**183R**

In The International Court of Justice

A picture containing building, clock, window

Description automatically generated

At The Peace Palace,

The Hague,

The Netherlands

**The Case Concerning The Sterren Forty**

The Republic of Antrano

(Applicant)

v.

The Kingdom of Remisia

(Respondent)

**Memorial for the Respondent**

**The 2024 Philip C. Jessup International Law Moot Court Competition**

**Table of Contents**

Index of Authoritiesiii

Statement of Jurisdictionx

Questions Presentedxi

Statement of Factsxii

Summary of Pleadingsxvi

Pleadings1

1. Antrano Lacks Standing To Bring The Matter of The Sterren Forty’s Nationality To This Court1
2. Antrano Lacks Standing Because It Cannot Exert Diplomatic Protection Over the Sterren Forty1
3. Antrano Lacks Standing Because There is No *Erga Omnes Partes* Obligation to Guarantee Nationality Under Treaty Law1
4. An unequivocal guarantee to nationality is not an *erga omnes partes* obligation under the CRS2
5. An unequivocal guarantee to nationality is not an *erga omnes partes* obligation under the CSP3
6. An unequivocal guarantee to nationality is not an *erga omnes partes* obligation under the ICCPR3
7. Antrano Lacks Standing Because Statelessness is Not an *Erga Omnes* Obligation Under Customary International Law4
8. Statelessness is not a *jus cogens* norm4
9. Statelessness is not an obligation owed to the international community5
10. Remisia Complied with International Law When it Revoked the Sterren Forty’s Nationality6
11. Remisia Complied with Customary International Law when It Revoked the Sterren Forty’s Nationality6
12. Remisia is permitted to maintain its domestic nationality laws without interference6
13. [Remisia complied with international and regional human rights instruments 7](#_Toc155924026)
14. Remisia Complied with its Treaty Obligations when it Revoked the Sterren Forty’s Nationality8
15. Remisia complied with CRS Article 8 when it revoked the Sterren Forty’s nationality8
16. Remisia complied with CSP Article 27 when it revoked the Sterren Forty’s nationality9
17. Remisia complied with ICCPR Articles 19, 21, and 14 when it revoked the Sterren Forty’s nationality10
18. [Antrano Violated International Law When it Denied a Remisian National Consular Access to Remisia While Detained in Antrano](#_Toc155924031) 11
19. Antrano Violated its Treaty Obligations when it Denied a Remisian National Access to Remisian Consular Representatives13
20. Antrano violated VCCR Articles 36 and 5 when it failed to inform and grant a Remisian national access to a Remisian consular representative13
21. Antrano violated ICCPR Articles 9 and 14 when it failed to inform and grant a Remisian citizen access to a Remisian consular representative16
22. Antrano Violated Customary International Law when it Denied a Remisian Citizen Access to Remisian Consular Representatives17
23. Remisia Complied with International Law When it Refused to Allow Dr. Malex Entry into Remisia19
24. [Remisia Complied with its Treaty Obligations when it Denied Entry to Dr. Malex](#_Toc155924037)20
25. Remisia complied with UN Charter Article 2(7) by maintaining its sovereign authority of its domestic affairs20
26. Remisia complied with CPI Article 6 when it denied entry to Dr. Malex21
27. Remisia complied with VCDR Article 9 when it denied a diplomatic agent entry into its territory23
28. Remisia Complied with its Customary International Law Obligations when it Denied Entry to Dr. Malex23
29. Customary international law recognizes States are free to act in absence of a prohibitory rule23
30. Customary international law recognizes the sovereignty of States to maintain the integrity of their borders24

Conclusion and Prayer for Relief26

**Index of Authorities**

**Treaties, Agreements, and Conventions**

American Convention on Human Rights “Pact of San Jose, Costa Rica”, Nov. 22, 1969, 1144 U.N.T.S. 1237

Charter of the United Nations, Oct. 24, 1945, 1 U.N.T.S. XVI21

Convention on Certain Questions Relating to the Conflict of Nationality Law, July 1, 1937, 179 L.N.T.S 897

Convention on the Elimination of All Forms of Discrimination against Women, Dec. 18, 1979, 1249 U.N.T.S. 1318

Convention on the Privileges and Immunities of the United Nations, Feb. 13, 1946, 1 U.N.T.S. 15.22

Convention on the Reduction of Statelessness, Aug. 30, 1961, 989 U.N.T.S. 175*passim*

Convention on the Rights of the Child, Nov. 20, 1989, 1577 U.N.T.S. 318

Convention Relating to the Status of Stateless Persons, Sept. 28, 1954, 360 U.N.T.S. 1173, 18, 19

