

INTERNATIONAL COURT OF JUSTICE

COMPROMIS

**BETWEEN THE REPUBLIC OF ADOVA (APPLICANT)
AND THE STATE OF ROTANIA (RESPONDENT)
TO SUBMIT TO THE INTERNATIONAL COURT OF JUSTICE
THE DIFFERENCES BETWEEN THE STATES
CONCERNING CERTAIN CRIMINAL PROCEEDINGS
IN ADOVA AND ROTANIA**

jointly notified to the Court on 28 September 2007

COUR INTERNATIONALE DE JUSTICE

COMPROMIS

**ENTRE LA RÉPUBLIQUE D'ADOVA (DEMANDERESSE)
ET L'ÉTAT DE ROTANIA (DÉFENDEUR)
VISANT À SOUMETTRE À LA COUR INTERNATIONALE DE JUSTICE
LES DIFFÉRENDS QUI OPPOSENT LES DEUX ÉTATS
AU SUJET DE CERTAINES POURSUITES PÉNALES
EN ADOVA ET EN ROTANIA**

notifié conjointement à la Cour le 28 septembre 2007

**JOINT NOTIFICATION
ADDRESSED TO THE REGISTRAR OF THE COURT:**

The Hague, 28 September 2007

On behalf of the Republic of Adova ("the Applicant") and the State of Rotania ("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 Respondent Concerning Certain Criminal Proceedings in Adova and Rotania, signed in Chicago, Illinois, USA, on 28 September 2007.

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

Ambassador of the State of Rotania
to the Kingdom of The Netherlands

COMPROMIS
SUBMITTED TO THE INTERNATIONAL COURT OF JUSTICE
BY THE REPUBLIC OF ADOVA AND THE STATE OF ROTANIA ON THE
DIFFERENCES BETWEEN THEM CONCERNING CERTAIN CRIMINAL
PROCEEDINGS IN ADOVA AND ROTANIA

Adova and Rotania,

Considering that differences have arisen between them concerning certain criminal proceedings in Adova and Rotania and other matters;

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;

Therefore, the Parties have concluded the following Compromis:

Article 1

The Parties submit the questions contained in the Compromis (together with Clarifications to follow) 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 Official Rules of the 2008 Philip C. Jessup International Law 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 Official Schedule of the 2008 Philip C. Jessup International Law 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.

Done in Chicago, Illinois, USA, this 28th day of September 2007, in triplicate in the English language.

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

Ambassador of the State of Rotania
to the Kingdom of The Netherlands

THE 2008 PHILIP C. JESSUP INTERNATIONAL LAW MOOT COURT COMPETITION

****COMPROMIS****

THE REPUBLIC OF ADOVA V. THE STATE OF ROTANIA

**THE CASE CONCERNING CERTAIN CRIMINAL
PROCEEDINGS IN ADOVA AND ROTANIA**

1. In 1970, the Kingdom of Sybilla dissolved into two independent nations: the Republic of Adova (Applicant in this case) to the west, and the State of Rotania (Respondent here) to the east. The borders of the two states followed internal provincial borders established early in the 20th century by the central Sybillan government. Both countries possess a southern coast on the Emerald Ocean. Both countries are representative democracies with elected legislatures and independent judiciaries. The countries are approximately equal in geographic area, and according to the most recent available census data, the population of Adova is fifteen million, and the population of Rotania is ten million.

2. The two countries are populated by two principal ethnic groups, Stovians and Litvians, which have distinct languages, religions, and cultures, although they are physically indistinguishable. About 75% of Adovans are Litvian, 10% Stovian, and 15% “mixed” or “other,” while Rotania is 85% Stovian, 10% Litvian, and 5% “mixed” or “other.” Most Litvians in Rotania have historically lived in the Upland Plateau, a geographically self-contained district making up approximately 20% of the total land area of the country. The Upland Plateau is economically dependent on the extraction of minerals, primarily coal. It is inhospitable to

agriculture, and contains no city with a population greater than 25,000. Litvians generally think of the Upland Plateau as the center of their ethnic culture, and their most important religious and historic sites are located there.

3. Over the years since the nation's independence, the Litvians of Rotania have on numerous occasions expressed concerns that they were being precluded from economic and cultural advancement by the Stovian majority. A succession of Rotanian governments of different political parties has consistently denied the existence of any legal or institutional discrimination against Litvians in Rotania.

4. Although there remain substantial differences of opinion about whether and to what extent these distinctions are related to the presence or absence of adequate legal protections, census data collected in 2000 continue to show significant disparities in the well-being of Litvians and Stovians in Rotania. According to the data: The average annual per capita income of Litvians in Rotania was approximately €8,000, while that of Stovians was approximately €14,000; the literacy rate of Litvians (in either the Stovian or the Litvian language) was 66%, while 92% of adult Stovians are able to read and write in Stovian (the official language of Rotania); and the average life expectancies of male and female Litvians in Rotania were 52 and 58 years, respectively, while those of Stovians were 71 and 76 years.

5. Shortly after the dissolution of Sybilla, a movement emerged among the Litvians of the Upland Plateau calling itself the Litvian Advancement and Protection Society (LAPS). By all accounts, LAPS was created as a social and civic organization, which in its early days sponsored

the study of Litvian culture and language, and supported hospitals, schools, and old-age homes to serve the Litvian population of Rotania.

