

Republic of Renac**Responsibility and Sovereignty**

Renac, November 25, 2017

Sirs,

INTERNATIONAL COURT OF JUSTICE – ICJ.

Secretary

Honorable International Court of Justice

The Hague.

The Republic of Renac, in full exercise of its rights, accesses a respondent to the lawsuit filed by the Federated States of Birds, an effect of responding to the claim against the ICJ:

I. Response to the claims

II. Fundamentals of fact.

III. Fundamentals of Law.

IV. Considerations

V. Pretensions of the Republic of Renac.

VI. Bibliographic annexes.

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1. The Federated States of Birds and the Republic of Renac are neighboring sovereign states, members of the United Nations, share, in equal parts, the freshwater transboundary freshwater wetland Adeguri Marsh, of 20,000 hectares.

2. In the year 2000, both countries designated their respective area of the swamp as a wetland of international importance (Ramsar site) Ramsar Convention, including it jointly, in 2008, as a transboundary Ramsar site, acquiring the commitment to manage, preserve and protect cooperatively Adeguri Marsh and the wild birds that inhabit it. However, this has been done by making an ad hoc and informal base.

3. Renac is a developing country that has 250,000 km² and has a GDP per capita of US \$ 1,500, its economy is based on agricultural production, poultry and ecotourism. While Aves is considered a developed country with 300,000 km² and a GDP per capita of US \$ 17,500.

4. At the end of December 2013, the Federated States of Birds reported an outbreak of highly pathogenic avian influenza in a commercial poultry facility, the source of which was unclear.

5. In early January 2014, Renac warned of a severe outbreak of highly pathogenic avian influenza, which infected domestic birds.

6. It is presumed that this outbreak originated in poultry facilities in Aves and was transferred through a cross infection between domestic poultry and wild waterfowl near Adeguri Marsh.

7. The infection resulted in the spread of several industrial poultry facilities and 10 small poultry farms in Renac; likewise, approximately 500 wild waterfowl, including about 150 Blue-crowned cranes; nevertheless, the death of 600 cranes is estimated, of which 20 infected seabirds.

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8. Identified the outbreak in Renac, the government notified to the State of Birds informing that it was planned to slaughter, both poultry in poultry facilities and farms such as Adeguri Marsh, as wild aquatic birds little infected; Including Corona Azul cranes (approximately 450), in the wetland area belonging to Renac.

9. On February 02, 2014, Renac, in the exercise of its sovereignty and in accordance with the medicines signed with the FAO and to avoid a damage of his economy and a cross-border damage that would cause a big damage to the Neighboring Republic of Birds, decided to sacrifice to all the domestic birds of corral infected and hundreds of aquatic wild birds Potentially infected, Controlling of this form the outbreak

10. Several poultry farms and facilities in Renac, were closed on the outside by fire, and the sacrifice of animals brought as.

11. The infection with the highly pathogenic avian influenza virus was confirmed in four people in Renac, two of whom died of the infection.

12. In February 2015, an outbreak of avian influenza, highly pathogenic, was reported in poultry in the Federal State of Poultry, which was quickly contained and, consequently, a cleaning of its poultry facilities was carried out, draining the waste to the Adeguri Marsh wetland.

13. Subsequently, the infectious report by Birds, the State of Rebirth reported another outbreak of influenza in its territory, in and around the wetland, as a result of a cross infection between waterfowl.

14. This type of access to several large commercial facilities and at least 15 small local farms, as well as, resulted in the death of 250 wild waterfowl; including 50 blue crowned cranes. A post-mortem analysis performed on a sample of wild birds tested positive for the avian influenza virus.

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15. Renac, concerned about the appearance of this latest outbreak, decided to intensify his response to preserve uncontaminated birds, contain the virus and protect its population, notifying Bird about the sacrifice; both infected domestic birds and infected wild aquatic birds (including blue crowned cranes). Additionally, a treatment based on dispensing disinfectants such as chlorine was applied in the area of the Adeguri Marsh wetland of its jurisdiction, whose purpose was to eradicate the root virus and thus avoid the contagion of both humans and the other birds that inhabit the wetland.

