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MUNLAWS 2025: MEMORANDUM FOR THE RESPONDENT

THE CASE CONCERNING THE PURIA RIVER
ALVORA V RAPIDA



REGIONAL MOOT COURT COMPETITION BEFORE THE OSCE COURT OF CONCILIATION AND
ARBITRATION

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1. PARTIES

The Applicant in the present proceedings is Alvora, and the Respondent is Rapidia.

2. STATEMENT OF FACTS

The Applicant, Alvora, alleges that Rapidia is enriching uranium beyond 5% at the Upper Puria Fuel Enrichment Plant (FEP), based on infrared surveillance flights conducted in April 2025. Alvora's National Security Council assessment concluded that the increased thermal signature at the facility indicates expansion of enrichment activities inconsistent with civilian purposes.

Rapidia denies these allegations, asserting that enrichment activities are conducted within peaceful limits and remain subject to IAEA safeguards. Rapidia has not withdrawn from the NPT and continues to comply with its obligations under Articles II and III. Rapidia submits that its reliance on nuclear energy for electricity generation, medical isotopes, and research underscores the peaceful nature of its program. Rapidia further submits that the continued possession of nuclear weapons by Oralis undermines disarmament obligations and highlights the necessity of its lawful peaceful nuclear program.

On 8 August 2021, Rapidia's Lower Puria Collection Site laboratory detected thiodiglycol (TDG) in river water samples using tandem mass spectrometry. TDG is a Schedule 2 compound under the Chemical Weapons Convention ("CWC"), known as both a precursor and degradation product of sulphur mustard. The detection occurred shortly after catastrophic flooding near Alvora's storage facilities along the Puria River. Historically, Alvora possessed the largest mustard agent in stockpiles in the region, amounting to 40,500 tons after the Great War. Alvora was the last state to declare destruction of its chemical weapons, raising suspicion of incomplete compliance. Rapidia submits that the presence of TDG evidence undeclared or improperly destroyed chemical weapons, and that Alvora's refusal to permit inspections undermines transparency and treaty compliance.

3. PLEADINGS

3.1. **Rapidia bears no international responsibility for the reduction in the streamflow of the Puria River and is under no obligation to provide compensation to Alvora for any resulting economic damage.**

According to Art. 3 of The Treaty governing the use of the Puria River (The Treaty), the cause, extent of damage and responsibility for damages caused by that State shall be determined in conformity with the principles of international law relating to State responsibility. These principles, which are part of international customary law, are articulated in Draft articles on Responsibility of States for Internationally Wrongful Acts, with commentaries (ARSIWA).¹ It will be demonstrated in the points below that Rapidia is neither responsible for the reduction in the streamflow (3.1.1.) nor obligated to provide compensation for any resulting damage (3.1.2.).

3.1.1. **Rapidia bears no international responsibility for the reduction in the streamflow of the Puria River.**

According to Art. 1 of ARSIWA a state is internationally responsible for its wrongful acts. According to Art. 2 of ARSIWA internationally wrongful acts are those acts that are (1) attributable to the State under the international law and (2) constitute a breach of an international obligation in force for that State at that time.² Regarding the use of Pura river, Rapidia is bound by obligations stated in The Treaty and applicable principles of international customary law, such as the no harm principle³ and the principle of equitable and reasonable utilization⁴ of international watercourses. It must be noted that that no

¹ *Draft Articles on Responsibility of States for Internationally Wrongful Acts, with commentaries* (2001) Yearbook of the International Law Commission, vol II, part Two.

² Confirmed as part of customary international law in: *Phosphates in Morocco (Italy v France)*, Judgment, 1938, P.C.I.J. Series A/B No. 74, *United States Diplomatic and Consular Staff in Tehran (United States of America v Iran)*, Judgment, I.C.J. Reports 1980, *Dickson Car Wheel Company (United States v Venezuela)*, Award, 1903, 10 R.I.A.A. 730.

³ *Gabčíkovo-Nagymaros Project (Hungary/Slovakia)*, op. cit., p. 80, para. 147, *Territorial Jurisdiction of the International Commission of the River Oder*, Judgment No. 16, 1929, P. C. I. J., Series A, No. 23, p. 27.

