

## Fictional Case in Public International Law

### Facts

(1) Viria and Metulon are two states located on different continents, which have established diplomatic relations with each other, but their economic and trade relations are negligible. Both states are members of the United Nations and all of its specialized agencies, but not of other universal or regional international organizations. Both states have made a unilateral declaration, thereby recognizing the jurisdiction of the International Court of Justice. However, Viria's declaration contains a clause stating that "the International Court of Justice shall not have jurisdiction over matters within the internal jurisdiction of the State".

(2) The Khazori minority, which has lived in the territory of Viria for centuries and makes up about a third of the state's population, has long wanted to become independent. They currently have partial autonomy, which has manifested in cultural and language rights. They can use their own language in local administration but the central government has blocked the establishment of an ethnic Khazori political party via administrative obstacles. The Khazori minority's primary goal would be territorial autonomy and the creation of their own parliament, which, however, is explicitly forbidden by the constitution of Viria. In March 2024, a series of demonstrations began in settlements inhabited by Khazori, to which the central government responded with increasingly violent police action. As a result, a small group of Khazori became militarized and threatened the government of Viria with a series of terrorist attacks.

(3) In the summer of 2024, the Khazori held a self-organized referendum in parts of the country which they inhabit, in which 80% of the participants voted for secession, although only 45% of the voters took part in the referendum. The central government declared the referendum invalid, as it was organized by an unregistered party instead of the official authority who would have competence concerning the matter. Regardless, the Khazori declared secession, the establishment of an independent Khazaria, and the formation of their government, citing the results of the „referendum” supporting independence. The prime minister of the Virian government announced that he would never recognize the unconstitutional formation of the state and then mobilized Virian armed forces to suppress what they considered a “rebellion” and to hold accountable “those who committed crimes against the state.” However, the Khazarian situation divided both the population of Viria and the military leadership. The latter did not want to resort to violence, so the armed forces stopped at the newly established border and did not penetrate Khazori territory.

(4) The opinions of the UN member states are divided on the recognition of the new state. Metulon was among the first to recognize Khazaria, despite fierce protests from Viria. The head of state of Viria visited several states in the fall of 2024, trying to convince the leaders of the countries not to recognize the newly proclaimed entity as a state. However, when the plane of the head of state of Viria passed over Metulon airspace, the local air traffic control ordered the head of state's plane to land, claiming an „impending security risk” without further specifying what it entails. Metulon authorities surrounded the plane with security personnel, did not allow the head of state to disembark, and also demanded that the plane be searched, which the head of state of Viria refused. Metulon authorities disregarded the protests and removed the packages from the plane, but did not open them, only using the scent of drug-detecting dogs and checked with a Geiger-counter that measures radioactive radiation. Under intense international pressure, the president's plane was finally granted permission to take off from Viria 24 hours after landing.

(5) Following the above incident, Viria initiated the contentious process of the International Court of Justice on 30 November 2024, requesting the court to declare that the measures taken by Metulon violated the customary international law norm of immunity of heads of state. On the same day, Metulon sent a note to the Secretariat of the International Court of Justice withdrawing its declaration accepting the Court's jurisdiction.

### **Questions**

(1) To what extent did the Khazori people have the right to secede from Viria under international law? Can we consider what happened as a so-called remedial secession, and if so, why?

(2) Describe the legal situation of Khazaria: was a new state established under international law? What legal consequences does this have for other countries?

(3) Was the immunity of heads of state violated by the actions of the Metulon authorities? Justify your answer!

(4) Under what conditions can the jurisdiction of the International Court of Justice be established in the case regarding the violation of the immunity of heads of state as a norm of customary law?