



OSCE COURT OF CONCILIATION AND ARBITRATION

CASE STUDY



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THE CASE CONCERNING SPACE ACTIVITIES, NATIONAL MINORITIES AND ENVIRONMENTAL DAMAGE

REPUBLIC OF ARCTURUS v. STATE OF RASTABAN

Court of Conciliation and Arbitration within the Organisation for Security and
Co-operation in Europe

1. The Duchy of Haedi was formed in the year of 1815, right after the defeat of Apollon's Grand Armée in the battle at Butterloo. The newly established Duchy, reigned by Her Royal Highness the Duchess Electra of Haedi, spread across the territory of its two administrative units, the administrative unit of Rastaban, and the administrative unit of Arcturus, each having their own regional government. The border between Rastaban and Arcturus was only provisionally determined for administrative purposes.
2. As time progressed, the regional governments of both administrative units, considering the demands and wishes of their linguistically, culturally, religiously, and ethnically different peoples, voted to dissolve the Duchy of Haedi. To the surprise of the international community, and after much pressure from both regional governments, the Duchy disintegrated on the 1st of January 1995 into the State of Rastaban and the Republic of Arcturus.
3. Nowadays, the State of Rastaban (hereinafter: Rastaban) is an independent nation, consisting of several plateaus and mountains in its inland part, and a maritime area, expanding over 1.000.000 km². Rastaban is home to approximately 100 million Rastabanis, with almost 15 million living in its capital Pallas, which is world-renowned as a major space technology centre. Space-related industries provide Rastaban with nearly 15 percent of its total GDP.

4. To the south, the Republic of Arcturus (hereinafter: Arcturus) is an independent republic, with a territory of 150.000 km². Arcturus has a population of 10 million Arcturians, and lies directly across the Gacrux mountain range, its natural northern border with Rastaban. Arcturus' capital Mercury, a major logistics and pharmaceuticals centre of the region, was often used by various travellers and organised groups who sought to explore the Gacrux mountain range.
5. Rastaban and Arcturus' common border, precisely alongside the Gacrux mountain range, was only drawn for administrative purposes of the former Duchy of Haedi. In the process of the Duchy's dissolution, the status of this former administrative units' border was never addressed – despite the fact that approximately 15.000 Arcturians live in the Gacrux mountains.
6. On the 17th of May 2017, the government of Rastaban decided that time was ripe to put its domestically patented space technology to use. After a successful public procurement procedure, the government signed two separate "Space exploration agreements" on behalf of Rastaban, connecting its domestic space industry with international space-oriented corporations.
7. The first agreement, worth 150.000.000 €, was conducted with Magellan, a privately-owned international corporation specialised in space engineering and aiming to send the first long-term manned mission to Mars. Magellan was, according to its CEO Mr. Triton, searching for a new space rocket launch site for its Mars-related projects. For the agreed sum of money, Rastaban promised to build a launch site, which could be used by Magellan, somewhere in the State, preferably in the south, as it was scientifically established that southern Rastaban entails an ideal latitude for space launches.
8. The second agreement, worth 250.000.000 €, was signed with Pollux, an Arcturian, State-owned, yet independent observatory, with its own legal personality. The agreement included the obligation for Rastaban to allow Pollux usage of the soon-to-be built launch site for the observatory's own space related studies and research.
9. After having concluded both agreements, Rastaban was tasked to choose the location for the space rocket launch site, which it was obligated to build. According to its space experts,

the most ideal area for the launch site would be somewhere in the Gacrux mountain range, given the vastness of the area and the fact that it was scarcely inhabited. Ultimately, the county of Denebola (hereinafter: Denebola), situated in the heart of the Gacrux mountains, was chosen.