⁴ Defined by ICJ in: *Gabčíkovo-Nagymaros Project (Hungary/Slovakia)*, Judgment, I.C.J. Reports 1997, p. 80, para. 147; *Territorial Jurisdiction of the International Commission of the River Oder*, Judgment No. 16, 1929, P.C.I.J., Series A, No. 23, p. 27; *Pulp Mills on the River Uruguay (Argentina v. Uruguay)*, Judgment, I.C.J. Reports 2010 (I), p. 74, para. 177; *Dispute over the Status and Use of the Waters of the Silala (Chile v. Bolivia)*, Judgment, I.C.J. Reports 2022, p. 38, para. 97.

principles and rules of customary international law that create procedural obligations, such as obligations to co-operate, notify and consult, are applicable in the present proceedings since the Tribunal only has jurisdiction to determine whether the reduction of the Puria's streamflow is a breach of Rapidia's international obligations. Importantly, the obligation not to affect Puria's streamflow is a substantial rather than a procedural obligation.⁵

3.1.1.1. Rapidia did not breach its obligations under international law

Art. 1 of the Treaty governing the use of the Puria River does not prohibit a reduction of streamflow on its own unless it results in a breach of the principle of cooperation stated in Art.1 of the Treaty, such as (1) the reduction in streamflow compromises the ability of future generations to meet their own needs, (2) the reduction of streamflow could result in serious or irreversible damage to environment or human health, even when there is a lack of scientific certainty thereof (thereby recalling precautionary principle), (3) the reduction of the streamflow would result in harm to the river. Furthermore, the Treaty provides a right to utilization of water resources of the Puria River in an equitable and reasonable manner, thereby implementing a principle of customary international law.⁶

Alvora claims that the reduction of streamflow negatively affected Alvora's rice production, decreasing it by 10 %, and consequently negatively affecting national economy. Alvora's representatives never claim that human rights were breached or that the reductions affected environment, harmed the river or human health. Neither is it evident from the facts of the case that such consequence were incurred, not even regarding economic harm as it will be discussed in Chapter 3.1.2. Furthermore, Rapidia has been utilizing the river in an equitable and reasonable manner. According to ICJ in *Waters of Silala* cas, "the principle of equitable and reasonable use of an international watercourse must not be applied in an abstract or static way but by comparing the situations of the States concerned and their utilization of

⁵ Such a distinction was also made in the Pulp Mills on the River Uruguay (Argentina v Uruguay), Judgment, I.C.J. Reports 2010 (I), pp. 37–39, paras. 71–79..

⁶ Defined by ICJ in: Gabčíkovo–Nagymaros Project (Hungary/Slovakia), Judgment, I.C.J. Reports 1997, p. 80, para. 147; Territorial Jurisdiction of the International Commission of the River Oder, Judgment No. 16, 1929, P.C.I.J., Series A, No. 23, p. 27; Pulp Mills on the River Uruguay (Argentina v. Uruguay), Judgment, I.C.J. Reports 2010 (I), p. 74, para. 177; Dispute over the Status and Use of the Waters of the Silala (Chile v. Bolivia), Judgment, I.C.J. Reports 2022, p. 38, para. 97.

the watercourse at a given time.”⁷ As explained by Rapidia session of the Puria River Commission on the 3rd of December:

“the reduction could be linked to increased operations at the Upper Puria NPP: higher electricity demand during the winter months increases steam production in the reactors, which requires more heat to be removed. This, in turn, increases evaporation in the cooling towers and necessitates drawing additional water from the river to maintain the plant’s cooling system.”⁸

Since Rapidia relies on its Nuclear Power plants as sources of energy and winter season increases the demand for energy, the principle of equitable and reasonable use of the river must include greater water drawing from the river during the winter months. It would be contrary to this principle if Alvora’s rice production took precedence of the Rapidia’s. As stated in Article 1(3) no use of water resources of the Puria River enjoys inherent priority over the other use. The same holds true if the tribunal should find that Rapidia reduced streamflow in order to enrich uranium. As will be explained in Chapter 3.2.4., if Rapidia conducted this activities, which Respondent systematically denies, it did so to secure its essential interest to ensure safety of its citizens. Using a river to protect citizens from mass destruction is a reasonable and equitable.

In conclusion, Rapidia breached no substantial obligation not to reduce the Puria’s streamflow. Any procedural obligations it might have omitted are not a subject of this arbitration.

3.1.1.2. Rapidia acted in a state of necessity

Should the tribunal find that Rapidia breached its obligations under international law by reducing the streamflow of Puria river, its international responsibility can be excluded by reference to a state of necessity.