Council of Europe, European Convention on Nationality, Nov. 6, 1997, E.T.S. 166.18

Council of Europe, European Convention on Consular Functions, Dec. 11, 1967, E.T.S 617

IACHR, American Declaration of the Rights and Duties of Man, May 2, 1948, Res. XXX18

International Convention on the Elimination of All Forms of Racial Discrimination, Dec. 21, 1965, 660 U.N.T.S. 19518

International Covenant on Civil and Political Rights, Dec. 16, 1966, 999 U.N.T.S. 171*passim*

League of Arab States, Arab Charter on Human Rights, Sept. 15, 1994, [ST/HR/]CHR/NONE/2004/40/Rev.118

OAS, American Convention on Human Rights, Nov. 22, 1969, 1144 U.N.T.S. 1237

OAU, African Charter on the Rights and Welfare of the Child, July 11, 1990, CAB/LEG/24.9/4918

Tunisia, Declaration under the Convention on the Reduction of Statelessness (done at New York on August 30, 1961)9

Vienna Convention on Consular Relations, 24 April 1963, 596 U.N.T.S. 261*passim*

Vienna Convention on the Law of Treaties, May 23, 1969, 1155 U.N.T.S. 3312, 3, 8,

**Cases**

Accordance with International Law of the Unilateral Declaration of Independence in Respect of Kosovo, Advisory Opinion, 2010 I.C.J. Reports 403, (July 22)24

Acosta-Calderón v. Ecuador, IACtHR (ser. C) No. 129 (2005)15

Almonacid-Arellano v. Chile, IACtHR (ser. C) No. 254 (2006)15

Anudo Ochieng Anudo v. United Republic of Tanzania, App. No. 012/2015, ACtHPR, (2018)18

Applicability of Article VI, Section 22, of the Convention on the Privileges and Immunities of the United Nations, Advisory Opinion, 1989 I.C.J. Rep. 177 (Dec. 15)22

Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Gam. v. Myan.), Preliminary Objections, 2020 I.C.J. Rep. 477 (July 22) 1, 2

Armed Activities on the Territory of the Congo (Dem. Rep. Congo v. Uganda), Judgments, 2005 I.C.J. Rep 168 (Dec. 19)6, 24

Avena and Other Mexican Nationals (Mex. v. U.S.), Judgment, 2004 I.C.J. Rep. 12 (Mar. 31)14

Barcelona Traction, Light and Power Company, (Belg. v. Spain), Judgment, 1970 I.C.J. Rep. 3, (Feb. 5)1, 4, 5

Brief of Amici Curiae Republic of Argentina, Republic of Brazil, Republic of Ecuador, and Republic of Mexico in Support of Petition for a Writ of Certiorari, Paraguay v. Gilmore (No. 97–1390),14

Corfu Channel (U.K. v. Alb.), Judgment, 1949 I.C.J. Rep. 4 (Apr. 9)6

East Timor (Port. v. Austl.) 1995 I.C.J. Rep. 90 (June 30)5

El-Masri v. The Former Yugoslav Republic of Macedonia, App. No. 39630/09, ECtHR (2012)15

Expelled Dominicans and Haitians v. Dominican Republic, Preliminary Objections, Merits, Reparations and Costs, IACtHR (ser. C) No. 282, (Aug. 28, 2014)19

Foster & Elam v. Neilson, 27 U.S. 253 (1829)17

Genovese v. Malta,App. No. 53124/09, ECtHR, (2011)19

Girls Yean and Bosico v Dominican Republic*,* IACtHR (ser. C) No. 130, (2005)18

Jadhav (India v. Pak.), Judgment, 2019 I.C.J. Rep. 418, (July 17)14, 15

Jurisdictional Immunities of the State (Germany v. Italy: Greece intervening), Judgment, 2012 I.C.J. Rep. 99, (Feb. 3)18

K2 v. U.K.., App. No. 42387/13, ECtHR (Feb. 7, 2017)7, 8

Karassev v. Finland, App. No. 31414/96, ECtHR, (1999)18, 19

Kawas Fernández v. Honduras, IACtHR (ser. C) No. 118 (2009)7

LaGrand (Ger. v. U.S.), Judgment, 2001 I.C.J. Rep. 466, (June 27)14, 15, 16

Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) Notwithstanding Security Council Resolution 276, Advisory Opinion, 1971 I.C.J. Rep. 16, (June 21)5, 20, 21

Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, 2004 I.C.J. Rep. 136, (July 9)5

Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion, 1996 I.C.J. Rep. 226, (July 8)5, 24

Military and Paramilitary Activities in and Against Nicaragua (Nicar. v. U.S.), Judgment, 1986 I.C.J. Rep. 14, (June 27)6, 7, 18

Mukong v. Cameroon, Communication No. 458/1991, HRComm, UN Doc. CCPR/C/51/D/458/1991, (July 21, 1994)10

Nationality Decrees Issued in Tunis and Morocco, Advisory Opinion, 1923 P.C.I.J. (ser. B) no. 4, (Feb. 7)5, 12

North Sea Continental Shelf (Ger. v. Neth.), Judgment, 1969 I.C.J. Rep. 3 para. 77 (Feb. 20)18

Nottebohm (Liech. v. Guat.), Judgment, 1955 I.C.J. Rep. 4, at 11 (Apr. 6).*passim*

Pham v. U.K., App. No. 37478/20, ECtHR, (Apr. 19, 2021)19

Proposed Amendments to the Naturalization Provision of the Constitution of Costa Rica, Advisory Opinion OC-4/84, IACtHR (ser. A) No. 4, (Jan. 19, 1984)19

Questions Relating to the Obligation to Prosecute or Extradite (Belg. v. Sen.), Judgment, 2012 I.C.J. Rep. 422, (July 20) 1, 2, 17

Reservations to the Convention on the Prevention and Punishment of the Crime of Genocide, Advisory Opinion, 1951 I.C.J. Rep. 15, (May 28)2

Riener v. Bulgaria, App. No. 46343/99, ECtHR, (2006)18

Robert John Penessis v. United Republic of Tanzania, App. No. 013/2015, ACtHPR, (2019)18

Sanchez-Llamas v. Oregon, 548 U.S. 331 (2006)17

S.S. “Lotus” (Fr. v. Turk.), Judgment, 1927 P.C.I.J. (ser. A) No. 10, (Sept. 7)24

Slivenko v. Latvia*,* App. No. 48321/99*,* ECtHR, (2002)18, 19

South West Africa (Liberia v. South Africa), Second Phase, Judgment, 1966 I.C.J. Rep. 6 (July 18)1, 5

United States Diplomatic and Consular Staff in Tehran (U.S. v. Iran), Judgment, 1980 I.C.J. Rep. 3 (May 24).14, 23

**United Nations Documents**

3 UN, *Article 34* in Repertory of Practice of United Nations Organs, Supplements No. 10 (2000-2009) (forthcoming)21

4 UN, Laws Concerning Nationality (1954)7

Draft Convention on the Reduction of Future Statelessness, 2 Y.B. Int’l Law Comm’n 143 (1954)3

G.A. Res. 217 (III) A, Universal Declaration of Human Rights, (Dec. 10, 1948)7, 18

G.A. Res. 46/59 (Dec. 9, 1991)21

G.A. Res. 49/169, (Dec. 23, 1994)18

G.A. Res. 50/152, (Dec. 21 1995)18

G.A. Res. 56/83, Articles on the Responsibility of States for Internationally Wrongful Acts, (Jan. 28, 2002)2, 4, 5

G.A. Res. 61/137 (Dec. 19, 2006)18

G.A. Res. 67/149 (December 20, 2012)18

G.A. Res. 68/141 (December 18, 2013)18

G.A. Res. 70/135 (Dec. 17, 2015)18

HRComm, Communication No. 1450/2006, Views of the Human Rights Committee Under Article 5, Paragraph 4, of the Optional Protocol to the International Covenant on Civil and Political Rights, UN Doc. CCPR/C/93/D/1450/2006, (Aug. 5, 2008)16

HRComm, General Comment No. 35, Article 9, Liberty and Security of Person, UN Doc. CCPR/C/GC/35, (Dec. 16, 2014)16

ILC, Draft Articles on Consular Relations with Commentaries, 2 Y.B. Int’l Law Comm’n 92, (1961)14

ILC, Draft Articles on Diplomatic Protection with Commentaries, 30, UN Doc. A/65/10 (2006)12

ILC, Draft Articles on Diplomatic Protection, 2 Y.B. Int’l Law Comm’n 26, (2006).11, 12

ILC, Draft Articles on Responsibility of States for Internationally Wrongful Acts with Commentaries, art. 42(b)(ii), 2 Y.B. Int’l Law Comm’n 31, (2001)2

ILC, Draft Conclusions on Identification and Legal Consequences of Peremptory Norms of General International Law (*Jus Cogens*), 2, UN. Doc. A/74/10 (2022)5