6. Over the years, LAPS has taken on an increasingly political character. As of 2005, LAPS had at least three political factions with significant support among the Litvian population of Rotania. The most conservative faction attempted to integrate itself completely into the Rotanian political system, supporting candidates for election to the legislature and urging legal and administrative changes to improve the lot of Litvians living in Rotania. Indeed, LAPS candidates have been elected on a number of occasions to represent Litvian-majority districts in parliament (there are currently 12, out of a total membership in the unicameral legislature of 200).

7. The most radical wing of LAPS, the Independent Litvia Solidarity Association (ILSA), openly espouses the complete secession of the Upland Plateau from Rotania. Some members of ILSA support creation of an independent Litvian state; others have called for the ultimate establishment of a political and economic union of the region with the Republic of Adova. While the precise structure and financial affairs of LAPS are not matters of public record, it is not disputed that since its founding, LAPS has received substantial financial assistance from the government of Adova. LAPS has consistently claimed that the funds were used exclusively for charitable and educational projects. Press accounts suggest that Adovan government aid made up approximately 45% of the total budget of LAPS in 2004, and there has been no official denial of the accuracy of this estimate. Later figures are unavailable.

8. On at least eight occasions between 1985 and 2001, the Rotanian Parliament adopted resolutions of opposition to any political autonomy for the Upland Plateau. Every one of the LAPS members then in office voted against each of the resolutions.

9. Since 1985, the General Chairman of LAPS has been Samara Penza, a national of Adova who while growing up spent summers in the Upland Plateau, where several members of her extended family continue to live. Ms. Penza, born in 1962 and of Litvian ethnicity, graduated first in her class in 1985 from the Rotanian National University School of Law, located in the capital city of Rotan. While little about the inner political workings of LAPS is reliably known, it has been consistently reported that she has been responsible for keeping the conservative and ILSA wings of LAPS within the single umbrella organization. Some media sources report that she has “prevented the radical elements from steering LAPS in a more violent direction,” although the facts tending to support such a claim are widely contested in the international press.

10. Ms. Penza has achieved a substantial following among NGOs and other international platforms. In 2003, the Global Institute for Human Rights awarded her its highest prize, the Mandela Medal. The citation credited her with “single-handedly weaving together the various factions of the Litvian ethnic movement in Rotania into a peaceful, constructive, and positive force for change.” Ms. Penza travels frequently with journalists from such organizations as The Financial Times, Agence France-Presse, and CNN, and her philosophical and political writings have been widely published in all major languages. Her book, “Ethnicity and the Law: The Case for Litvian Autonomy,” was nominated for the renowned Emmerich de Vattel Award for Legal Advocacy in 2005.

11. Samara Penza has also drawn her share of detractors. Some international organizations have suggested that in the years 1995- 2005 she systematically and deliberately turned a blind eye to the more violent fringes of LAPS. They claim that ILSA would have withered and died without her tacit encouragement.

12. In January 2006, contending that little progress was being made in achieving LAPS's goals through the political process in Rotania, the ILSA wing of LAPS began to take more and more measures in open defiance of the government. These included the organization of workers' strikes and protests throughout the Upland Plateau. Some work stoppages and demonstrations led to locally-significant disruptions; several deaths from strike-related violence were reported. These efforts succeeded in substantially interfering with the operation of coal mines with negative consequences for the national economy.

13. The Rotanian government has always deployed military units throughout the country, assigning to them such functions as disaster relief. For decades, the detachment stationed in the Upland Plateau has been the 373rd Infantry Battalion, nicknamed "the Enforcers." Beginning in February 2006, to address what the government perceived as the possibility of insurgency or additional violence, the 373rd was given orders to make its presence far more visible. Armed troops began to appear at the employee entrances of major workplaces, including the mines, as well as at public gatherings. ILSA spokesmen maintained that "the real reason" for the heightened presence of the troops was to keep the mines open, thereby preventing any economic loss to their Stovian owners. However, the government has consistently denied that the new

instructions had any purpose beyond demonstrating the commitment of the national government to keeping the peace and defending local residents, both Stovian and Litvian.

14. Since 1996, the 373rd Infantry Battalion has been commanded by Colonel Gommel Vinitza, an ethnic Stovian who graduated in 1971 from the Rotanian Military Academy at South Hills. Colonel Vinitza also has a law degree from the Rotanian National University School of Law, and has lectured, published, and taught international humanitarian law both domestically and abroad. He is an active member of several non-governmental international law associations and has been a frequent speaker on professional panels discussing international law and the law of war. Since his promotion to the rank of colonel in 1992, Colonel Vinitza has been the principal legal adviser to a succession of Rotanian governments on the law of war. He openly acknowledges membership in various Stovian nationalist organizations, some of which have been accused of instigating violence against Litvians in urban areas in Rotania. Those accusations are denied by the groups themselves.

15. Press reports indicate that between February and December 2006, there were six disturbances in the Upland Plateau in which members of the 373rd discharged weapons. Depending on the various accounts, total casualties ranged between 100 and 300 ethnic Litvians killed, and between 750 and 1,200 injured. The Rotanian Government blamed saboteurs from ILSA for most of the violence, although it declines to make available the information that supports this conclusion, citing national security concerns. By all accounts, however, efforts to maintain harmony between the ethnic groups in the Upland Plateau were not achieving measurable success.