According to Article 25 of ARSIWA, necessity can be used as a ground for precluding wrongfulness of an act if the following conditions are met: (1) it must have been occasioned by an "essential interest" of the State which is the author of the act conflicting with one of its international obligations; (2) that interest must have been threatened by "grave and

⁷ Dispute over the Status and Use of the Waters of the Silala (Chile v Bolivia), Judgment, I.C.J. Reports 2022, p. 38, para. 98.

⁸ The Case Concerning the Puria river (Alvora v. Rapidia), p. 5, para. 8.

imminent peril"; (3) the act being challenged must have been the "only means" of safeguarding that interest; (4) that act must not have "seriously impaired an essential interest" of the State towards which the obligation existed; (5) and the State which is the author of that act must not have "contributed to the occurrence of the state of necessity". These conditions according to ICJ in its judgement *Gabcikovo Nagymaros*⁹ and later confirmed in advisory opinion *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*¹⁰ reflect customary international law. It will be argued in the points below that all of the aforementioned conditions are fulfilled in the present case notwithstanding the tribunal's decision on the reason of the streamflow reductions.

Firstly, if the tribunal follows the Applicant's argumentation that there is no persuasive evidence that uranium enrichment is taking place as explained in Chapter 3.2.1., (1) the essential interest Rapidia was protecting by reducing the streamflow was that of public life and health. In winter months electricity demands are higher and without increased operation at the Upper Puria NPP, it would not have been met.¹¹ Electricity reduction can lead to loss of heating in homes and hospitals or power outages, which can all lead both to death or health deterioration. Consequently, Rapidia necessarily needed to increase its power plant operations in order to prevent public health deterioration. (2) Threat was imminent since it was already winter when the streamflow was reduced. (3) Increasing operations in power plants was the only means of increasing energy supply to the population and reduction in streamflow is necessarily linked to increase in power plant operations as water is needed for cooling.¹² (4) The reduction in streamflow did not seriously impair an essential interest of any other State as will be explained in greater detail in chapter 3.1.2. (5) Rapidia did not contribute to the necessity since weather is beyond its control. Consequently, Rapidia was acting in a state of necessity and can thus not be internationally responsible.

Secondly, if the tribunal does not follow the Applicant's argumentation that there is no persuasive evidence that uranium enrichment is taking place, the essential interest Rapidia

⁹ *Gabcikovo–Nagymaros*, Hungary/Slovakia, ICJ, Judgment, 1997, para. 50, p. 37.

¹⁰ *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, ICJ, Advisory Opinion, 2004, para. 140, p. 63.

¹¹ *The Case Concerning the Puria river (Alvora v. Rapidia)*, p. 5.

¹² *The Case Concerning the Puria river (Alvora v. Rapidia)*, p. 5.

was protection in enriching uranium and consequently reducing the streamflow of Puria river was national safety. (2) As stated by the president the grave and imminent peril that was looming over Rapidia was that of mass destruction.¹³ (3) Since the threat is one of mass destruction there is no other means that could protect Rapidia better than the ability to pressure other states not to use their weapons of mass destruction with the possibility it might do the same. A method that proved both effective and necessary during the Cold War. (4) Uranium enrichment has not impaired any Alvoria's essential interests as will be explained in chapter 3.1.2. (5) It is evident from the facts of the case that Rapidia did not contribute to the state of necessity. On the contrary, apart from Paxilia and Lorana it is the only state that owns no weapons of mass distraction. Additionally, had Alvoria constructively negotiated with Commission, not blocked consensus on adopting a decision and declined Rapidia's call to permit a thorough on-site inspection of its territory in accordance with the Chemical Weapons Convention,¹⁴ no such measures would be necessary.

In conclusion, notwithstanding tribunal's understanding of the facts of the case, Rapidia acted in a state of necessity when reducing streamflow of the Puria river and can thus not be held internationally responsible for its actions.

3.1.2. Rapidia is under no obligation to provide compensation to Alvoria for any resulting economic damage

Should the tribunal find that Rapidia is internationally responsible for the reduction in streamflow, it will be shown in the points below that it is still under no obligation to provide compensation to Alvoria.

Firstly, according to Article 35 of ARSIWA and the opinion of ICJ in *Pulp mills*¹⁵ case reparations can only be demanded if restitution is not materially possible or burdens out of all proportion to the benefit deriving from restitution instead of compensation. In the present case, simple ban on further water drawing could restore the water streamflow, thus there is no reason to resort to reparations.

¹³The Case Concerning the Puria River (Alvoria v. Rapidia), p. 6, para. 11.