16. The aforementioned outbreak generated the temporary closure of poultry facilities and farms, economic losses, shortage of food for farmers and their subsistence and a report of eight people infected with highly pathogenic avian influence, of which three died.

17. This outbreak, it was attacked exclusively by Renac's State, Without international cooperation exists on the part of the neighboring State of Birds, although it was treating of a virus with the potential to affect his own territory. With this attitude, Birds it was absent to his duty of solidarity, And for chape to the numeral 3 of the article 1 of the United Nations Charter that indicates the international cooperation as a cardinal intention if the internationals relationships.

18. Given the number of outbreaks that occurred near Adeguri Marsh, in recent years, Renac has considered removing the wetland as a Ramsar site, in order to have the possibility of conserving this wetland and the health of its inhabitants in a viable manner, without being forced into the impossible.

19. In April 2015, Renac informed the Secretariat of the Ramsar Convention and the contracting parties, including the Republic of Birds, of the intention to withdraw the Adeguri Marsh as a transboundary Ramsar site, in order to have greater flexibility in management (V. gr., draining areas near farms, placing scarecrows, etc.) and, in this way, prevent and timely respond to outbreaks of highly pathogenic avian influenza in the area.

20. At the end of 2015, Renac carried out a study of high environmental impact regarding the possibility of removing the Ramsar wetland, involving stakeholders, including citizens and the government of Birds.

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21. On March 03, 2016, Renac notified the Secretariat of the Ramsar Convention and the Bird Government, which planned to remove its corresponding area from Adeguri Marsh of the Ramsar Convention, due to urgent national interests, in accordance with Article 2.5 of the norm in comment.

22. In the notification, Renac proposed to immediately improve and preserve a 17,000-hectare coastal coastal marsh about 300 miles from the Adeguri Marsh as compensation, which serves as habitat for several wild birds and migratory waterbirds.

23. Renac suggested considering the coastal marsh as a Ramsar site, which provides a habitat for various wild and migratory waterbirds.

This is in accordance with Article 4, paragraph 2 of Ramsar, which requests that the above be done in order to exclude the Adeguri Marsh wetland as a Ramsar site and as a transboundary Ramsar site.

II. SUMMARY OF THE ARGUMENTS.

The Federal State of Birds and the Republic of Renac are part of the Agreement on the Conservation of Migratory Waterbirds of Africa and Eurasia -AEWA. Therefore, the defense considers that in view of the inoperability of the Federal Bird State and its lack of cooperation and joint accompaniment, the pertinent actions for the containment and elimination of the highly pathogenic avian virus, considered within the framework of the AEWA agreement, were not advanced. Despite the omission of the Federal State of Birds, the Republic of Renac, was always willing to keep the diplomatic channels open, in order to seek possible solutions to the problem raised by the emergence of the avian virus, which as already mentioned, gender a great economic, health and environmental crisis in Renac. For the previous thing, Renac does allusion to the exception of breach that consists of the right or faculty that is given in the reciprocal obligations Founded on the rule of simultaneous fulfillment of the same ones and that implies that a part can refuse to the fulfillment of his obligation While other one does not expire his, Having as foundation

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assure the maintenance of a contractual balance That already was restored between the parts from the first moment on the base of the equity and the good faith.

Although the principle of sovereignty is not absolute, by virtue of the limitations imposed by the principles of international environmental law, the Republic of Renac has followed all the legal parameters tending to avoid the violation of such principles, in view of the fact that the events They developed this nation into a state to a circumstance of extreme danger, which has been included in articulated of the CDI, on having established that the unlawfulness of a fact of a State remains excluded if the author of this fact does not have reasonably another way, in a situation of extreme danger, of saving his life or the life of other persons entrusted to his care.