10. Word of Rastaban's plans quickly spread. In September 2017, almost every major newspaper wrote about the upcoming space rocket launch site, as it was set to become the biggest and most important construction project of the region. The Polaris Morning Herald, a newspaper based in Mercury, Arcturus, discovered that the country of Denebola lies precisely within the very border area between Rastaban and Arcturus that has never been officially determined; solely a provisional borderline had been drawn for the purposes of the former Duchy's administrative apparatus. Furthermore, the majority of the approximately 15.000 Arcturians inhabiting the Gacrux mountain range, live in Denebola.
11. In the spring of 2018, general elections were held in Arcturus. The newly elected government vowed to unite areas, inhabited by Arcturians, with the Republic of Arcturus. In that regard, during her opening of a new legislative year in Arcturus, the speech of Ms. Pandora, the newly elected prime minister, was televised internationally:

"It has become the first and most important dedication of the government to once and for all integrate fellow Arcturians and the Denebola County into their motherland, since the area was under control of the Arcturian administrative government right until the dissolution of the Duchy of Haedi, and can only form part of Arcturus."

12. Shortly after the proclamation indicating the desires of the Arcturian government, Rastaban deployed additional police and military personnel to the county of Denebola. Afraid of losing the two Space exploration agreements, the new space rocket launch site was named a construction project of national importance. The government of Rastaban transferred additional construction workers to Denebola, as well as heavy military artillery for defence purposes. Meanwhile, Rastaban's president, Ms. Alpha, telephoned the Arcturian president, Mr. Cassiopeia, concerning the status of Denebola County. The conversation was recorded, with the relevant section stating:

"Ms. Alpha: Since Rastaban's independence in 1995, we have exercised sovereign rights over Denebola – solely the Rastabani police force was constantly present,

as well as Rastabani courts, military facilities and schools. We have received no complaints from Arcturus, no claims over the territory, for 23 years.

Mr. Cassiopeia: You must understand that our fellow Arcturians live there and if we have never openly expressed any claims over the territory since 1995, this is so because we believed that there was no need to do that. Prior to 1995, the area was part of the Arcturian administrative unit of the Duchy of Haedi. Therefore, Denebola is part of Arcturus and there can be no negotiation on this issue.

Ms. Alpha: It is of no importance what happened prior to 1995. Rastaban has enjoyed sovereignty over Denebola for 23 years and will continue to do so.”

13. The dispute between Rastaban and Arcturus over Denebola County peaked on the 19th of November 2019, when a rally was held in Pallas, joined by more than 50.000 demonstrators. The rally's message was unequivocal – the Rastabani government should ensure Denebola's continued existence within Rastaban, including an effort to “Rastabanise” Denebola's population, or face general elections. Afraid of its declining popularity, Rastaban's government issued the special Denebola Decree Number 1/2019 the very next day. The Denebola Decree offered legal basis for the following measures:

Article 1

In all public places, including schools, hospitals, train and bus stations and public parks, the Arcturian language is prohibited. Rastabanese shall be the only official language.

Article 2

It is prohibited to express affiliation of any kind with Arcturus or an Arcturian identity.

Article 3

It is prohibited to practice the Arcturian religion in all public places.

14. Shocked by the newly passed Denebola Decree, on the 1st of December 2019, Arcturus' prime minister invited the representatives of Pollux to Mercury. After several hours of closed-doors deliberations, the representatives of Pollux decided to unilaterally terminate their 250.000.000 € agreement with Rastaban, purportedly because of the Denebola Decree's possible negative publicity effects for Pollux. News of the termination reached the Rastabani government the next day. Arcturus considered the termination of the agreement as a major success.