¹⁴ Ibid.

¹⁵ Pulp Mills on the River Uruguay (Argentina v Uruguay), Judgment, I.C.J. Reports 2010 (I), p. 92, para. 270.

Secondly, according to Art. 31(1) of ARSIWA and as confirmed by ICJ in *Factory at Chorzów* case a responsible State is under the obligation to make full reparation for the injury *caused* by the internationally wrongful act. According to the Commentary to ARSIWA the phrase “cause by” is used to make clear that the subject matter of reparation is the injury resulting from and ascribable to the wrongful act, rather than any and all consequences flowing from an internationally wrongful act.¹⁶ In *Armed Activities on the Territory of the Congo (DRC v Uganda)* ICJ stated that “compensation can be awarded only if there is “a sufficiently direct and certain causal nexus between the wrongful act”¹⁷ and that it is “general rule that it falls to the party seeking compensation to prove the existence of a causal nexus between the internationally wrongful act and the injury suffered.”¹⁸ Such nexus could be considered established ‘only if the Court were able to conclude from the case as a whole and with a sufficient degree of certainty that the alleged harmful consequences *would in fact have been averted if the Respondent had acted in compliance with its legal obligations*’.¹⁹ Additionally, a further element affecting the scope of reparation is the question of mitigation of damage. As ICJ states in the *Gabčíkovo-Nagymaros case*, “an injured State which has failed to take the necessary measures to limit the damage sustained would not be entitled to claim compensation for that damage which could have been avoided.”²⁰

From the facts of the case, no direct casual link between the reduced river flow and the alleged economic losses can be construed. Firstly, alleged 10% reduction in rice production can be a result of many other factors such as weather variability, poor agricultural management by Alvora, the efficiency of its irrigation system, market fluctuations, domestic policy choices, pest outbreaks, climate shocks, labour shortages and so on. Additionally, reduced river flow does not necessarily result in reduced rice production, this is merely a

¹⁶ Arsiwa, with commentaries, Art. 31, p. 92.

¹⁷ Also in: *Case Concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v Serbia and Montenegro)*, Judgment (Merits), I.C.J. Reports 2007, para. 462; *Pulp Mills on the River Uruguay (Argentina v Uruguay)*, Judgment, I.C.J. Reports 2010 (I), para. 262.

¹⁸ *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v Uganda)*, Judgment, I.C.J. Reports 2005, paras. 85–98.

¹⁹ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v Serbia and Montenegro)*, Judgment, I.C.J. Reports 2007 (I), pp. 233–234, para. 462.

²⁰ *Gabčíkovo-Nagymaros Project (Hungary/Slovakia)*, Judgment, I.C.J. Reports 1997, p. 55, para. 80.

possibility. Following ICJ's decision in *Armed Activities on the Territory of the Congo (DRC v Uganda)*, existent casual link must be certain and direct. However, as aforementioned, reduction in river flow is neither the only nor a necessary prerequisite for reduced rice production. Moreover, there is no evidence in the case file that reduction of the river flow contributed to the 10% reduction in rice production, even less that this decrease resulted in economic damage. Finally, Alvora should have according to ICJ's decision in *Gabčíkovo-Nagymaros case*, demonstrated that it tried to implement all possible measure to limit the damage sustained. From the case file no such actions can be discerned.

In conclusion, the facts of the case do not establish a direct and certain causal nexus between the reduction in streamflow and the alleged economic damage. Consequently, Respondent urges the Tribunal to dismiss Applicant's request for compensation.

3.2. Rapidia bears no international responsibility for pursuing efforts to acquire nuclear weapons.

According to the first and second article of ARSIWA, a state is internationally responsible for its act if, among others, the act constitutes a breach of its international obligations. Rapidia ratified the The Treaty on the Non-proliferation of Nuclear Weapons (NPT)²¹ and is thus according to the second article under an obligation not to manufacture or otherwise acquire nuclear weapons or other nuclear explosive devices. In the points below it will be explained why Rapidia did not breach its obligation not to acquire nuclear weapons as stated in NPT and is thus not internationally responsible.

3.2.1. There is no persuasive evidence that uranium is being enriched

According to well established and in ICJ case law affirmed principles of *onus probandi incumbit actori*, it is the duty of the party which asserts certain facts to establish the existence of such facts.²² It is the duty of the Tribunal to weigh the quality of evidence presented by the Applicant, however, it should note that these evidence is impartial and inconclusive.