Press Release, UNHRC, Myanmar Refuses Access to UN Special Rapporteur (Dec. 20 2017)24

Press Release, UNSC, Security Council Rejects Text to Investigate Complaint Concerning Non-Compliance of Biological Weapons Convention by Ukraine, United States, UN Doc. SC/15095 (Nov. 2, 202225

The Right to Information on Consular Assistance in the Framework of the Guarantees of the Due Process of Law, IACtHR (ser. C) No. OC-16/99, (1999)17

UN High Comm’r for Refugees, Handbook on Protection of Stateless Persons, (2014).3

UN High Comm’r for Refugees, Preventing and Reducing Statelessness, (2010)4

UN High Comm’n Hum. Rts., The Rights OF NON-Citizens 5 (2005)14

UN Secretary-General, Human Rights and Arbitrary Deprivation of Nationality, UN Doc. A/HRC/25/28 (Dec. 19, 2013)4

UN Secretary-General, Human Rights and Arbitrary Deprivation of Nationality, UN Doc. A/HRC/19/43 (Dec. 19, 2011)4, 19

UN Secretary-General, Impact of the Arbitrary Deprivation of Nationality on the Enjoyment of the Rights of Children Concerned, UN. Doc. A/HRC/31/29 (Dec. 16, 2015)4

UNGA, 1961 Signatory States, Declarations and Reservations on the Reduction of Statelessness, 30 August 1961 (Apr. 19, 2012).9

UNHCR, Expert Meeting, Interpreting the 1961 Statelessness Convention and Avoiding Statelessness resulting from Loss and Deprivation of Nationality, Summary Conclusion, (2013)19

UNHCR, Guidelines on Statelessness No. 5: Loss and Deprivation of Nationality under Articles 5-9 of the 1961 Convention on the Reduction of Statelessness, HCR/GS/20/05, (May 2020)18

**Treatises, Manuals, and Books**

Bos. U. Sch. L., Statelessness and National Policy in Tunisia (2023)9

Guilio Bartolini, *The Historical Roots of the Due Diligence Standard* in Due Diligence in the International Legal Order (Heidi Krieger et al. eds. 2020)7

Stanford Crim. Justice Ctr, Virtual Justice? A National Study Analyzing the Transition to Remote Criminal Court (2021)22

*The Right to Consular Access* in A Jailhouse Lawyer’s Manual: Immigration and Consular Access Supplement, 11 Supp. Columbia Hum. Rts. L.R. 70 (2018)16

**Articles, Journals, and Working Papers**

Adam Entous*, Israel Denies Entry to U.N. Rights Investigator*, Reuters (Dec. 15, 2008), https://www.reuters.com/article/us-palestinians-israel-un-sb-idUSTRE4BE33A2008121524

Anne Sanders, *Video-Hearings in Europe Before, During and After the COVID-19 Pandemic*, 12 Int’l J. Court Admin. 1, (2020)22

Cindy Buys, *Do Unto Others: The Importance of Better Compliance with Consular Notification Rights*, 21 Duke J. Comp. & Int’l. L. 461 (2011)13

Craig Meyers, *“Checkbook Citizenship”: Renewed Relevance for the Nottebohm Ruling*, E-Int’l. Relations (Oct. 5, 2020), https://www.e-ir.info/pdf/88004. 12

D. R. Gilmour, *The Meaning of ‘Intervene’ within Article 2 (7) of the United Nations Charter, An Historical Perspective*, 16 Int'l & Comp. L.Q., (1967).20

Dechlan Brennan, *2 State Governments in Australia Block UN Visits to Prisons*, The Diplomat (Nov. 19, 2022), https://thediplomat.com/2022/11/2-state-governments-in-australia-block-un-visits-to-prisons24

Francisca Fernando et al., *Citizenship for Sale*, Int’l Monetary Fund (2021).12

G20 Anti-Corruption Working Group, G20 Denial of Entry Experts Network Inaugural Meeting, Chairman’s Summary(Oct. 14, 2015). 22

Gehan Gunatilleke, *Justifying Limitations on the Freedom of Expression*, 22 Hum. Rts. Q. 91 (2021).10

Hurst Hannum, *The Status of the Universal Declaration of Human Rights in National and International Law*, 25 Ga. J. Int'l & Comp. L. 287 (1995)7

Jeffrey L. Blackman, *State Successions and Statelessness: The Emerging Right to an Effective Nationality Under International Law*, 19 Mich. J. Int’l L. 1141 (1998)4