Finally, Renac's Republic, he executed the measures previously mentioned (sacrifice of birds of corral and wild infected birds), Chord to the established in the preamble of the Agreement on the Biological Diversity (CDB), Since those States in development, must try to solve, primeramente, social problems, of poverty and consequent of environmental character.

For Renac, these measures were intended to prevent the spread of the virus to other species in the country and neighboring countries, including Birds, taking into account the concept of human welfare included in human health The International Conference on Health Promotion gathered in Ottawa November 21th, 1986. And adoptable measures for the promotion of health and minimize risks to human life due to diseases in the population.

On the other hand, the Republic of Renac, considered the Principle of good neighborliness and international cooperation, Stockholm Convention on Persistent Organic Pollutants (POPs) May 23, 2001. was not violated, since, at all times, kept the boundaries of diplomatic communication with the brother State of Birds, informing him in detail the problems raised and the actions that were intended to be carried out. It considers the defense that.

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The Federal State of Birds, despite its position as a developed country, And with a few financial considerable resources, did not attend the cooperation to Renac, to which it was committed as a neighboring State and member of the AEWA agreement.

Similarly, Aves did not know the AEWA Agreement for the Conservation of African-Eurasian migratory waterbirds. Article 3, numeral 2, literal f. June 16, 1995. provides that in a situation such as the outbreak of avian virus presented by cross contamination between wild birds and poultry, it must inform the neighboring State, just as Renac did at the same time informed to the Federal Bird State. Renac considers that Aves ignored the express mandate of the agreement, by not providing cooperation in the emergency situation that was experienced, which led Renac to take the necessary and economically viable measures for him. The previous situation, led to the slaughter of poultry, which are sustenance of our State and in a related way was put in danger the primordial value of the life of our fellow citizens.

For Renac, They have sustenance in the obligation to take all the necessary measurements in order to guarantee the human right to the life, of conformity with the Agreement of Civil and Political Laws, the Universal Declaration of Human rights and the Preamble of the United Nations Charter, as well as the Principle of sovereignty over natural resources and the responsibility of not causing harm to the environment of other States or in areas beyond national jurisdiction, enshrined in the Stockholm Convention on Persistent Organic Pollutants (POPs) May 23th, 2001. And at the Earth Summit in Rio de Janeiro. June 14, 1992. This principle empowers States in the exercise of their exclusive sovereignty within their territory, with the intention and purpose of protecting their natural resources. Consequently, Renac supports its action on the principle of state sovereignty, which because of the outbreak of the avian virus and the inoperativeness of the Federal States of Birds, was placed in imminent danger: (i) Renac's natural resources for the lack of cooperation of Birds (ii) the national economy of Renac was affected by the shortage of food putting at risk the lives of their fellow citizens and by the closure of several poultry and small-scale farms (iii) the

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food security of the population (iv) public health, by contaminating the water of the wetland, which was the most important source of water for human consumption.

The Republic of Renac, implemented the aforementioned measures (slaughter of infected poultry and wild birds), in accordance with the provisions of the preamble of the Convention on Biological Diversity. June 5, 1992. Since those developing States, should seek to solve, first, social problems, poverty and consequently environmental. In this order of ideas, for Renac, the interests of public security and sustenance of its population prevailed, taking the environmental aspect to a second level, while recognizing its importance.

For the above reasons, the defense considers that it is not possible to cut sovereignty and limit Renac's decision-making, which in the case under examination, consisted in guaranteeing the state's survival, without ignoring that the Republic of Renac carried out all the compensatory actions to compensate the possible affectation that could have been caused to the populations of wild birds and the wetland in comment. Similarly, it is necessary to suggest that the environmental impact studies carried out by bird experts be tested, which did not affect the ecosystem.