²¹ Treaty on the Non-Proliferation of Nuclear Weapons (NPT), opened for signature 1 July 1968, 729 U.N.T.S. 161.

²² Pulp Mills on the River Uruguay (Argentina v Uruguay), Judgment, I.C.J. Reports 2010, p. 61, para. 164; Maritime Delimitation in the Black Sea (Romania v Ukraine), Judgment, I.C.J. Reports 2009, p. 86, para. 68; Sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge (Malaysia/Singapore), Judgment, I.C.J. Reports 2008, p. 31, para. 45; Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v Serbia and Montenegro), Judgment, I.C.J.

Assessment of the Recent Developments in Rapidia was conducted by the Ministry of Defence and Ministry of Energy, both state agents and thus impartial in their assessment. The expert's opinion relied solely on the evidence provided by the states and can thus not be understood as impartial as well. Furthermore, the evidence is not conclusive, it is based on speculation. The expert's opinion for examples states that Rapidia has 13 not announced any plans to construct an advanced reactor, which would require fuel enriched with High-Assay Low-Enriched Uranium (HALEU). Accordingly, there is no plausible explanation for why Rapidia would need to enrich U-235 beyond 5% for civilian purposes.²³ Nevertheless, there is another plausible explanation, Rapidia forgot to announce its plans to construct an advanced reactor.

In light of impartial and inconclusive evidence, Respondent urges the Tribunal to find that Rapidia's alleged efforts to acquire nuclear weapons cannot be affirmed with sufficient certainty and thus Rapidia cannot be held internationally responsible for a breach of the NPF treaty.

3.2.2. Uranium enrichment is not prohibited under NPF

Should the court conclude that uranium is being enriched in the Upper Puria FEP as stated by Applicant, the enrichment is not prohibited under NPF and thus Rapidia is not breaching her obligations under this treaty.

Article IV of the NPT declares that "[n]othing in this Treaty shall be interpreted as affecting the inalienable right of all the Parties to the Treaty to develop research, production and use of nuclear energy for peaceful purposes without discrimination and in conformity with Articles I and II of this Treaty." According to the Vienna Convention,²⁴ interpretation of a treaty should be contextual, and should include the preamble of the treaty.²⁵ The NPT's preamble states that parties express their support for "development and other efforts to further the application, within the framework of the IAEA safeguards system" and affirms that the benefits of peaceful applications of nuclear technology, including any technological by-products which may be derived from development of nuclear explosive devices, should be

Reports 2007 (I), p. 128, para. 204; *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v United States of America)*, Jurisdiction and Admissibility, Judgment, I.C.J. Reports 1984, p. 437, para. 101.

²³ *The Case Concerning the Puria river (Alvora v. Rapidia)*, p. 14.

²⁴ Vienna Convention on the Law of Treaties, 1969, 1155 U.N.T.S. 331

²⁵ *Ibid.*, Art. 31.

available for peaceful purposes to all NPT parties. Considering the preamble and language of the treaty, even if Article IV does not embody the right of a party to enrich uranium for peaceful purposes, there is certainly no positive prohibition.²⁶ ICJ in its advisory opinion on the *Legality of the Threat or Use of Nuclear Weapons*²⁷ emphasized that “restriction upon independent states cannot be presumed,”²⁸ and “international law leaves to States ‘a wide measure of discretion which is only limited in certain cases by prohibitive rules.’”²⁹ Therefore, in absence of strict prohibition of uranium enrichment in NPT, there is no obligation preventing states from enriching Uranium, unless they violate other rules in the Treaty such as by being employed to acquire nuclear weapons. Accordingly, there is no numerical limit on enrichment levels, there is only prohibition on the use of uranium to construct nuclear weapons.

In the present case, there is no evidence that Rapidia intends to use uranium to create nuclear weapons, therefore her Uranium enrichment is not prohibited under NPT. Consequently, uranium enrichment cannot be understood as an internationally wrongful act.

3.2.3. Uranium enrichment is a lawful countermeasure

Should the court find that there is prohibition of uranium enrichment in NPT or that it can be construed that Rapidia was enriching uranium with the aim of creating nuclear weapons, Rapidia’s international responsibility can be justified as a countermeasure.

As articulated in the second chapter of ARSIWA and designed through the caselaw of ICJ there are several key conditions for a lawful countermeasures.³⁰ Accordingly, countermeasures (1) must be taken in response to a previous international wrongful act of another State and must be directed against that State and aimed at inducing compliance, (2)

²⁶ Ghorbanebrahimi, 2016, p 236.

