

INTERNATIONAL COURT OF JUSTICE

COMPROMIS

BETWEEN THE REPUBLIC OF ATTANDRA (APPLICANT)

AND THE REPUBLIC OF ZARICA (RESPONDENT)

TO SUBMIT TO THE INTERNATIONAL COURT OF JUSTICE

THE DIFFERENCES BETWEEN THE STATES

CONCERNING THE CURE FOR EBOLA USING GENETIC MATERIAL OF THE

ZUSHIS

jointly notified to the Court on October 13, 2006

JOINT NOTIFICATION

ADDRESSED TO THE REGISTRAR OF THE COURT:

The Hague, 13 October 2006

On behalf of the Republic of Attandra ("the Applicant") and the Republic of Zarica ("the Respondent"), in accordance with Article 40(1) of the Statute of the International Court of Justice, we have the honour to transmit to you an original of the Compromis for Submission to the International Court of Justice of the Differences between the Applicant and the Respondents Concerning the Cure for EBOLA Using Genetic Material of the Zushis.

Ambassador of the Republic of Attandra
to the Kingdom of The Netherlands

Ambassador of the Republic of Zarica
to the Kingdom of The Netherlands

COMPROMIS

SUBMITTED TO THE INTERNATIONAL COURT OF JUSTICE

Attandra and Zarica,

Considering that differences have arisen between them concerning the Cure for EBOLA Using Genetic Material of the Zushis;

Recognizing that the Parties concerned have been unable to settle these differences by negotiation;

Desiring further to define the issues to be submitted to the International Court of Justice;

Article 1

The Parties submit the questions contained in the Compromis (together with Clarifications to follow, if any) to the International Court of Justice pursuant to Article 40(1) of the Statute of the Court.

Article 2

- (a) The Court is requested to decide the Case on the basis of the rules and principles of general international law, as well as any applicable treaties.
- (b) The Court is also requested to determine the legal consequences, including

the rights and obligations of the Parties, arising from its judgment on the questions presented in the Case.

Article 3

(a) All questions of procedure and rules shall be regulated in accordance with the provisions of the D. M. Harish Memorial Government Law College International Moot Court Competition

(b) The Parties request the Court to order that the written proceedings should consist of Memorials presented by each of the parties not later than the date set forth in the rules of the said Moot Court Competition

Article 4

(a) The Parties shall accept any Judgment of the Court as final and binding upon them and shall execute it in its entirety and in good faith.

(b) Immediately after the transmission of any Judgment, the Parties shall enter into negotiations on the modalities for its execution.

In witness whereof, the undersigned, being duly authorized to do so, have signed the present Compromis and have affixed thereto their respective seals of office.

Ambassador of the Republic of Attandra
to the Kingdom of The Netherlands

Ambassador of the Republic of Zarica
to the Kingdom of The Netherlands

****COMPROMIS****

1. Attandra is a developing country, blessed with extensive natural resources but without the industrial base or capital to benefit from their own natural resources. The majority of the people in the country are subsistence farmers. The climatic conditions in Attandra are extremely difficult – making the lives of Attandrians even more challenging. Attandra was formerly colonized by Zarica, one of the most technologically advanced nations in the world.
2. Zarica built its technological base exploiting the natural resources of the countries it colonized, particularly Attandra. Zarica withdrew from all its colonial bases in the late 1940s post World War 2. Zarica continued to maintain bilateral relations with Attandra and entered into a trade agreement allowing Zarican citizens and corporations to operate in Attandra. The trade agreement even allowed Zaricans and corporations of Zarican origin or Zarican controlled corporations property rights (which were not defined) in Attandra on lines similar to Attandrian citizens – though Attandra clearly stipulated that all purchase of property under the trade agreement had to be done at a premium to prevailing local market rates.
3. Attandra is quite well known internationally due to an indigenous tribe, known as Zushis. The Zushis had resisted the colonial rule and various attempts to suppress the freedom struggle by the Zushis had failed – as the Zushis withdrew into remote areas which were difficult to access. The colonial administration therefore tried a different approach. They encouraged international medical practitioners and social anthropologists to conduct research among the Zushis in order to understand their culture and practices – partly to determine how to break the backbone of the resistance based on such research, and partly to understand how the Zushis coped with the adverse climatic conditions. As part of this research, blood and tissue samples of some Zushis were taken and basic research was conducted. One of the academicians wrote a detailed paper in 1938 speculating that the Zushis could have certain unique genetic markers that in the future could help in finding a cure to certain tropical diseases.

4. In 2005, the dreaded disease REWBC (Rapid Erosion of White Blood Cells) broke out in Zarica. Human Beings are the primary carriers of the disease and the virus is transmitted through contact with an infected person. The virus eats away the white blood cells in the human body rapidly and breaks down the immune system and the function of critical organs such as the kidneys and the liver. The scientific community was unclear on how the REWBC virus could have reached Zarica – the outbreak was widespread forcing the Zarican Government to declare a state of national emergency. Many countries in the world banned Zarican citizens and residents from entering their countries (even for short durations) due to fear of the spread of the disease. Despite drastic measures, the spread of the disease did not slow down. In a desperate measure, the Zarican Government formed the REWBC Cure Research Institute (RCRI), an autonomous body, to find a cure for REWBC. RCRI was permitted by law to require any leading Zarican scientists to join the institute and focus on finding a cure for REWBC. Once mandated to work for the RCRI, any person refusing to work for RCRI could face a jail sentence of two years. The RCRI was managed by a board of leading citizens of Zarica chosen by the President of Zarica and confirmed by Parliament.