Kelebogile Zvobgo et al., *Reserving Rights: Explaining Human Rights Treaty Reservations*, 64 Int'l Studies Q., 785, 797 (2020)

Luca Bucken & Rene de Groot, *Deprivation of Nationality under Article 8 (3) of the 1961 Convention on the Reduction of Statelessness*, 25 Maastricht J. Eur. & Comp. L. 38 (2018).9

Luke Hurst, *Buying EU Citizenship: What are Golden Passports and Visas and How Do They Work?*, EuroNews (Oct. 20, 2020), https://www.euronews.com/2020/10/20/buying-eu-citizenship-what-are-golden-passports-and-visas-and-how-do-they-work.11

Maarten P. Bolhuis & Joris van Wijk, *Citizenship Deprivation as a Counterterrorism Measure in Europe; Possible Follow-Up Scenarios, Human Rights Infringements and the Effect on Counterterrorism*, 22 Eur. J. Migration & L. 338 (2020).3

Medes Malaihollo, *Due Diligence in International Environmental Law and International Human Rights Law: A Comparative Legal Study of the Nationally Determined Contributions under the Paris Agreement and Positive Obligations under the European Convention on Human Rights*, 68 Netherlands Int’l. LR 121 (2021)7

Michelle Foster, *Protection Elsewhere: The Legal Implications of Requiring Refugees to Seek Protection in Another State*, 28 Mich. J. Int'l L. 223 (2007)6

Mike Ives, *Myanmar Vows to Block U.N. Investigators From Entering*, N.Y. Times (June 30, 2017), https://www.nytimes.com/2017/06/30/world/asia/myanmar-united-nations-rohingya.html24

Mohammad Alipour, *The Competence of the Security Council Over Situations or Disputes Arising from Human Rights Violations by a State Under Chapter VI of the United Nations Charter*, Hungarian J. Legal Studies 1, (2023).20

Petra Weingerl & Matjaz Tratnik, *Citizenship by Investment Programs from the Perspective of International and EU Law*, 11 LeXonomica 95 (2019).12

Satvinder S. Juss, *Nationality Law, Sovereignty, and the Doctrine of Exclusive Domestic Jurisdiction*, 9 FLA. J. Int'l L. 219 (1994)6

Tsilly Dagan & Talia Fisher, *State Inc.*, 27 Cornell J. L. & Pub. Pol’y 661 (2018).11

*UN Expert 'Denied Zimbabwe Entry' 2009*, BBC (Oct. 29, 2009), http://news.bbc.co.uk/2/hi/africa/8329984.stm24

William J. Aceves, *Actio Popularis - The Class Action in International Law*, 2003 U. Chi. Legal F. 356 (2003)1

William J. Aceves, *The Right of Information on Consular Assistance in the Framework of the Guarantees of the Due Process of Law. Advisory Opinion OC-16-99*, 94 Am. J. Int’l. L. 555 (2000).17

Willian J. Aceves, *The Vienna Convention on Consular Relations: A Study of Rights, Wrongs, and Remedies*, 31 Vand. J. Transactional L. 257 (1998)13

**Statement of Jurisdiction**

Under Articles 36(1) and 40 of the Statute of the Court, the Kingdom of Remisia (“Remisia”) and the Republic of Antrano (“Antrano”) have agreed to submit the present dispute to the International Court of Justice by a Special Agreement (“Compromis”) done in The Hague, The Netherlands, on the fourteenth day of September 2023. According to Article 2 of the Compromis, Antrano shall appear as Applicant and Remisia as Respondent, without prejudice to any question of the burden of proof. According to Article 5 of the Compromis, each party shall accept any judgment as final and binding and execute it in good faith.

**Questions Presented**

1. Whether Antrano lacks standing to bring the dispute of the Sterren Forty’s nationality to this Court.
2. Whether Remisia complied with international law when it revoked the Sterren Forty’s Remisian nationality.
3. Whether Antrano violated international law when it denied Saki Shaw, a Remisian citizen, Remisian consular access while detained in Antrano.
4. Whether Remisia complied with international law when it denied Dr. Malex entry into Remisia.

**Statement of Facts**

The Kingdom of Remisia (“Remisia”), a land-locked country in the Isidre Plateau, is a constitutional monarchy governed by Queen Khasat. Remisia’s two million citizens deeply venerate the monarchy. The Republic of Antrano (“Antrano”) is an island country in the Mahali Archipelago.