²⁷ *Legality of the Threat or Use of Nuclear Weapons*, Advisory Opinion, I.C.J. Reports 1996, p. 226.

²⁸ *Legality of the Threat or Use of Nuclear Weapons*, Advisory Opinion, I.C.J. Reports 1996, p. 238, para. 21 (citing *The Case of the Lotus* (France v Turkey), Judgment, 1927, P.C.I.J., Series A, No. 10, p. 18).

²⁹ *Ibid.*

³⁰ *Gabčíkovo–Nagymaros Project* (Hungary/Slovakia), Judgment, I.C.J. Reports 1997, pp. 52–53, paras. 83–87; *Military and Paramilitary Activities in and against Nicaragua* (Nicaragua v United States of America), Merits, Judgment, I.C.J. Reports 1986, p. 127, para. 249; *Air Service Agreement of 27 March 1946* (United States of America v France), Arbitral Award of 9 December 1978, 18 R.I.A.A. 443; International Law Commission, Draft Articles on State Responsibility (First Reading), in “Report of the International Law Commission on the Work of its Forty-Eighth Session (6 May–26 July 1996)”, Official Records of the General Assembly, Fifty-First Session, Supplement No. 10 (A/51/10), pp. 144–145.

the injured State must have called upon the State committing the wrongful act to discontinue its wrongful conduct or to make reparation for it, (3) proportionate,³¹ (4) reversible, (5) do not violate fundamental principles, such as the obligation to refrain from the threat or use of force,³² fundamental human rights, humanitarian law,³³ peremptory norms.

Rapidia's uranium enrichment fulfills all of the aforementioned conditions. (1) It was taken in response to Alvora's prior internationally wrongful act of failing to comply with its substantial and procedural obligations under Chemical Weapons Convention, a point which will be discussed in greater detail in the fourth chapter of this submission. Rapidia's aim was to induce Alvora to destroy chemical weapons it possesses and permit Rapidia a thorough on-site inspection of its territory in accordance with the Chemical Weapons Convention, thereby ensuring its safety and survival in the region.³⁴ (2) Rapidia called upon Alvora to destroy its chemical weapons, however, the latter refused to negotiate constructively within the Commission, blocked consensus on adopting a decision and declined Rapidia's call to permit a thorough on-site inspection of its territory in accordance with the Chemical Weapons Convention.³⁵ (3) Rapidia's response was proportionate since according to the expert's finding stated in Alvora's National Security Council Assessment of the Recent Development in Rapidia, it is only at the stage of Uranium enrichment, which bears the lesser potential of harm as storage of readily available and easily deployable chemical weapons, as well weapons of mass destruction, (4) Uranium enrichment is stoppable at any stage and the process has not caused any harm, (5) The enrichment process did not violate any of fundamental principles, fundamental human rights, humanitarian law or peremptory norms. No such harm has ever been asserted by any representative of Alvora. Neither does the tribunal have jurisdiction to adjudicate on these breaches.

³¹ Oil Platforms (Islamic Republic of Iran v United States of America), Judgment, I.C.J. Reports 2003; Military and Paramilitary Activities in and against Nicaragua (Nicaragua v United States of America), Merits, Judgment, I.C.J. Reports 1986, para. 249.

³² Military and Paramilitary Activities in and against Nicaragua (Nicaragua v United States of America), Merits, Judgment, I.C.J. Reports 1986

³³ Prisoners of War (Eritrea's Claim 17), Eritrea-Ethiopia Claims Commission, Final Award, 2003, p. 247.

³⁴ The Case Concerning the Puria River (Alvora v. Rapidia), p. 6, para. 11.

³⁵ Ibid.

In conclusion, even if Alvaria's assertions regarding Uranium enrichment are true, Rapidia's action must be understood as countermeasure, precluding international responsibility.

3.2.4. Uranium enrichment was conducted in a state of necessity

Should the tribunal find that uranium enrichment is conducted by Rapidia in breach of its obligations under NPT its international responsibility can additionally be excluded by reference to the state of necessity.