16. On 1 January 2007, Samara Penza issued the following public statement, which was reproduced verbatim in the major Rotanian newspapers the next day:

To my Fellow Litvians, and to Lovers of Freedom of All Nationalities throughout the World:

The Litvian Advancement and Protection Society offers greetings for the new year to every woman and every man who supports the cause of peace, and the struggle to right historical wrongs that stand in the way of progress. It remains sad but true that even in today's world, some nations and some individuals still would try to hold back the tides of history, which will inexorably guide humankind to a better future. They must be overcome. I call upon all who embrace self-determination and human rights to dedicate themselves in this new year of 2007 to casting off the chains of the past. We must achieve the goal of liberty for all, no matter the cost, and no matter the sacrifice. We cannot rest until all men, and all women, are able to live in a society in which they may enjoy the fruits of freedom surrounded by those who have shared their struggle.

We members of LAPS proudly take our place in this world-wide movement, and we shall obtain the rights that we, and all people, deserve.

17. Immediately following the Penza Statement, an unsigned "manifesto" reliably reported to have been issued by ILSA was published in English (along with a translation into Japanese) in Asahi Shimbun in Tokyo. It read as follows:

The Independent Litvia Solidarity Association congratulates our beloved Leader, Samara Penza, for her courageous words. She has endorsed ILSA's efforts to confront Rotanian repression standing in the way of realization of Litvian aspirations to freedom and self-determination. Over the coming weeks and months, ILSA will translate our Leader's inspiration into action. We will do this by taking dramatic measures to demonstrate to the world the lengths to which an oppressed people may be driven when the love of freedom cannot be consummated. We will try to avoid bloodshed. We will respect all who deserve respect. We will remember the chain of solidarity connecting all who are denied our basic rights. But we will not shrink from the challenge of confronting the oppressors! Down with Stovian domination of the Upland Plateau! Long Live Freedom! Long Live Free Litvia!!!

ILSA's leadership promptly confirmed the authenticity of the "manifesto."

18. On 7 January 2007, in the middle of the night, the principal Stovian Church of the Upland Plateau was set ablaze. No one was injured. The next day, leaflets were found throughout the area declaring that “The World has now witnessed the first operation to make the words of Samara Penza a reality. We will not rest until Litvians in the Upland Plateau are free and independent!” The leaflets bore ILSA’s insignia, and the faction has confirmed its responsibility for the arson. Similar attacks were committed on Stovian cultural and religious sites in the Upland Plateau on 20 January and 10 February. In both cases, ILSA leadership acknowledged that its members carried out the operations. On 19 February, there was a fire of unknown origin in the House of Stovian Culture in Rotan. The next day, an unopened carton of ILSA leaflets was found in a nearby park, making reference to an unspecified attempt to “bring the struggle for Litvian freedom to the belly of the beast.” ILSA, however, has not acknowledged responsibility for the 19 February fire. None of these incidents occasioned any loss of human life, although property destruction was substantial. Between 1 January and 24 February, Samara Penza remained withdrawn at an undisclosed location and offered no comment in response to repeated media inquiries concerning her position on the violent acts attributed to ILSA.

19. Since time immemorial, the holiest site of the Stovian religion has been the Shrine of the Seven Tabernacles, which is venerated as the repository of the Holy Icons of the Redeemer. The Shrine is located in the village of Zima in a remote area of Rotania, approximately 100 kilometers as the crow flies from the nearest location in the Upland Plateau. The Shrine is overseen by a Committee of Thirty Elders, which is responsible for its upkeep and security. Since January 2007, a squadron of the 373rd Infantry Battalion has been stationed nearby, although out of respect for the religious nature of the site, its members neither carry weapons nor

wear their uniforms within the precincts of the Shrine. During the late afternoon of 22 February 2007, a messenger delivered to the Chairman of the Committee of Elders the following message:

Your Worship:

The Litvians of ILSA present our greetings and our deepest respects. We regret having to take the measures planned for this day, but the repressive regime in Rotania leaves us no alternative. Tonight, we plan to demonstrate yet again the resolve of our people to live free of oppression. We will not be denied. We urge you to ensure that no one is in or near the Shrine of the Seven Tabernacles this evening, starting at 2100 hours. If anyone is present despite our warning, his or her blood will be on your hands, not on ours. You have been duly warned. Long live independent Litvia!

20. The message, written in the Litvian language, was not read and understood until 8:00 p.m. on 22 February 2007. The Chairman of the Committee convened as many of its membership as he could locate, and immediately sent an urgent message to both the Ministry of Justice in Rotan and the central command of the 373rd Infantry Battalion, seeking advice on how to proceed. When no response was received by 9:00 p.m., seven members of the Committee, including the Chairman, dressed themselves in white robes and took up positions surrounding the Holy Icons, chanting liturgical texts and reciting prayers proclaiming their Stovian faith.

21. At approximately 9:30 p.m., the smell of smoke was first reported. There was also a report of a strong smell of gasoline. An enormous fire consumed the principal buildings within a quarter of an hour. The Shrine was completely destroyed. All seven members of the Committee were killed, as were 15 security staff and groundskeepers, when the central building collapsed on them. In addition, one badly burned body was found, dressed in a military camouflage outfit. The identity of this individual has never been conclusively determined. Ten members of the Shrine's staff survived, including one who photographed the beginning of the fire and its

aftermath. One of the photographs showed three or four men, dressed in camouflage, who appeared to be carrying large and heavy containers.

22. The reaction to the destruction of the holy Shrine was intense and immediate. The next day, on 23 February 2007, Rotanian President Michael Kirgov declared seven days of national mourning. Over the next several days, he received messages of condolence from the heads of state of 125 members of the United Nations, as well as from the U.N. Secretary-General.