In accordance with the principle of free self-determination of peoples, enshrined in The Charter of the United Nations. Article 1, numeral 2. June 26, 1945. The State of Renac demands respect for its exclusive autonomy over the management of these resources, as well as respect for planned actions whose purpose was to protect fundamental values such as life, health, the integrity of its inhabitants, its economic stability and at the same time guarantee the protection of the Adeguri Marsh wetland that serves as a habitat for wild birds. The foregoing, in accordance with the exceptions enshrined in the AEWA, Agreement for the Conservation of African-Eurasian migratory waterbirds. Article 2.2.1. June 16, 1995. And that of the Convention on the Conservation of Migratory Species of Wild Animals. Article III. November 1, 1983. For Renac, the application of the previous protection measures were the most adequate and effective, since, as it was possible to demonstrate, they controlled outbreaks of highly pathogenic avian influenza.

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Also inside this context we consider that Renac's Republic, in altars of protecting the fundamental right to the life of his population, in a difficult determination, There decided to protect his citizens of agreement with the limits structured in the beginning Pro Homine which is recognized in the article 5 of the International Agreement of Civil and Political Laws, That establishes: " *1. No disposition of the present Agreement will be able to be interpreted in the sense of granting some right to a State, group or individual to undertake activities or to realize acts directed to the destruction of anyone of the rights And freedoms recognized in the Agreement or to his limitation in major measure that the foreseen one in him. 2. Restriction will not be able to be admitted or damage of none from the fundamental recognized or in force human rights in a State Departs by virtue of laws, conventions, regulations or customs, so pretext of which the present Agreement does not recognize them or recognizes them in minor degree* ".

This principle, named also Favorabilidad's Clause in the Interpretation of the Human rights, has been developed by the Inter-American Commission and by the Constitutional Colombian Court, in whose jurisprudence is explained that:

"The principle pro homine is a hermeneutic criterion that informs the whole right of the human rights, by virtue of which it is necessary to come to the most wide norm, or to the most extensive interpretation, when it is a question of recognizing protected rights, And inversely, to the norm or to the most restricted interpretation when it is a question of establishing permanent restrictions to the exercise of the rights or to his extraordinary suspension. This beginning coincides with the fundamental feature of the right of the human rights, this is, to be always in favour of the man"

On the other hand, Renac categorically rejects the accusation made by Aves, tending to the alleged violation of International Law, for having excluded the Adeguri Marsh wetland as a transboundary Ramsar site. In this regard, it is necessary to mention what is regulated in Article 2, clause 3 and 5 of the Ramsar Convention, which allows States to remove wetlands from the list of Ramsar sites. Similarly, the same rule, in its Article 4, paragraph 2, regulates that to remove from the list or reduce the limits of a wetland, the loss of wetland resources must be compensated, as far as possible, by creating of new natural reserves or by protection, in the same region or elsewhere of

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an adequate portion of their original habitat. Then, Renac proposes to immediately improve and preserve a 17,000-hectare coastal coastal marsh about 300 miles from the Adeguri Marsh wetland, which provides a habitat for some wild waterfowl, designating it as a Ramsar site. This measure would guarantee to satisfy, on the one hand, the spirit of the Ramsar Convention, which is the preservation of wetlands and species that inhabit them as an ecosystem and not a single bird species in particular, and on the other, economic development, which is an essential and imperative goal for a developing State such as the sovereign Republic of Renac.

IV. CONCLUSION.

For previously exposed, Renac's Republic requests attentively to the Honourable International Court of Justice:

FIRST: That deny each and every to themselves of the pretensions contained in the demand.

SECOND: That is accepted to withdraw to Adeguri Marsh as a site cross-border Ramsar and In compensation to include the coastal rural described marsh

THIRD: That is exhorted to the international community and Ramsar's members states AEWA, and Specially birds, supply in a prompt and effective way economic and biotechnological resources that help to attack futures sprout of influenza to get ready highly pathogenic in Renac.

FOURTH: That is ordained to the Federal States of Birds to withdraw of the surroundings of Adeguri Marsh his poultry facilities and besides the fact that it is prohibited to the Federal States of Birds To return to realize dumping of waste of the drainages that they effect to his poultry facilities in the wetland.

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V. BIBLIOGRAPHIC

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