



INTERNATIONAL
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Nuremberg Moot Court 2013

Moot Court Case



Case

Equatoriana (“state E”) does not have access to the sea. For about the last ten years, Equatoriana has had an agreement with the neighbouring country of Oceania (“state O”) granting to the merchant ships of Equatoriana special privileges to enter the harbour of Atlantis, the capital of Oceania. In addition, the two countries have by agreement created a corridor, about 50 miles long, which connects the harbour of Atlantis, in state O, and the border of state E. In this zone, the transportation of goods to state E is privileged and no taxes are imposed by state O. Rumours have arisen that these privileges have been misused repeatedly to transport weapons in breach of the agreement between states E and O. This has led state O to conduct inspections in Atlantis and in the transportation corridor. However, no evidence to prove these allegations has been found.

Last year, despite diplomatic protests by state E, the state of O’s Navy prevented merchant ships of state E from entering the harbour of Atlantis. As a consequence, these ships were forced to use the harbour of Ilias, the capital of Mediterraneo (“state M”). Shipping goods from Ilias to the border of state E required crossing 200 miles by land and the payment of high taxes to state M. In just a few days, the inflation rate in state O rose over 150% and food became scarce.

Following the failure of the diplomatic correspondence between state E and state O, the president of state E mobilized his troops and ordered the invasion of state O, in order to gain access to the harbour of Atlantis. After some military successes, the invading Equatorianian troops were stopped just outside the city of Atlantis.

General Anchises, the commander of the Army of state E, then ordered – without conferring with the president of State E – that the suburb of Neo-Atlantis be destroyed as a warning to the government of state O. During this military operation, state E forces shelled the residential area of Neo-Atlantis for about 48 hours. State E special troops then were sent into the destroyed suburb to kill every human being still living. In addition to the special troops General Anchises ordered the targeted killing of the Neo-Atlantis mayor by the use of combat



drones. This operation caused at least 1000 casualties, among them the Neo-Atlantis mayor and his family.

As a result of this military operation and political pressure on the government of state O, the former special privileges of state E were re-established. The government of state O also agreed that the Army of state E could occupy parts of the harbour as well as the transit route.

State O also requested that state E transfer General Anchises to the International Criminal Court for prosecution for the massacre of Neo-Atlantis. Both State E and state O are members of the ICC. The president of state E, shocked by the course of action taken by his General, referred the situation to the ICC and agreed to turn over General Anchises in the event of his indictment by the ICC.

After only a few months of intensive investigation by the prosecutor of the ICC, an arrest warrant was issued against the General according to ICC article 58 (1). The ICC formally requested that State E arrest General Anchises and transport him to the seat of the ICC in The Hague according to ICC article 59 (1). In response, the president of State E, who had come to regret his decision to cooperate with the ICC (including because he feared his own prosecution), declared that he would not turn over General Anchises and officially withdrew the referral. The president announced that he had ordered state E's national prosecution service to investigate the Neo-Atlantis matter.

The government of state O was appalled by this state E breach of their agreement. State O declared that a referral to the ICC may not later be withdrawn. In the alternative, state O announced that it was referring this matter to the ICC and requested that it order General Anchises's transfer to The Hague. He declared in response, through his counsel that he would respond only to Equatorianan court orders and with regard to any proceedings before the ICC he invokes his right according to Rule 61 (2) lit. a RPE.

Meanwhile, a group of Neo-Atlantis survivors (victims) petitioned the ICC to continue its prosecution. The group wants the world public to learn as much as possible about the massacre perpetrated by state E.



The competent pre-trial chamber of the ICC decided in a status conference on a joint hearing. It has set a hearing date according to rule 58 (1) RPE and invited parties to prepare arguments.

The General is charged under ICC article 7(1) with crimes against humanity, and under ICC article 8(2a) with intentional killing and war crimes.

The victims' group, which has been admitted to participate in the proceedings, requests that General Anchises also be charged with genocide. According to their information, he aimed to destroy the elite of Oceania who resided primarily in the exclusive areas of Neo-Atlantis.

At the opening of the hearing, the circumstances of the massacre in Neo-Atlantis are mostly undisputed. However, defence counsel argues that the pre-requisites of crimes against humanity are not met. With regard to war crimes, defence counsel argues that this was a case of self-defence under to article 51 of the UN Charter, negating any liability under international criminal law.

Primary applicable law

Charter of the United Nations of 26 June 1945 (UN Charter), available at <http://www.un.org/en/documents/charter/>

Rome Statute of the International Criminal Court (ICC Statute) of 17 June 1998, UNTS Vol. 2187, No. 38544, available at <http://untreaty.un.org/cod/icc/statute/romefra.htm>

Rules of Evidence and Procedure (REP) of 9 September 2002, ICC-ASP/1/3 (Part.II-A) available at http://www.icc-cpi.int/en_menus/icc/legal%20texts%20and%20tools/official%20journal/Documents/RulesProcedureEvidenceEng.pdf