23. On 24 February 2007, Samara Penza issued the following statement from what she identified only as a remote location in Adova:

It is with a heavy heart that I acknowledge the deaths of 15 innocent workers at Zima last Thursday. LAPS extends its sincere condolences to their families. Although they were Stovian, we consider them martyrs of the Litvian cause. Their deaths could have been avoided: the decision to permit them to risk their lives was not taken by any proponent of the cause of Free Litvia. LAPS condemns the loss of civilian lives and the use of civilians as human shields. But LAPS does not condemn -- indeed, we heartily endorse -- the taking of increasingly urgent measures to achieve the freedom of our Litvian brothers and sisters living under the Rotanian yoke. Our struggle is not over! Long live Free Litvia!

24. On 25 February 2007, the following day, the Foreign Minister of Rotania promptly summoned the Adovan Ambassador, to inquire whether the apparent presence of Ms. Penza on Adovan soil should be interpreted as official Adovan support for what he called "terrorist attacks" in Rotania. In immediate response, a formal diplomatic communication was delivered by the Ambassador to the Minister, "reiterating Adovan condemnation of acts resulting in civilian deaths, and expressing the confidence of the Adovan Government that no one -- not

terrorists themselves, and not our friends in Rotania -- should ever question the firmness of Adovan resolve to play our part in the worldwide struggle against terrorism.”

25. At the end of the period of mourning, on 2 March 2007, President Kirgov spoke to the people of Rotania in a televised address. He announced the “total commitment and solemn vow” of his government “to do whatever we must do to bring Samara Penza and her band of terrorists to justice.” In particular, he announced the immediate implementation of a three-point plan. First, he declared a national emergency, invoking provisions of the Protection of the State Act of 1980 (“the 1980 Act”), and nationalized the military reserves. Second, as authorized by the 1980 Act, he issued Executive Order 4932, authorizing the establishment of a special Military Commission to prosecute those responsible for the attacks in the Upland Plateau and on the Shrine. Third, he announced that the 373rd Infantry Battalion and its commander, Colonel Vinitsa, would be empowered to take what measures it deemed necessary to apprehend the perpetrators, so long as those activities were consistent with Rotanian and international law.

26. The 1980 Act established rules for Military Commissions created under its auspices. These rules allow witnesses to testify under conditions of anonymity. The rules do not permit accused persons to challenge the admissibility of evidence on the grounds that it was derived from coercive interrogations. Military lawyers are assigned to defendants, who are not permitted to retain counsel of their own choosing. The rules do not allow defendants or their counsel to inquire into the sources of evidence that is deemed classified for military or security reasons. Although the authority granted to the President of Rotania by the 1980 Act had never before been used, two international human rights organizations – Amnesty International and Human

Rights Watch – concluded in a series of reports issued between 1985 and 1995 that trials before Military Commissions established under the 1980 Act would not meet international standards of due process of law. Rotanian governments have consistently rejected these conclusions.

27. Colonel Vinita immediately and publicly ordered the troops under his command to conduct a massive hunt for Ms. Penza and other senior members of the ILSA leadership, going door to door throughout the villages in the Upland Plateau. They reported finding no one of significant interest. Instead, they received numerous unconfirmed reports from local people that “everyone you are looking for is far away, in Adova.”

28. On 7 March 2007, the United Nations Security Council adopted Resolution 2233, which condemned the attacks in Rotania, and called on Adova to cooperate in the apprehension of any suspected perpetrators present in its territory. **See Appendix I for the text of the resolution and Appendix II for the explanations of the votes of the members of the Council.**

29. On 15 March 2007, Colonel Vinita issued the Proclamation set out in **Appendix III**, which was distributed and posted throughout the Upland Plateau. Asked at a press conference whether the Proclamation reflected official policy, President Kirgov responded, “It is not my practice to comment publicly on the lines of authority between serving military officers and myself as Commander-in-Chief. If any officer in our military service acts outside of his or her lawful authority, you may be confident that the matter will be addressed promptly and surely.”

30. For years, Rotania has maintained a military and police training facility within the territory of Merkistan, a country 750 kilometers east of Rotania, whose climate and topography

offer unique opportunities for the teaching of survival skills in a variety of terrains. The facility, Camp Indigo, is governed by a Status of Forces Agreement (SOFA) between the two nations, amended most recently in 1990.

31. On 3 April 2007, Colonel Vinitza announced at a press conference that his men had succeeded in apprehending Samara Penza, that she was being held in custody at a secret location, that she had been questioned, and that she had confessed to her involvement as an instigator, facilitator, and financier of a number of terrorist attacks in Rotania, including the bombing of the Shrine of the Seven Tabernacles. He stated that she had also revealed details of a number of plans for future terrorist attacks within Rotania, which, he said, “would have resulted in substantial loss of life.” In response to questions about the location of Ms. Penza’s apprehension and detention, the Colonel stated:

I will not comment in detail on these matters of military strategy and tactics, but I will say that Ms. Penza was found by troops under my command several weeks ago in a village 25 kilometers from the frontier, inside Adova. We transported her from there to a third state, where she was closely questioned by my men. Incidentally, we also apprehended about a dozen of Penza’s closest operatives within LAPS. All of them were at all times treated in a manner consistent with international law. I am delighted to report that these international outlaws will cause no further deaths of innocent Rotanians. Their reign of terror is over.

32. The next day, on 4 April 2007, the Prime Minister of Adova held a press conference to express outrage over Rotania’s actions. The Prime Minister declared:

Rotania has violated Adova’s sovereignty by unlawfully crossing the border into our Republic and abducting civilians without any form of legal process. We insist on the expedient and safe return of Samara Penza and other detained LAPS members who are Adovan citizens. We also demand that Rotania immediately disclose the location of the detainees, and that Adovan officials and delegates from the International Committee of the Red Cross be allowed

access to the detainees to ensure that they have not been mistreated and that the conditions of their detention are in compliance with international law.