According to Article 25 of ARSIWA, necessity can be used as a ground for precluding wrongfulness of an act if the following conditions are met: (1) it must have been occasioned by an "essential interest" of the State which is the author of the act conflicting with one of its international obligations; (2) that interest must have been threatened by "grave and imminent peril"; (3) the act being challenged must have been the "only means" of safeguarding that interest; (4) that act must not have "seriously impair[ed] an essential interest" of the State towards which the obligation existed; (5) and the State which is the author of that act must not have "contributed to the occurrence of the state of necessity". These conditions according to ICJ in its judgement *Gabcikovo Nagymaros*³⁶ and later confirmed in advisory opinion *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*³⁷ reflect customary international law.

In the present proceedings all the aforementioned conditions are fulfilled. Rapidia is enriching uranium in order to "safeguarding its vital national interests and ensuring its survival, particularly in a regional context where one State concealed its possession of chemical weapons, another refused to comply with its nuclear disarmament obligations, and the threat of conflict involving weapons of mass destruction loomed over the region," as stated by the President of Rapidia.³⁸ With this statement the president displayed both the (1) essential interest that Rapidia is trying to protect, and (2) the grave and imminent peril that is endangering it. (3) Since the threat is one of mass destruction there is no other means that could protect Rapidia better than the ability to pressure other states not to use their weapons of mass destruction with the possibility it might do the same. A method that proved both effective and necessary during the Cold War. (4) Uranium enrichment has not

³⁶ *Gabcikovo-Nagymaros*, Hungary/Slovakia, ICJ, Judgment, 1997, para. 50, p. 37.

³⁷ *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, ICJ, Advisory Opinion, 2004, para. 140, p. 63.

³⁸ *The Case Concerning the Puria River (Alvora v. Rapidia)*, p. 6, para. 11.

impaired any Alvoria's essential interests. (5) It is evident from the facts of the case that Rapidia did not contribute to the state of necessity. On the contrary, apart from Paxilia and Lorana it is the only state that owns no weapons of mass distraction. Additionally, had Alvora constructively negotiated with Commission, not blocked consensus on adopting a decision and declined Rapidia's call to permit a thorough on-site inspection of its territory in accordance with the Chemical Weapons Convention,³⁹ no such measures would be necessary.

In conclusion, since all of the conditions are fulfilled, necessity can be used as a ground for precluding wrongfulness of Rapidia's uranium enrichment programme.

3.3. The evidence brought by Alvora diminishes the sovereignty of Rapida

Alvora's observation flight over Rapida undermines Rapidia's statehood. Although it was conducted in terms of the Treaty on Open Skies, certain requirements have to be met, such as giving a notice.⁴⁰ In *Uk v Albania*,⁴¹ where Uk had undertaken to conduct operation retail which involved which involved British warships conducting a mines weep operation in the corfu chanel. It was thus found that since the operations had occurred in the territorial waters of Albania and had not been authorized by Albania, the British Navy had thus violated the state sovereignty of Albania. The court held the following, 'Between Independent states, respect for territorial sovereignty is an essential foundation of international relations.'⁴² The evidence was also used in bad faith

3.4. Alvora bears international responsibility for failing to declare and destroy all of its chemical weapons. Rapidia must be permitted independent inspections of relevant sites by the Organisation for the Prohibition of Chemical Weapons (OPCW).

Rapidia has a population of nearly 70 million and nearly 80% of this population relies on the Puria river as its main source of drinking water.⁴³ Subsequently, the river sustains the daily

³⁹ Ibid.

⁴⁰ Section II of Article VII of the Treaty on Open Skies.

⁴¹ *Corfu Chanel*, (United Kingdom v Albania), 1949 ICJ Rep 4, para 114-115.

⁴² *Uk v Albania*, para 121.

⁴³ Facts of the case, p 4, para 1.

lives of Rapidia's population.⁴⁴ The presence of mustard agents (known as sulfur mustard) in drinking water poses a health risk.

According to the 'Guidelines for Chemical Warfare Agents in Military Field Drinking Water';⁴⁵ Sulfur mustard is classified by the International Agency for Research on Cancer as a Class 1 human carcinogen. Regulatory standards generally consider lifetime cancer risks above minimal thresholds to be unacceptable. Risks deemed negligible are rarely regulated, but exposures exceeding accepted limits are subject to legal and regulatory scrutiny.

Sulfur mustard acts as a potent alkylating agent, damaging DNA, RNA, and proteins, which leads to mutations, chromosomal aberrations, and cell death. Human and animal studies demonstrate a causal relationship between exposure and cancer, particularly in the respiratory tract. Ingestion of contaminated water has been shown to elevate lifetime cancer risk above thresholds considered acceptable under regulatory standards. While short-term consumption at proposed concentrations is not expected to cause immediate illness such as nausea or gastrointestinal upset, the long-term carcinogenic potential remains the primary concern.