15. In the meantime, construction on the space rocket launch site in Denebola was finished. Rastaban officially opened the launch site for Magellani operations on the 26th of December 2019 – right in time, as the CEO of Magellan, Mr. Triton, publicly announced in the beginning of 2019 that the launch of Magellan's first Mars space rocket would take place on the 1st of January 2020.
16. The space rocket launch site was, even in the scientific community itself, seen as controversial. For the launch site's construction, the government chose a largely uninhabited part of Denebola. However, due to its lush fauna, pine forests and mystical sacredness, it was used by the local Arturian population for meditation, religious gatherings, and other sacral manifestations. During the launch site's construction process, the woods and animals were cleared, to provide space for the launch site's water pump systems. The clearance caused uproar in the scientific community, the more so as many of the cleared animal species were on the International Union for Conservation of Nature's Red List of Threatened Species.
17. On New Year's Day of 2020 the launch site was used for the very first time. The Magellani corporation announced the launch for late afternoon, specifically for 6 PM. In the preparation phase prior to the launch, a scientist, employed by the Rastabani government to oversee technical matters at the space rocket launch site, noticed a major flaw in the water pump system's mechanism. It appeared to him that the water pumps were unable to function properly and it would, consequently, be impossible to contain the heat, the poisonous gas production, and other dangerous chemical reactions, to the launch site's premises, in case of a launch. The scientist quickly informed both Magellan and the Ministry of Infrastructure in Rastaban about the noticed malfunction by means of a text message, without mentioning the information to any officials in Arcturus.
18. The scientist's message was received by Magellan at 5.40 PM. Its CEO Mr. Triton was quickly informed about the defect in the water pump system, yet, according to several witnesses present at that time in his office, chose to disregard the message. Apparently, the company could not afford a postponement of the much-anticipated launch without suffering a drop of its share prices at the Pallas stock exchange. The text message never reached the

Ministry of Infrastructure in Pallas, purportedly due to a failure in the telecommunications network. At 6 PM, the Magellani Mars rocket took off for Mars.

19. The launch was televised live across the globe and the spectators were dismayed at the destruction the launch had left behind – *prima facie*, not only the site itself was badly damaged, but the surrounding plains and the landscape had turned grey. Many fires broke out, with the Rastabani firefighters finally putting out the blazes after days and nights of hard work. Unfortunately, the fires were not the sole consequence of the launch – even ground water in half of Denebola County turned out to had been saturated with lead and other chemicals, rendering it, at least for the time being, unfit for human consumption. The launch's impact was felt in Mercury as well, where residents were urged to stay indoors with windows closed.
20. The global community demanded answers as to why a launch, seen and exercised for various times in history, now caused such destruction. An independent Commission, assembled by the most prominent engineers and space scientists, determined the cause of the tragedy on the 2nd of February 2020 – a malfunction in the launch site's water pump system.
21. Still surprised by the happenings, Arthurian officials inquired into the details of the launch and subsequently discovered the text message which had been received by Magellan prior to the Mars rocket's take off. The Arturian government invited all witnesses, which were present in Mr. Triton's office upon receiving the warning of malfunction in the water pump system, to Mercury. Together with these witnesses, as well as with independent international experts, Arcturus established that before and after the space rocket launch site's construction and operation, no environmental impact assessment was conducted – by either Magellan or Rastaban.
22. These details were published by the Arcturian Ministry of the Environment in its Report on the 20th of February 2020. The Report also concluded that the Mars rocket was indeed owned and launched by Magellan, however, the whole operation was primarily sponsored in terms of scientific help, technical on-site assistance, and law enforcement activities around the launch site, by the Rastabani Space Centre, a State-owned, government facility, and the government of Rastaban.

23. Faced with these findings, Rastabani officials reiterated their conviction that, since Rastaban was only obligated to build the launch site, they were in no position to conduct such an impact assessment – rather, it was the actual launch operator's task, the Magellan. Hence, Rastaban could not have known about any endangered species, flora, and fauna. The officials also stressed that the malfunction in the water pump system was the burden of Magellan since the company had to ensure a safe launch. On the other side, Magellan firmly stressed its conviction that it should have been the responsibility of Rastaban to find a proper, environmentally suitable area for the launch site. The company also blamed the malfunction on Rastaban – the Ministry of Infrastructure ought to have had assured itself that the site had been built in a proper way.