33. On 12 April 2007, a disheveled and disoriented person identifying himself as Zoran Makar, and claiming to be an Adovan citizen and a member of LAPS, appeared at a Merkistani civilian police station near Camp Indigo. In accented but competent Merkistani, Makar reported that he had just escaped from the Camp, where he had been held for three weeks under conditions that he described as “several levels beyond Hell.” He also stated that there were at least 20 other prisoners at Camp Indigo, of whom twelve were fellow LAPS members, including Samara Penza. Makar reported that some of the detained LAPS members were Adovan citizens, some were Rotanian citizens from the Upland Plateau, and a few were nationals of other countries. Makar claimed that he, Penza, and the other eleven LAPS detainees had been stripped and kept partially clothed, were provided inadequate food and water, were subject to intermittent hanging by the wrists from chains, and were exposed to continuous bright light, uncomfortably cold cell temperatures, and loud discordant music. A few hours later, Merkistani doctors performed a medical examination and determined that Makar was malnourished and sleep-deprived and had bruises around his wrists, but that he had incurred no injuries likely to be permanent. Merkistan subsequently returned Makar to Adova.

34. On 13 April 2007, six armed Merkistani policemen presented themselves at the gates of Camp Indigo shortly after sunrise and demanded to be allowed access. After some hours of negotiation, they were permitted to enter the base. They reported hearing muffled cries coming from a building identified as a storehouse. They forced their way into the building, where they found some 20 individuals, in varying states of undress, most of them appearing to be disoriented

and confused. None of them spoke Merkistani, and the Merkistani officers had no interpreters. The police left the facility, announcing their intention to return later in the day to conduct a further investigation. When a full squadron of officers, with an interpreter, returned to the base at approximately 5:00 p.m., they saw no sign of the persons whom the policemen had observed in the morning.

35. The next day, on 14 April 2007, the government of Merkistan summoned the Rotanian Ambassador, and delivered to him a note verbale that demanded, in light of the events of the day before, the immediate closure of Camp Indigo. Rotania did not protest, and negotiations over the details for the closure of the base are ongoing.

36. Following press reports of the story of Zoran Makar, on 15 April 2007, the government of Adova sent a diplomatic note to Rotania, formally protesting the violation of its territory and the kidnapping and mistreatment of its citizens, and demanding their immediate repatriation. When Rotania declined to provide a response, the Adovan government recalled its Ambassador from Rotania and declared the Rotanian Ambassador *persona non grata*.

37. On 26 April 2007, the 373rd Infantry Battalion transferred Ms. Penza and 14 other detainees to the custody of the Rotanian Military Commission, at the headquarters of the Rotanian Air Force in Rotan. Penza was charged with conspiracy, arson, and twenty-two counts of murder in relation to the destruction of the Shrine. She was apprised of her rights, and a military attorney was appointed to represent her. Various charges were leveled against the others, including aiding in a terrorist operation. Ms. Penza's trial before the Commission is scheduled to begin in May 2008. The trials of the others are set for later.

38. President Kirgov appeared before a special session of Parliament on 1 May 2007. He made three announcements. First, he reaffirmed that the Government of Rotania would go forward with its proposed trials of Ms. Penza and the others, and that the trials would take place before the Military Commission according to his earlier orders. Second, the President announced that the person he called “the vicious terrorist, Samara Penza,” had confessed, not only to instigating the violent disturbances in the Upland Plateau in 2006, but to “encouraging, financing, and materially supporting” the attacks of 7 and 20 January, and of 10 and 19 February, as well as the arson that destroyed the Shrine of the Seven Tabernacles. Finally, the President announced “with great pleasure”:

The brilliant work of Colonel Vinitza and his men has resulted in an enormous benefit to all of the people of Rotania. They have learned from Penza and her cohorts about the stockpiling of flammable materials in preparation for a planned arson attack on the National Theater in Rotan during the Opening Ceremonies for our National Day Celebration on May 14. They have located and neutralized the materials the criminals were planning to ignite, and we believe that all of the would-be perpetrators of this cowardly deed are now in custody. Hundreds of innocent lives have been saved by our brave soldiers. In recognition of this accomplishment, I am proud to promote Colonel Vinitza to the rank of General, effective immediately, so that his honour may be appropriately reflected during the remainder of his active military service.

General Vinitza, having reached the mandatory retirement age, retired from the military a week later. He was immediately appointed to an endowed professorship in the law of war at the Rotanian National University School of Law, a post he continues to hold as of the date of this Compromis. General Vinitza also became a member of the Rotanian Foreign Ministry’s Advisory Council on International Law, which is composed entirely of experts outside of the Foreign Ministry.

39. During the night of 17 May 2007, President Kirgov, complaining of chest pains, was rushed by ambulance to the Rotan City Clinic, where he underwent triple by-pass heart surgery. Two weeks later, unable to return to his previous work schedule and under increasing political pressure, President Kirgov announced his resignation from office. Vice President Pavel Basli was promptly sworn in as the new president.

