



INTERNATIONAL COURT OF JUSTICE

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Nicaragua institutes proceedings against Colombia with regard to alleged “violations of Nicaragua’s sovereign rights and maritime zones declared by the Court’s Judgment of 19 November 2012”

THE HAGUE, 27 November 2013. Nicaragua yesterday instituted proceedings against Colombia at the International Court of Justice (ICJ) with regard to a “dispute [which] concerns the violations of Nicaragua’s sovereign rights and maritime zones declared by the Court’s Judgment of 19 November 2012 [in the case concerning the Territorial and Maritime Dispute (Nicaragua v. Colombia)] and the threat of the use of force by Colombia in order to implement these violations”.

In its Application, which was filed in the Registry of the Court on 26 November 2013, Nicaragua

“requests the Court to adjudge and declare that Colombia is in breach of: its obligation not to use or threaten to use force under Article 2 (4) of the UN Charter and international customary law; its obligation not to violate Nicaragua’s maritime zones as delimited in paragraph 251 of the ICJ Judgment of 19 November 2012 as well as Nicaragua’s sovereign rights and jurisdiction in these zones; its obligation not to violate Nicaragua’s rights under customary international law as reflected in Parts V and VI of UNCLOS [the United Nations Convention on the Law Of the Sea]; and that, consequently, Colombia is bound to comply with the Judgment of 19 November 2012, wipe out the legal and material consequences of its internationally wrongful acts, and make full reparation for the harm caused by those acts”.

In support of its claim, the Applicant quotes various declarations allegedly made between 19 November 2012 and 18 September 2013, and attributed to the President and to the Vice-President of Colombia, as well as to the Foreign Minister and to the Commander of the Navy of that country. These declarations, Nicaragua says, show Colombia’s “rejection of the Court’s Judgment” and its decision to regard that Judgment as “not applicable”.

Nicaragua states that “[t]hese declarations by the highest Colombian Authorities culminated with the enactment of a Decree [of the President of Colombia] that openly violated Nicaragua’s sovereign rights over its maritime areas in the Caribbean”. In particular, the Applicant quotes Article 5 of that “Presidential Decree 1946”, where an “Integral Contiguous Zone” is described which, according to the President of Colombia, “covers maritime spaces that extend from the south, where the Albuquerque and East-Southeast keys are situated, and to the north, where Serranilla Key is located[, and] includes the San Andrés, Providencia and Santa Catalina, Quitasueño, Serrana and Roncador islands, and the other formations in the area”.

Nicaragua further states that the President of Colombia declared that “in this Integral Contiguous Zone [Colombia] will exercise jurisdiction and control over all areas related to security and the struggle against delinquency, and over fiscal, customs, environmental, immigration and health matters and other areas as well”.

A map of “Colombia’s self-proclaimed maritime boundaries in the Western Caribbean, pursuant to this Decree”, as published by the Colombian Government on 9 September 2013, is featured in Nicaragua’s Application, which also contains a graphic superimposing that map on sketch-map No. 11 depicting the course of the maritime boundary established by the Court in its 2012 Judgment.

Nicaragua concludes by claiming that

“[p]rior and especially subsequent to the enactment of Decree 1946, the threatening declarations by Colombian Authorities and the hostile treatment given by Colombian naval forces to Nicaraguan vessels have seriously affected the possibilities of Nicaragua for exploiting the living and non-living resources in its Caribbean exclusive economic zone and continental shelf”.

The Applicant asserts that the President of Nicaragua has indicated his country’s willingness “to discuss issues relating to the implementation of the Court’s Judgment” and its determination “to manage the situation peacefully”, but that the President of Colombia has “rejected the dialogue”.

As basis for the jurisdiction of the Court, Nicaragua invokes Article XXXI of the American Treaty on Pacific Settlement (officially known as the “Pact of Bogotá”), signed on 30 April 1948, to which “[b]oth Nicaragua and Colombia are parties”. Nicaragua stresses that “on 27 November 2012, Colombia gave notice that it denounced as of that date the Pact of Bogotá” and, as a result, “in accordance with Article LVI of the Pact, that denunciation will take effect after one year, so that the Pact will cease to be in force for Colombia after 27 November 2013”.

In addition, Nicaragua also submits “[m]oreover and alternatively, [that] the jurisdiction of the Court lies in its inherent power to pronounce on the actions required by its Judgments”.

Nicaragua further indicates that it “reserves its right to supplement, amend or modify this Application”.

The full text of Nicaragua’s Application of 26 November 2013 will shortly be available on the Court’s website.

The International Court of Justice (ICJ) is the principal judicial organ of the United Nations. It was established by the United Nations Charter in June 1945 and began its activities in April 1946. The seat of the Court is at the Peace Palace in The Hague (Netherlands). Of the six principal organs of the United Nations, it is the only one not located in New York. The Court has a twofold role: first, to settle, in accordance with international law, legal disputes submitted to it by States (its judgments have binding force and are without appeal for the parties concerned); and, second, to give advisory opinions on legal questions referred to it by duly authorized United Nations organs and agencies of the system. The Court is composed of 15 judges elected for a

nine-year term by the General Assembly and the Security Council of the United Nations. Independent of the United Nations Secretariat, it is assisted by a Registry, its own international secretariat, whose activities are both judicial and diplomatic, as well as administrative. The official languages of the Court are French and English. Also known as the “World Court”, it is the only court of a universal character with general jurisdiction.

The ICJ, a court open only to States for contentious proceedings, and to certain organs and institutions of the United Nations system for advisory proceedings, should not be confused with the other — mostly criminal — judicial institutions based in The Hague and adjacent areas, such as the International Criminal Tribunal for the former Yugoslavia (ICTY, an ad hoc court created by the Security Council), the International Criminal Court (ICC, the first permanent international criminal court, established by treaty, which does not belong to the United Nations system), the Special Tribunal for Lebanon (STL, an independent judicial body composed of Lebanese and international judges, which is not a United Nations tribunal and does not form part of the Lebanese judicial system), or the Permanent Court of Arbitration (PCA, an independent institution which assists in the establishment of arbitral tribunals and facilitates their work, in accordance with the Hague Convention of 1899).

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