indirectly by such persons; and of persons and entities acting on behalf of, or at the direction of such persons and entities, including funds derived or generated from property owned or controlled directly or indirectly by such persons and associated persons and entities;

(d) Prohibit their nationals or any persons and entities within their territories from making any funds, financial assets or economic resources or financial or other related services available, directly or indirectly, for the benefit of persons who commit or attempt to commit or facilitate or participate in the commission of terrorist acts, of entities owned or controlled, directly or indirectly, by such persons and of persons and entities acting on behalf of or at the direction of such persons; [...]

5. *Decides* to remain seized of this matter.”

8. Whereas the Arcadian government endorsed the decision by the Security Council and immediately adopted legislation to implement the Resolution, the Ruvetian Prime Minister spoke out publicly in front of the General Assembly against the Resolution: “To be perfectly clear, the people of Ruvetia despises all violent actions. Nevertheless, as law abiding people we are not willing to follow this Resolution. The Security Council is no legislator. Its purpose is to restore peace between the nations, but not to be the legislative body of a super-state. It cannot intrude into Ruvetia’s *domain réservé*. This Resolution is in excess of the Security Council’s powers and therefore null and void.”
9. In the following months, no major actions were taken by Ruvetia. The Arcadian secret service published a report in early 2017 stating, that in August 2016 alone about 46 transactions from Ruvetian bank accounts had direct or indirect connections to persons known to be members of GoG.
10. In 2017, the terrorist attacks again intensified. Arcadia responded to the increasing terror attacks with stricter security laws. On 22 February 2017, about 22,000 GoG sympathizers gathered peacefully in the capital of Arcadia in order to protest against the government’s oppressive policies. Due to unknown reasons, the protest escalated into violence between protesters and the police. At the end of the day, 243 protesters and 16 police officers were killed. The very next day, GoG protests broke out all over the country calling for an abolishment of monarchy. Seizing the opportunity, GoG formed a revolutionary army causing a civil war between GoG and the Arcadian Government.
11. As reports of violent assaults against the civilian population increased, the Security Council decided to intervene. In June 2017, it decided unanimously to deploy a peacekeeping mission under the UN’s operational command and control to Arcadia. The Security Council Resolution asked all member States to provide the proper armed forces in order to restore peace and to protect the civilian population against violent assaults.
12. The peacekeeping force consisted mainly of Ruvetian soldiers who had been deployed to Lepad (for another UN mission) prior to the operation in Arcadia. The Lepadese region of their prior deployment has repeatedly seen large cholera epidemics. Ruvetia sent these troops after the Security Council had expressly requested it in July 2017 to deploy the troops formerly garrisoned to Lepad given their substantial experience with similar situations.
13. The troops arrived in Arcadia on 1 September 2017. In Arcadia, the troops were stationed at a base near water banks that connected to the Arcadian River, a primary source of water for tens of thousands of Arcadians. Untreated human waste from the base seeped into the water banks, which resulted in an outbreak of cholera along the Arcadian River and eventually throughout the country. Prior to the deployment, the Ruvetian troops had not been tested for cholera by Ruvetian or UN officials despite their knowledge about cholera epidemics in Lepad. Even after the first cases of cholera appeared in late September 2017, neither Ruvetia nor the UN took any actions.
14. From September 2017 to January 2018, 6,000 Arcadian died from Cholera. By now, the death toll has surpassed 10,000. In December 2017, the NGO “Médicine sans Frontières”

confirmed that the cholera epidemic in Arcadia was inflicted by a cholera strain only known from Lëpan.

15. The UN and Ruvetia both denied their responsibility for the events despite continuous demands for help and compensation from the Arcadian government. The Ruvetian Prime Minister referred to these demands in a TV speech: “In our hearts, we feel strongly for our friends in Arcadia. We all hope that our generous help will eventually stabilize their crisis-ridden island. However, we do not and will not accept any responsibility for this country’s poor fate. Any responsibility could only rest upon the UN under whose auspices the peacekeeping troops were deployed.”
16. In February 2018, the UN Secretary General made a public statement regarding the outbreak of cholera in Arcadia: “The United Nations has a moral responsibility to the victims of the cholera epidemic and for supporting Arcadia in overcoming the epidemic.”
17. Shortly afterwards, the survivors and the victims’ heirs filed law suits against Ruvetia as well as the UN before Ruvetian and Arcadian courts. All these law suits failed. The claims against the UN were dismissed on the basis of the UN’s immunity. Claims against Ruvetia in Ruvetia were dismissed because the courts found the actions to be non-attributable to Ruvetia. Arcadian courts, in turn, dismissed the claims against Ruvetia arguing that Ruvetia was immune from suit. The claimants exhausted all remedies available to them under Ruvetian or Arcadian domestic law.
18. For the purpose of these proceedings, both parties agree that the cholera epidemic violated the Arcadians’ right to life and physical integrity under customary international law. Both parties have been members to the UN Charter at all relevant times. No other treaty or Security Council resolution (except for S/RES/3272) is of relevance to this case.
19. On the 5th of August 2018 Arcadia filed in the Registry of the International Court of Justice an application instituting proceedings against Ruvetia concerning the issues mentioned above. Both parties accepted the compulsory jurisdiction of this Court. Both parties have agreed on the following claims:

Arcadia respectfully requests the Court to adjudge and declare:

- 1. Ruvetia violated its obligations under international law by not implementing Security Council Resolution 3272.**
- 2. Ruvetia is at least partly responsible under international law for spreading cholera among the people of Arcadia and thereby killing more than 10,000 Arcadians.**

Ruvetia respectfully requests the Court to adjudge and declare:

- 1. Ruvetia did not violate its obligations under international law by not implementing Security Council Resolution 3272.**
- 2. Ruvetia is under no circumstances responsible under international law for spreading cholera among the people of Arcadia and the death of more than 10,000 Arcadians.**

20. Both parties agree that all questions concerning the statement of facts may be posed until the 23 of January 2019 to Stendel@mpil.de.