40. On 20 July 2007, acting on a tip, Adovan national police raided a Stovian restaurant in Metropolis, the city with the largest Stovian population in Adova. There they discovered Gommel Vinitza, who was taken into custody. The Adovan Attorney General announced that Vinitza had been charged with offenses under Adovan statutes implementing the Torture Convention, in connection with the apprehension and treatment of Samara Penza and the other LAPS members, in his capacities both as military commander and as legal adviser to the President. He stated that the indictment of Vinitza also named former President Kirgov as a co-conspirator, that a warrant had been issued for Kirgov's arrest, and that he had filed a formal request with INTERPOL for an international warrant (a "Red Notice") for the former President.

41. The government of Rotania immediately protested in a diplomatic note to Adova, which read in relevant part: "Adova has no legitimate basis under the Torture Convention or otherwise to exercise criminal jurisdiction over General Gommel Vinitza or former President Michael Kirgov. We demand that General Vinitza be released immediately, and that the arrest warrant for our former President be quashed as a violation of the doctrine of head of state immunity."

42. The next day, 21 July 2007, the Adovan Foreign Minister responded: "Kirov and Vinitza are both liable for their criminal acts committed on Adovan soil and against Adovan

citizens. Theirs are crimes of the most serious nature. The offenses of which they stand accused are offenses against the entire nation of Adova, whose territorial integrity was violated by the unlawful kidnapping of Samara Penza and other LAPS members from our country by armed agents of Rotania. Moreover, the gross mistreatment of our nationals without due process or any process of law offends all Adovans to their core. We demand that Rotania repatriate Ms. Penza and the others so that we can conduct our own investigation of their alleged activities, and, if the situation warrants, prosecute them, not in some kangaroo court, but according to law.”

43. In early August, responding to the increasing tensions generated by these incidents, Adova and Rotania suspended trade relations and both countries dispatched several thousand troops to the vicinity of their shared border. At the conclusion of an emergency session of the United Nations Security Council, the newly-elected Secretary-General issued a statement, dated 20 August 2007, reminding the two nations of their common heritage and the goodwill enjoyed by both among members of the Council. He strongly urged them to avoid the need for Council action to authorize further measures that might have significant and unintended consequences, by instead agreeing to resolve the situation peacefully by submitting their dispute to the International Court of Justice for adjudication. On 23 August 2007, Adova and Rotania agreed to do so, and a little over a month later, on this day, 28 September 2007, submitted this Compromis to the Court as a stipulation of the facts and issues to be adjudicated by the Court under its ad hoc jurisdiction. The countries agreed that Adova would appear before the Court as Applicant and Rotania as Respondent, and that both would act in accordance with the findings and conclusions of the Court.

44. At all relevant times, Adova and Rotania have been members of the United Nations and parties to the Statute of the International Court of Justice, though neither has accepted the Court's compulsory jurisdiction. Since becoming independent states, both have also signed and ratified the 1949 Geneva Conventions and their two Additional Protocols of 1977, the 1969 Vienna Convention on the Law of Treaties, the 1966 International Covenant on Civil and Political Rights, and the 1984 Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment. There is no bilateral extradition treaty between Merkistan and either Adova or Rotania. There is no bilateral extradition treaty between Adova and Rotania, nor is either nation a party to any other treaty in force that is relevant to this dispute.

45. Applicant, Adova, requests that the Court adjudge and declare that:

- (a) The apprehension and rendition of Samara Penza and other Adovan citizens was a violation of Adova's sovereignty and in contravention of international law;
- (b) The subsequent detention and treatment of Samara Penza and other Adovan citizens violated international law;
- (c) Rotania's prosecution of the detained Adovan citizens before the Rotanian Military Commission, including Samara Penza's prosecution for conspiracy, arson, and murder, violates international law; and
- (d) Adova's exercise of jurisdiction over Michael Kirgov and Gommel Vinitza to prosecute them in Adova for crimes committed against Samara Penza and other Adovan citizens is consistent with international law.

46. Respondent, Rotania, requests that the Court adjudge and declare that:
- (a) Rotania was entitled under international law to apprehend and render Samara Penza and the other LAPS members from Adova;
 - (b) Samara Penza and the other LAPS members were at all times detained and treated in a manner consistent with international law;
 - (c) In any event, Rotania may prosecute Samara Penza and the other LAPS members before its Military Commission for acts committed against Rotanian citizens and against Rotanian religious and cultural institutions; and
 - (d) Adova's exercise of jurisdiction over President Kirgov and General Vinitza is in violation of international law.

Appendix I

S/RES/2233 (2007)

**United Nations Security Council
Resolution 2233 (2007)
Adopted by the Security Council at its 6000th meeting, on 7 March 2007**

The Security Council,

Taking note of General Assembly Resolutions 49/60 (1994) and 59/191 (2004), and Security Council Resolutions 1368 (2001), 1373 (2001), 1526 (2004), 1566 (2004), and 1617 (2005), and other relevant resolutions,

Reaffirming the principle of self-determination of peoples as enshrined in the Charter of the United Nations,

Recalling that terrorist acts, especially against civilians, are criminal and unjustifiable under any circumstances,

Alarmed by the series of deadly attacks on Stovian religious and cultural sites in the State of Rotania during the past two months apparently committed by an organization known as the Litvian Advancement and Protection Society (“LAPS”),

Deeply disturbed in particular by the wanton destruction of the Shrine of the Seven Tabernacles at Zima, in Rotania, and by the loss of innocent civilian life at that location venerated as holy by Stovians,

Greatly concerned by reports indicating that the Republic of Adova has provided material support to the LAPS, and may be permitting the organization’s leader, Samara Penza, to operate from a location in the territory of Adova,

Taking note that the LAPS apparently plans to continue to attack sites in Rotania, causing untold cultural losses and the threatened unacceptable loss of life, until its demands for the secession of the Upland Plateau are met,