As a result, the right to life is also invoked. Article 6 of the ICCPR,⁴⁶ requires states to protect individuals from threats to life and health. This right extends beyond protection from the arbitrary deprivation of life to include safeguarding against environmental and toxic exposure threatening the enjoyment of this right.⁴⁷

Rapidia is thus justified to bring this claim, on the basis of state sovereignty. The likely harm that might result from drinking contaminated water violates Rapidia's state sovereignty. In *Corfu Channel*,⁴⁸ the minesweeping operations in Albania's waters was considered as a violation of Albania's state sovereignty. Alvora's failure to secure their storage facilities which then resulted in it being swept by the flooding into Rapidia's waters infringes upon Rapidia's sovereignty.

⁴⁴ Ibid.

⁴⁵ National Research Council (US) Subcommittee on Guidelines for Military Field Drinking-Water Quality. *Guidelines for Chemical Warfare Agents in Military Field Drinking Water*. Washington (DC): National Academies Press (US); 1995. 4, Guidelines for Sulfur Mustard Agents. Available from: <https://www.ncbi.nlm.nih.gov/books/NBK224195/>

⁴⁶ *International Covenant on Civil and Political Rights* (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 (ICCPR).

⁴⁷ Ibid.

⁴⁸ See footnote 41.

According to Article I of the CWC, States Parties undertake never to develop, produce, retain, or use chemical weapons.⁴⁹ Article III provides that state parties must declare all chemical weapons stockpiles.⁵⁰ Article IV provides that state parties must verifiably destroy declared stockpiles under OPCW supervision.⁵¹ The OPCW Practice stipulates that where suspicion arises, independent inspections are mandated, as seen in Syria, where OPCW fact-finding missions investigated allegations of undeclared stockpiles.⁵² In Libya, delayed declarations of chemical weapons stockpiles were treated as breaches requiring OPCW verification.⁵³

The detection of TDG in shared waters is consistent with improper destruction or concealment of mustard gas, a prohibited chemical weapon. Alvora's historical possession of extensive stockpiles, combined with its delayed declaration, strengthens the inference of non-compliance. Alvoria had an obligation to meet its commitments under the CWC and it had breached these obligations by failing to declare around 4520 mustard agents and only declared around 35980 tons of mustard agents.⁵⁴

Civilian uses of TDG (inks, dyes, pesticides) cannot explain its presence in river samples following flooding near former storage sites. Rapidia has acted transparently by submitting the findings to the Puria River Commission, while Alvora has resisted independent verification. The OPCW is the competent authority under the CWC to conduct inspections, and Rapidia's request aligns with established international practice and comparative precedent.

⁴⁹ Chemical Weapons Convention, 1993.

⁵⁰ Ibid.

⁵¹ Ibid.

⁵² OPCW Fact-Finding Mission Reports on Syria (2014–2018).

⁵³ OPCW Verification Reports on Libya's delayed declarations (2011–2016).

⁵⁴ Facts of the case, p3, para 2.

4. Prayer for Relief

In light of the submissions set out, Respondent respectfully seeks the following relief:

Nuclear Weapons Allegations

1. A declaration that Rapidia bears no international responsibility for pursuing efforts to acquire nuclear weapons.
2. A declaration that Rapidia's enrichment activities are safeguarded, peaceful, and consistent with Articles II–IV of the Treaty on the Non-Proliferation of nuclear weapons ("NPT") and remain subject to International Atomic Energy Agency ("IAEA") verification. An order affirming that Alvora's reliance on circumstantial surveillance evidence is insufficient to establish a violation of the NPT.

Chemical Weapons Allegations Against Alvora

1. A declaration that Alvora bears international responsibility for failing to declare and verifiably destroy all of its chemical weapons stockpiles, in violation of Articles I–IV of the Chemical Weapons Convention ("CWC").
2. A declaration that the detection of thiodiglycol (TDG), a Schedule 2 compound under the CWC, in shared waters is consistent with improper destruction or concealment of sulphur mustard.
3. An order directing the Organisation for the Prohibition of Chemical Weapons ("OPCW") to conduct independent inspections of Alvora's relevant sites, in accordance with Articles III and IV of the CWC.
4. A further order that such inspections be conducted to safeguard regional security, restore confidence in treaty compliance, and ensure impartial verification.

5. List of authorities

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