5. While doing their research, one of the members of the scientific team working at RCRI chanced on the article written in 1938 and requested for any blood or tissue samples that may exist with the Zarican Government. Research conducted on some samples was inconclusive – but the scientists recommended that additional research be conducted and that fresh samples from the Zushis be examined. The Zarican Government requested the Attandrian Government for blood samples of the Zushis and were turned down. The Attandrian Government stated that the original collection of the blood and tissue samples from the Zushis was a violation of the rights of the Zushis – property rights, cultural rights, the right to privacy and confidentiality and the right to their own genetic material. In addition, the religious rights of the Zushis were affected. The Zushis believed that their bodies were temples and that any invasive action (including the use of syringes) conducted by a non-Zushi was similar to the desecration of a holy place. Zushis

often refused medical treatment due to their religious beliefs. The Attandrian Government therefore refused to cooperate.

6. Frustrated with the response of the Attandrian Government, the management of RCRI, after considerable negotiations, acquired Zushi Medical Limited, an Attandrian company set up by some private Attandrian citizens – for the benefit of the Zushis. The company had built a few medical centres in remote areas for the benefit of the Zushis which were operated by Zushi doctors and nurses. Quickly after the acquisition, blood and tissue samples that had been historically collected from the Zushis (as part of their medical treatments) were transported to RCRI for further research.

7. The hunch of the RCRI scientists turned out to be accurate – it was discovered that the Zushis had developed immunity to REWBC as they had been probably affected by the disease a couple of thousand of years ago. RCRI was able to develop a trial vaccine based on some of the genetic markers found in the blood and tissue samples of the Zushi community. Detailed clinical trials followed which were, by and large, successful. The results of the clinical trials were widely reported in the international press. It was clear that additional blood and tissue samples would be needed for some additional research and final testing – before the vaccine could be cleared by the Food and Drug Administration of Zarica. It was at this stage, that the Attandrian Government realized that the Zaricans had used the blood and tissue samples of the Zushis to develop a possible cure to REWBC. They contacted the Zarican Government demanding that research be immediately stopped. . The Zarican Government said that RCRI was an autonomous body established by law and they had no authority to prevent the institute from conducting its research.

8. Overnight, the Attandrian Government passed the Nationalization of Assets Act, 2006 allowing them to acquire any assets owned by any party in Attandria in the national interest. The Act did not define what was meant by “national interest” but clearly gave the Government the powers to acquire any assets in Attandria after paying minimal compensation. The Attandrian Government, exercising its powers under the said Act,

nationalized the Zushi Medical Centre and took over management and control. The Zushi Medical Centre under new management immediately stopped the transfer of blood and tissue samples to RCRI – which seriously compromised the development of the vaccine by RCRI. RCRI was not able to go forward with the additional research and final testing and were therefore not able to seek the approval of the Food and Drug Administration of Zarica. Zarica, once again, demanded that the Attandrian Government cooperate in the development of the vaccine in order to prevent the rapid spread of REWBC, which was killing people everyday. The Attandrian Government said that the question of violating the rights of the Zushis did not arise and they would be unable to help.

9. The Attandrian Government stressed that the actions of the Zushi Medical Centre and RCRI were in violation of the individual rights of the Zushis and also, demanded compensation on behalf of the Zushis. The Zarican Government said that they could not be held responsible for the actions of the Zushi Medical Centre and RCRI as they were independent legal bodies and any compensation claims against RCRI and the Zushi Medical Centre were best addressed through the domestic courts of Attandria and if necessary, Zarica. They responded to the allegations of the Attandrian Government by also stating that no violations of international law had been committed. RCRI's acquisition of the Zushi Medical Centre did not in any way violate the individual rights of the Zushis (whose blood and tissue samples were transported to RCRI) – as these individuals had given their informed consent to the collection of their blood and tissue samples. Independent observers believed that by and large consent had been obtained for collection of blood and tissue samples. They also stated that their actions were to prevent the deaths of millions and were therefore an appropriate response to a medical emergency.

9. While both countries were making allegations against each other, RCRI announced that they had completed their final research and testing – and had received the approval of the Food and Drug Administration of Zarica. They did also announce that regular supplies of Zushi blood and tissue samples would be needed for the long term effectiveness of the vaccine – as new strains of REWBC may need additional research

and testing. It was not immediately clear how they had managed to complete their research and testing – but subsequently, the press reported that employees of a Zarican corporation that had operations in Attandra had been seen interacting with Zushis and had probably collected blood and tissue samples directly from individual Zushis. The Attandrian Government on meeting the leadership of the Zushis realized that a few Zushis had received small sums of money in exchange for blood and tissue samples. The Zushi leadership believed that under the trade agreement with Zarica, Zaricans could purchase property in Attandria only if they paid a premium to prevailing market rates – and that the sums of money were clearly inadequate making the sale of the blood and tissue samples illegal. RCRI responded by saying that they had individual contracts with the individual Zushis and that blood and tissue samples were not property under the trade agreement or under international law. Once again, Zarica stressed that such claims should be handled in the domestic courts of Attandria and Zarica, if necessary.

10. Sales of the vaccine began and immediately helped to slow down the spread of REWBC. The Attandrian Government demanded that RCRI and the Zarican Government take immediate steps to stop the sale of the vaccine and for a share of the sales revenue to be used for the benefit of the Zushis. The Zarican Government continues to demand that the Attandrian Government help procure blood and tissue samples of the Zushis – and have requested the International Court of Justice for an order to this effect.

11.. Both countries are members of the United Nations and have duly ratified the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights and the Vienna Convention on the Law of Treaties. Both countries have raised a number of claims before the International Court of Justice as reflected in this Compromis.