24. Distressed about the denial of responsibility by Rastaban, President Cassiopeia quickly messaged President Alpha on the 28th of February at 3.20 PM:

“Esteemed Madam President,

Not only has Your government adopted Denebola Decree Number 1/2019, by which it heavily interfered with the human rights of Arcturians who live in Denebola, and unlawfully occupied Denebola by its armed forces, now it is also to blame for one of the gravest environmental catastrophes of the 21st century. Arcturus demands the retreat of Rastabani heavy artillery from Denebola, respect for Arturians' human rights, and adequate compensation for the damage caused in Denebola and Mercury.”

25. President Cassiopeia received President Alpha's answer at 7.45 PM:

“Mr. President,

There can be no talks concerning the status of Denebola – as it forms part of Rastaban. The Rastabani military presence is there only to ensure law and order, rightfully and lawfully. Concerning Your launch-related accusations, Arcturus may consider itself fortunate that Rastaban is not yet invoking charges of internationally wrongful acts, committed by Arcturus. It was Arcturus who interfered in our internal affairs by convincing Pollux to terminate their agreement with Rastaban, causing Rastaban a loss of the expected 250.000.000 € payment.”

26. On 1st of March 2020, the Arcturian Ministry of the Environment estimated that adverse consequences of the launch site's construction process and of the subsequent Mars rocket

launch amounted to 34.500.000 € worth of material damage. Of those 34.500.000 €, damage in Denebola County, consisting of ground water pollution, the clearance of endangered animal and vegetation species, and the wasteland left behind by the launch, equalled to approximately 30.000.000 € worth of material damage. The other 4.500.000 € of material damage were the result of the Mars rocket's launch consequences in Mercury.

27. In April of 2020, general elections were held in both Rastaban and Arcturus. The newly elected officials decided that time was ripe to finally settle their mutual disputes and differences. The two governments firstly engaged in thorough negotiation procedures. However, they remained unsuccessful - in part, according to Arcturus, due to Rastaban's persistent unpreparedness to admit its own responsibility for the environmental catastrophe.
28. During the last meeting between Rastabani and Arcturian officials, the decision was made to submit their dispute to the arbitration within the Court of Conciliation and Arbitration within the Organization for Security and Co-operation in Europe (hereinafter: OSCE), as both States are States Parties to the Convention on Conciliation and Arbitration within OSCE.
29. Both Rastaban and Arcturus are States parties to all relevant treaties, including the 1966 International Covenant on Civil and Political Rights, the 1967 Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies, the 1972 Convention on International Liability for Damage Caused by Space Objects, and the 1969 Vienna Convention on the Law of Treaties. Arcturus is also a State party to the Framework Convention for the Protection of National Minorities (adopted in 1994 and opened for signature in 1995).

30. The two States agreed that the following claims are to be decided by the arbitral tribunal:

the Republic of Arcturus requests the tribunal to find that:

- I. the presence of the State of Rastaban in Denebola County amounts to illegal occupation. In any case, Rastaban violated human rights of Arcturian national minority members in Denebola.
- II. Rastaban is internationally responsible for the material damage caused in Denebola County and Mercury by the space rocket launch site and the Mars rocket launch, and should compensate Arcturus for the established 34.500.000 € worth of material damage.