Convinced that this situation threatens international peace and security in the region,

Acting under Chapter VII of the United Nations Charter,

1. Calls upon the authorities of the Republic of Adova to determine whether Samara Penza and other senior leadership in LAPS implicated in the violent attacks are present on its territory, and if so, to apprehend them without delay, immediately surrendering them to Rotania

for trial in accordance with the requirements of applicable conventional and customary international law;

2. Requests that if in fact Ms. Penza and the other senior leaders of LAPS are not found in Adova, Adova certify to the President of the Security Council within fifteen days of the date of this Resolution that it conducted a diligent search;

3. Acknowledges the serious and imminent threat to the unity of the State of Rotania posed by the attacks on Stovian religious and cultural sites within its borders;

4. Affirms Rotania's right of self-defense pursuant to Article 51 of the United Nations Charter; and

5. Decides to remain actively seized of the matter.

Appendix II

S/PV.6000

**United Nations Security Council
Provisional Verbatim Record
6000th Meeting
Wednesday, 7 March 2007, 4:20pm
New York**

Note of the Secretariat: The discussion summarized below was conducted under special rules of non-attribution, adopted by the Security Council, in light of the highly sensitive nature of the matters under consideration. To preserve Member States' confidentiality, it was agreed that speakers were to be identified only by Greek letters. The five permanent Members were designated Alpha, Beta, Gamma, Delta, and Epsilon. The other ten Members of the Council were assigned the next ten letters (Zeta through Omicron). Adova and Rotania, invited to participate although neither was a member of the Council at the time, agreed to be identified by name.

The President [Zeta]:

The Council has before it a draft resolution concerning the violent attacks in Rotania, which was submitted by [Alpha] and [Beta]. I note that the initial draft of the resolution contained a clause "authorizing all necessary means to apprehend the leaders of the LAPS who are present in the territory of Adova if the government of Adova fails immediately to comply with this Resolution." At the insistence of [Gamma], [Delta], and [Epsilon], the clause "affirms Rotania's right of self-defense" was inserted in its place. In addition, [Delta] insisted on the addition of the preambular clause "reaffirming the principle of self-determination" which did not appear in the original text. [Delta] also suggested the addition of the phrase "in accordance with the requirements of customary and conventional international law," which was accepted by the Resolution's sponsors. There were no other revisions to the initial draft. Before putting the revised draft Resolution to a vote, I shall call on those members of the Council who wish to make statements before the voting.

[Epsilon]:

The Litvians of the Upland Plateau in Rotania have a right under international law to struggle legitimately for self-determination. Their struggle is legitimate so long as they do not employ tactics or means specifically prohibited by international law, as contained in the Geneva Conventions and the dozen multilateral anti-terrorism Conventions referenced in the preamble of General Assembly Resolution 49/60 (1994). It is noteworthy that LAPS has apparently endeavoured, albeit without success, to avoid bloodshed and the loss of innocent civilian life.

In 1987, the U.N. General Assembly adopted Resolution 42/159, recognizing that the effectiveness of the struggle against terrorism could be enhanced by the establishment of a generally agreed definition of international terrorism. To date, the United Nations has not accomplished this task. Since no agreed definition of international terrorism now exists, the

Council has no grounds to characterize the LAPS attacks as acts of terrorism or the LAPS as a terrorist organization. [Epsilon] votes in favor of this Resolution on the understanding that it does neither.

[Beta]:

Although the United Nations may not have agreed upon a definition of terrorism, my government believes that there are certain acts that all civilized people would condemn as terrorist no matter their positions regarding more doubtful cases. It is clear beyond discussion that Rotania has been the victim of a series of heinous terrorist attacks by the LAPS. These attacks have targeted places of great cultural and religious significance, which are venerated by a substantial majority of the Rotanian people. Moreover, these attacks have killed and injured civilians. Given the open threat that such attacks will continue, there can be no confidence that the number of victims, already unacceptable, will not rise. The threat of instability in Rotania, as well as the prospect of enormous losses of life and treasure, are simply unacceptable. These attacks are criminal and cannot be justified under any circumstances.

Adova shares some responsibility for these actions. As this Council has made clear, no country may provide financial or material support or sanctuary to a terrorist organization or its leaders.

This Resolution makes it clear that Rotania and its allies may exercise their right of self-defense, within the requirements of necessity and proportionality, under Article 51 of the Charter to combat the LAPS.

The Resolution gives Adova one last chance to comply with its obligations under international law, and to apprehend Samara Penza and the other leaders of the LAPS who are present in its territory. If Adova fails to do so without delay, pursuant to this Resolution, Rotania will have every right to take matters into its own hands.

[Alpha]:

Samara Penza was once a human rights activist. Now she is the head of a deadly terrorist organization. Some may be tempted to laud her as a freedom fighter, bravely leading the struggle for self-determination for a people disadvantaged by a repressive government. But there are limits to the permissible methods of seeking self-determination. Some acts are so heinous that resort to them is prohibited, no matter how dire their situation, and no matter how just the cause.

Samara Penza crossed that line when she endorsed the murder of civilians in Rotania. She must now be brought to justice. If the Republic of Adova will not cooperate in these efforts, then it will have no basis to protest if Rotania acts unilaterally to achieve that end.

But Rotania must also be warned. Whilst this Resolution recognizes Rotania's right to self-defense, that right is subject to the requirements of necessity and proportionality. Rotania must beware that the sympathy of the world will rapidly evaporate if it acts contrary to law.