**The Disrespect to the Crown Act**

The Remisian legislature adopted the Disrespect to the Crown Act (“DCA”) in 1955. Under the DCA, any Remisian who defames, insults, or threatens the monarch may be imprisoned up to five years. Additionally, once convicted, the individual’s nationality may be revoked, and he may be subject to expulsion following his sentence.

**ShawCorps Mining**

Saki Shaw was born in Molvania in 1970. Shaw’s family founded the Shaw Corporation (“ShawCorp”), a multinational mining conglomerate. She heads Lithos Limited, a wholly owned subsidiary of ShawCorp.

In 1988, Shaw met Queen Khasat. They formed a close and long-lasting friendship. In 2015, Shaw proposed a joint venture between Lithos Limited and the Remisian Ministry of Mines. This proposal aimed to increase Remisian cobalt mining over the next ten years.

Queen Khasat forwarded Shaw’s proposal to Prime Minister Van Sezan. On November 10, 2015, Shaw and Prime Minister Sezan agreed to the joint venture. After conducting standard due diligence tests and finding no substantial environmental consequences, the Remisian Ministry of Mines approved permits for seven mining sites. The mines employ more than 4,000 Remisians. Further, the mines produce significant public revenue through export taxes.

In 2008, Queen Khasat signed the Naturalization by Investment Act (“NIA”). The NIA grants Remisian nationality to any applicant who invests over 500,000 euros into the Remisian economy. Remisia enacted the NIA to raise revenue and promote Queen Khasat’s goal of encouraging foreign investment. From 2008 until 2021, the NIA generated over 1.5 billion euros in gross revenue. As part of the joint venture between Remisia and Lithos Limited, Shaw contributed 500,000 euros to apply for nationality under the Act. Shaw naturalized as Remisian on June 1, 2016.

**The Sterren Forty**

In September 2019, Remisian university students rallied against the alleged environmental hazards caused by cobalt mining. The leaders of these rallies founded the Isidre League of Student Activists (“ILSA”). In December, ILSA issued a manifesto calling for the immediate end of all cobalt mining in Remisia.

Between February 3 and February 8, 2020, over 30,000 demonstrators joined ILSA protests, displaying placards that read, “The Queen’s friend is threatening our future;” others chanting “Her Majesty has betrayed us.” On February 8, 2020, protestors chained themselves to mining machinery and blocked entrances to the mining facilities, completely halting mining operations and blocking thousands of Remisia’s from being able to arrive to their jobs . Seven students, the leaders of ILSA, were arrested. Although the Remisian Minister of Mines released the ILSA leaders, disruptive rallies continued across Remisia for three more weeks.

On February 27, 2020, forty protestors, including the seven ILSA leaders, formed a human chain blockading the Sterren Palace, Queen Khasat’s primary residence. Global news outlets coined the forty instigators “the Sterren Forty.”

After one month of continuous civil unrest, Remisia detained more than 1,000 protestors across the country. The Remisian Attorney-General charged all protestors under the DCA. However, the Attorney-General dismissed the charges for any person who wrote an apology to the Queen. Of the detainees, two-hundred and thirty, including the Sterren Forty, refused to apologize. Consequently, the court pronounced a guilty verdict for those two hundred and thirty protestors. One-hundred and ninty demonstrators were sentenced to one to three years in Remisian prison. However, the Sterren Forty, who had protested at the gates of the Sterren Palace, received five-year sentences and revocation of their nationality as established by the DCA.

The Sterren Forty appealed to the Supreme Court of Remisia arguing that stripping them of their nationality, rendering them stateless, violated international law. The Supreme Court upheld the sentences, asserting the evidence of the Sterren Forty’s disloyalty was manifested and their sentences complied with domestic and international law. Subsequently, Remisia issued the Sterren Forty non-citizen identity cards and imprisoned them in the national penitentiary, where they remain to this day.

**Resolution 99997**

In April 2021, Antrano President Iyali spoke at an Antranan ceremony about Antrano’s mission to protect stateless people, alluding to Remisia’s response to its domestic unrest. Following the speech, Remisia’s foreign minister stated in a diplomatic note that President Iyali’s speech interefered in Remisia’s domestic affairs.

In January 2022, Antrano became President of the United Nations Security Council (“UNSC”). The Antranan Ambassador to the UN submitted a memorandum to the Secretary-General and the UNSC claiming Remisia’s application of the DCA to ILSA protesters violated international law. The UNSC heard testimony from both Antranan and Remisian representatives. Following testimony, the UNSC adopted Resolution 99997, establishing the United Nations Inspection Mission to Remisia (“UNIMR”), invoked under Article 34 of the UN Charter. UNIMR aimed to investigate and report the facts surrounding the Sterren Forty’s arrest, nationality revocation, and detainment.