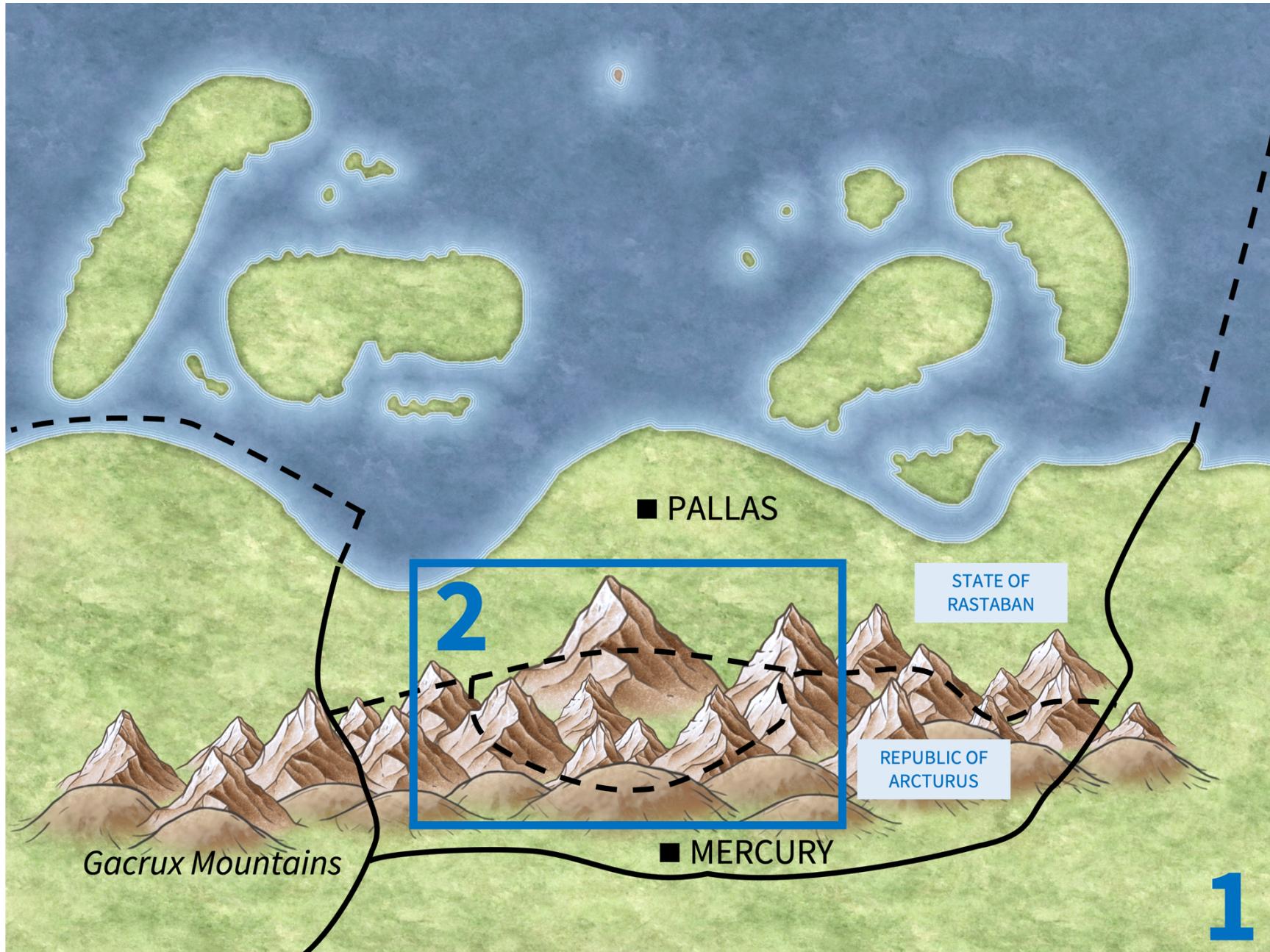
The State of Rastaban requests the tribunal to find that:

- I. the Rastabani presence in Denebola County does not amount to occupation, neither are claims of any human rights violations of national minorities justified. Furthermore, Arcturus should compensate Rastaban in the amount of 250.000.000 € for adversely interfering in Rastabani internal affairs.
- II. Rastaban is not responsible to Arcturus for any material damage in Denebola. Further, it cannot be held internationally responsible for the 4.500.000 € of material damage caused to Mercury by the Mars rocket launch, and no compensation to Arcturus for any material damage is due.

GRAPHIC APPENDIX TO THE STUDY GUIDE

MAPS OF THE AREA

APPENDIX 1: FULL VIEW MAP OF ARCTURUS AND RASTABAN



APPENDIX 2: ENLARGED MAP OF DENEBOLA COUNTY