[Delta]:

Throughout history, individuals and groups have had to resort to violence in their struggle for liberty. The plight of the Litvian people in Rotania is deplorable. They are exploited, outvoted, and denied their basic rights by a tyrannical ethnic majority. Their tragic situation

would never have come to the world's attention were it not for the actions of the LAPS, led by Samara Penza. The Resolution we adopt today reaffirms the inalienable right to self-determination of peoples under oppressive regimes. It is for a court of law to determine whether crimes have been committed, and if so, what crimes, and by whom. The objective of the Resolution is to have Samara Penza brought to the bar of justice, not to determine the outcome of the processes by which justice is pursued.

If Samara Penza is apprehended, she must be accorded a fair trial, as required by customary and conventional international law. My Government considers that the Rotanian Military Commissions fail to meet those standards, and that Rotania will have to change the rules governing those Commissions if its prosecution of anyone is to be acceptable to the international community.

We shall therefore abstain from the vote on the Resolution, with the understanding that it offers no endorsement for the use of force. The reference to Rotania's right of self-defense is merely a restatement of what is in the U.N. Charter, and the Resolution will not make legal any military action not otherwise consistent with that Charter.

[Gamma]:

This Resolution is not an authorization to violate any nation's territorial integrity. The so-called war on terrorism must not be exploited for political advantage, and it does not allow any state an exemption from the provisions of international law by which all are governed.

The President [Zeta]:

In keeping with the traditions of the Council, we have invited the Governments of Adova and Rotania to send representatives to this session, and to offer statements. Both have sent delegates of the highest qualification. I am honoured to recognize the Prime Minister of Adova, Mr. Marcus Freundlich.

Adova:

Mr. President, the people of Adova will always find themselves aligned with those who believe in peace and justice and international law, and against those who use lawless violence to achieve their aims. Adova supports the aspirations of the Litvian people of the Upland Plateau, although we join in the condemnation of violent acts allegedly motivated by those aspirations.

We urge that the Resolution be defeated. We have no knowledge that Samara Penza or any other leaders of the so-called LAPS are currently on our soil. If we were to find them there, however, we could not in good conscience deliver them to stand trial before the Military Commission of Rotania, which fails to provide the required minimum international standards of due process. We would refuse, as a matter of principle, to make the certification called for by paragraph 2 of the Resolution, which would infringe our national sovereignty. Instead, we would proceed to conduct our own investigation, and our own legal proceedings, to vindicate the rule of law. We believe that our history and ideals require that we take this position.

The President:

It is my great honour next to introduce the distinguished Foreign Minister of the State of Rotania, Her Excellency Madam Maria Fontes.

Rotania:

Mr. President, let me begin by thanking Your Excellency, and the many friends by whom we are surrounded today, for your expressions of sympathy and solidarity during the difficult times through which my beloved nation is now living. We are most grateful to you for considering this Resolution, which we heartily endorse, and which we frankly consider to be long overdue. We are shocked at the mere possibility that our neighbors and partners of long-standing, the people and Government of Adova, might be harbouring the wanted terrorist Samara Penza. Yet we are heartened to know that, upon adoption of Resolution 2233, the authority of this Council and the dignity of international law will require that this offense against world order be ended, and that this criminal and her cohorts be brought to justice in Rotania, where the dreadful results of their crimes have been so keenly and tragically felt.

The President [Zeta]:

There are no further speakers on my list. The Council will now vote on the Resolution.

The vote was 12 in favor, 0 against, with Gamma, Delta, and Theta abstaining.

Appendix III

Proclamation of Colonel Gommel Vinita Commanding Officer, 373rd Infantry Battalion Army of the State of Rotania

Date: 15 March 2007

Pursuant to the authority conferred upon me by His Excellency the President, the Commander-in-Chief of the Army, I hereby inform all persons, civilians and military alike, who may find themselves within the territory under my command, of the following rules of engagement by which my soldiers will conduct themselves in carrying out the lawful orders of our President, and in preserving the unity of our beloved Rotania:

1. Rotania is in a state of armed conflict with the Litvian Advancement and Protection Society and its supporters. Samara Penza and other leaders and operatives of LAPS who take up arms against the Rotanian state in that conflict are enemy combatants unprotected by the provisions of the Geneva Conventions.
2. I have been ordered to oversee the apprehension of these unlawful combatants, and their delivery to the Military Commission established by Rotanian law. I intend to carry out those orders, and I warn anyone contemplating acts of violence against the state that they will be apprehended, they will be brought to justice, and they will be punished.
3. No one under my command is authorized to commit any act defined as torture under international law.
4. The Enforcers, however, are prepared, and they are hereby authorized, to engage in the following practices with respect to persons detained on suspicion that they have participated or intend to participate in terrorist acts: deprivation of sleep, clothing, and food (short of actual starvation); subjection to extremes of heat and cold; forced adoption of stress positions; and interrogation techniques (including prolonged and intense interrogation) that may involve the infliction of non-lethal pain. These measures of law enforcement are not prohibited by Rotanian law or any international agreement binding on Rotania.
5. I deem the use of these extraordinary techniques to be permissible when, as is the current situation in and near the Upland Plateau, it is necessary to protect human lives against an imminent threat.
6. When it is determined that there is probable cause to believe that an individual detainee has committed or participated in, or is planning to commit or participate in, an act of terrorist violence against the Rotanian state or people, that person will be transferred to the Military Commission authorized for this purpose by President Kirgov, and the Commission will be seized of all further proceedings, including detention, trial, and punishment.