**The Arrest of Saki Shaw**

In April 2014, Molvania issued an arrest warrant for Saki Shaw resulting from allegations against ShawCorps and its subsidiaries. Given Shaw no longer lived in Molvania, the Molvanian Attorney-General requested Antrano extradite her upon entry into Antrano for an upcoming ShawCorp meeting.

On March 15, 2022, Shaw legally entered Antrano with a valid Remisian passport. The following day, Antranan police detained Shaw on the authority of the Molvanian extradition request. Shaw was taken into custody where both her Molvanian and Remisian passports were confiscated. As a Remisian national, Shaw demanded Remisian consular representation. The Antranan chief of police denied her request, asserting Antrano does not recognize purchased nationality and Shaw’s admittance by Antrano immigration officials into Antrano with a Remisian passport was done in error.

Remisia’s UN Ambassador delivered a message to the Foreign Ministry of Antrano asserting its right to a consular meeting with Shaw. However, Antrano responded to Remisia maintaining Remisia could only communicate with Shaw through Molvania as her Remisian nationality was not recognized. Two weeks later, Saki Shaw died of a heart attack.

**Dr. Tulous Malex**

Performing under Resolution 99997, the UNIMR began conducting their research on the Sterren Forty. Dr. Tulous Malex, an Antranan expert on statelessness, was elected to lead the UNIMR. Dr. Malex requested to meet with the Sterren Forty. Remisia’s UN Ambassador wrote to the Secretary-General announcing Remisia would not permit Dr. Malex’s entry into the country to, asserting Dr. Malex, an Antrano national, would inappropriately interfere in Remisia’s domestic affairs. The Security Council President responded, alleging that to deny Dr. Malex entry into Remisia violates Remisia’s UN membership obligations and Resolution 99997.

On July 25, 2022, Dr. Malex informed Remisia he would travel to Remisia from August 10 to August 20, 2022. On August 9, 2022, Dr. Malex boarded a flight to Remisia. Dr. Malex arrived at the Remisian airport where he was stopped at passport control. Remisian border agents denied his entry and boarded Dr. Malex on a return flight to New York.

On August 15, 2023, the Remisian and Antranan Foreign Ministers met to arbitrate an agreement. The parties successfully negotiated the terms of the Special Agreement and submitted it to the Registrar of this Court.

**Summary of Pleadings**

1. Antrano lacks standing to dispute the revocation of the Sterren Forty’s nationality before this Court. As a threshold matter, Antrano cannot exert diplomatic protection over the Sterren Forty because Antrano has no connections to the injured parties. Further, per treaty law, Remisia did not breach its *erga omnes partes* obligations under the CRS, CSP, and ICCPR because a guarantee to nationality is not a common interest of the treaties. Finally, under customary international law, statelessness is not considered a *jus cogens* norm, and, thus, is not considered an *erga omnes* obligation.
2. Remisia complied with international law when it revoked the Sterren Forty’s nationality. Under treaty and customary international law, there are permissible exceptions when a State may revoke an individual’s nationality. The DCA adheres to these exceptions. Under customary international law, Remisia is permitted to maintain its domestic nationality laws without interference pursuant to the principle of nonintervention. Additionally, Remisia complied with customary human rights instruments because the revocation of the Sterren Forty’s nationality was foreseeable. Next, Remisia complied with treaty law by submitting a valid reservation under the CRS. Additionally, Remisia, complied with the CSP by issuing non-citizen identity cards to the Sterren Forty. Finally, Remisia complied with Articles 19 and 21 of the ICCPR by validly limiting speech and assembly, as well as Article 14 by providing the Sterren Forty with a fair trial and due process.
3. Antrano violated international law when it denied a Remisian national consular access to Remisa while detained in Antrano. By denying Saki Shaw consular access to Remisia, Antrano violated its treaty obligations under the VCCR and ICCPR, as well as its customary international law obligations. First, Antrano violated Articles 36 and 5 of the VCCR by failing to notify and provide Shaw her right to communicate with Remisian consular representatives. Second, Antrano violated Articles 9 and 14 of the ICCPR by denying her right to liberty and right to due process, respectively. Finally, Antrano's arbitrary deprivation of Shaw’s Remisian nationality constitutes a violation of customary international law. Because the deprivation does not serve a legitimate purpose and is not proportional, Antrano arbitrarily deprived Shaw of her Remisian nationality. Accordingly, Antrano violated customary international law.
4. Remisia complied with international law when it refused to allow Dr. Malex entry into Remsia. Because UNSC Resolution 99997’s adoption was in violation of Article 27(3) of the UN Charter, it is void. If this Court finds Resolution 99997 is valid, Remisia still complied with Article 2(7) of The UN Charter by maintaining its sovereign authority of its domestic affairs. Further, Remisia complied with the CPI when it denied entry to Dr. Malex as his travel to Remisia is not necessary. Additionally, Remisia complied with Article 9 of the VCDR when it denied a diplomatic agent entry into its territory. Finally, Remisia Complied with its international law obligations when it denied entry to Dr. Malex. Customary international law does not specifically prohibit states from denying entry, and therefore Remisa is free to act in absence of this prohibitory rule. In denying entry to Dr. Malex, Remisia stopped Antrano from intervention into Remisian domestic affairs. Finally, international law recognizes the sovereignty of States to maintain the integrity of their borders through the principle of non-intervention.

