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Costa Rica Requests Precautionary Measures from International Court of Justice in Dispute with Nicaragua

by George Rodriguez
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In Costa Rica's almost three-month-old confrontation with Nicaragua, its immediate neighbor to the north, it has charted a roadmap and is following it every step of the way, which could prove quite lengthy (NotiCen, Nov. 18, 2010) and (Dec. 16, 2010).

After the dispute broke in October, this Central American nation decided it would initially bring the conflict to the attention of the Organization of American States (OAS), but the results were unsuccessful and fell short of Costa Rican expectations and hopes. The continental body recommended, among other measures aimed at seeking a solution to the bilateral row, that security forces be drawn back to a prudent distance from the border between the two countries at the conflict spot.

While Costa Rica was basically pleased and considered this a diplomatic victory, Nicaragua, after stating the OAS had no say in the matter, ignored what the organization was proposing.

Having taken the regional step that Costa Rica’s Foreign affairs Minister René Castro said was needed to open the international front, this country’s government, headed by President Laura Chinchilla, did precisely that and went to the International Court of Justice (ICJ).

Meanwhile, it began to prepare to eventually present its case at the UN Security Council.

The ICJ’s 16 judges—plus two ad-hoc magistrates, one for each feuding country—met for three days, Jan. 11-13, to hear each side’s case.

One week before, Castro said that Costa Rica was ready to present its position to the ICJ and that it was set on following the path of international law.

Appealing to the ICJ, headquartered in The Hague, Netherlands, is "another step we have taken in the defense of our national sovereignty and as a guarantee that our territorial integrity will be safeguarded with the full strength of international law," the official told journalists on Jan. 4. He thus referred to the OAS as well as to the UN Security Council option, which this country keeps open.

"We hope that with the binding power the court has it will issue a ruling and establish the precautionary and preventive measures that will avoid damage" to the environment on both sides of the border "from rising or further extending," said Castro. "This will go on for years before a final and definitive solution; what we want now is to stop the damage being caused and the occupation existing this very instant."

Costa Rica accuses Nicaragua of keeping troops and causing environmental damage on Costa Rica territory on a spot on the eastern end of the 309-km land border between both countries.
Costa Rica and Nicaragua present their arguments

During a video press conference between The Hague and San José, Costa Rican delegates headed by Castro ensured that the country made a consistent statement, while Nicaragua tried to convince the judges that Costa Rica was wrong and made an effort to minimize the conflict.

Costa Rica’s agent for the ICJ Edgar Ugalde, a former vice minister of foreign affairs and presently the country’s ambassador to Colombia, told journalists gathered at the Casa Presidencial auditorium that "Costa Rica made...a consistent and coherent case."

"Nicaragua...tried to persuade the judges that Costa Rica was wrong, but they didn’t do it—we believe—in the correct way," added Ugalde, in whose opinion "the other side has a strategy to try and disqualify all the reports, all the technical groundwork presented by Costa Rica."

Costa Rica’s Ambassador to the Netherlands Jorge Urbina said the delegation "made a good presentation, it upheld Costa Rica’s points of view, it upheld aspects in this situation that Costa Rica feels and believes are fundamental."

This country "tried to open the judges’ eyes regarding all aspects related to the situation," said Urbina, adding that, on environmental issues, "Costa Rica presented proof produced by independent organizations, by independent observers."

But "the little proof Nicaragua presented was made in Managua or the surrounding area," the ambassador said, adding that it also "tried to minimize the conflict" and, "of course, tried...to take the ball to its own side of the field, absolutely leaving out the territorial issue, which is fundamental."

And, in Castro’s opinion, "We saw a presentation by Nicaragua that we’re already used to."

The second day was Costa Rica’s turn to respond to Nicaragua’s presentation, and it was then that it requested the precautionary measures, which include withdrawal of Nicaraguan military and personnel from the site as well as stopping the felling of trees and the destruction of the wetlands in the conflict area.

The last day of hearings was devoted to Nicaragua’s closing argument, and the head of the country’s delegation, Nicaraguan Ambassador to the Netherlands Carlos Argüello, said, among other things, that the border between both countries is not defined along that area, making it impossible for any precautionary measure to be applied there.

Decision could come soon

Costa Rica estimates that, while ICJ proceedings are usually lengthy, the court could take from two to three weeks to rule on the request for precautionary measures. "It is expected that within two, three weeks...the court could issue a resolution on this," Castro told a press conference four days before the hearings began.

"It’s normal that a response is fast when there’s precautionary or provisional measures," said the Costa Rican government official, adding that "proceedings at The Hague take years—four, five years. However, time spans for "precautionary measures are shorter when there’s a situation of urgency such as the one we believe exists at this moment."
Castro also told reporters the ICJ session would be followed by a tour of Europe aimed at making contact with governments and civil-society organizations. Although he avoided giving details, he said the tour was scheduled to begin Jan. 14, adding that "we will provide you [with information] as we get to each place."

"One of the major aims is to make sure that the decision at The Hague is respected and complied with and that there is full information in the largest number possible of members of the international community—including Europe—on the process we’re in and why we have chosen this path," explained Castro.

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