**Pleadings**

# **Antrano Lacks Standing To Bring The Matter of The Sterren Forty’s Nationality To This Court**

Antrano lacks standing to dispute the revocation of the Sterren Forty’s nationality because: (1) Antrano cannot exert diplomatic protection over the Sterren Forty; (2) there was no *erga omnes partes* breach under treaty law; and (3) statelessness is not a *jus cogens* norm.

## **Antrano Lacks Standing Because It Cannot Exert Diplomatic Protection Over the Sterren Forty.**

To have standing in this Court, a State must cite direct injury to the State itself or to its nationals.[[1]](#footnote-2) Antrano lacks such injury. Without direct injury, a State cannot exert diplomatic protection over the injured nationals.[[2]](#footnote-3) In *Nottebohm*, this Court ruled nationality is determined through “any genuine intention to establish a durable link” to a State.[[3]](#footnote-4)

Here, the Sterren Forty have no genuine links to Antrano because their sole nationality is Remisian,[[4]](#footnote-5) and there is no indication the Sterren Forty have connections to Antrano. Without a demonstrable link to the Sterren Forty, Antrano can neither prove injury nor exert diplomatic protection. Permitting such would constitute an *actio popularis* claim, which this Court has affirmatively rejected.[[5]](#footnote-6)

## **Antrano Lacks Standing Because There is no *Erga Omnes Partes* Obligation to Guarantee Nationality Under Treaty Law**

*Erga omnes partes* obligations are common interests in a treaty “owed by any State party to all other States parties to the [treaty].”[[6]](#footnote-7) These obligations are collective obligations each State party has an interest to comply.[[7]](#footnote-8) *Erga omnes partes* obligations arise when non-compliance with the obligation would “radically . . . change” all parties’ commitment to upholding the obligation.[[8]](#footnote-9) Although any party may claim injury on the collective’s behalf for *erga omnes partes* breaches,[[9]](#footnote-10) this Court has only applied this theory in limited circumstances.[[10]](#footnote-11)

To establish an *erga omnes partes* obligation, this Court considers the treaty’s common interests.[[11]](#footnote-12) Common interests are found in cooperative treaty regimes where States lack individual interests,[[12]](#footnote-13) but rather share “a common interest [in] the accomplishment of those high purposes which are the *raison* *d’être* of the [c]onvention.”[[13]](#footnote-14) These interests are found in the treaty’s object and purpose,[[14]](#footnote-15) which can be determined through analyzing its text, context, negotiating history, and surrounding circumstances.[[15]](#footnote-16)

While Antrano submits Remisia is bound to certain *erga omnes partes* obligations under the CRS, CSP, and ICCPR,[[16]](#footnote-17) an unequivocal guarantee to nationality is not a common interest of any of these treaties.[[17]](#footnote-18) Therefore, under certain conditions, it is permissible for Remisia to revoke its own people’s nationality; the violation of the DCA being one of these conditions.

### An unequivocal guarantee to nationality is not an *erga omnes partes* obligation under the CRS.

Although a common interest of the CRS is to provide feasible conditions for States to prevent statelessness,[[18]](#footnote-19) it does not create a unequivocal guarantee to nationality.[[19]](#footnote-20) Rather, it establishes safeguards to reduce statelessness by ensuring, when appropriate, nationality is not revoked arbitrarily.[[20]](#footnote-21) In the Draft Convention on the Reduction of Future Statelessness, considered a part of the CRS’s *trauvaux preparatoires*,[[21]](#footnote-22) the drafters observed “it was not feasible to suggest measures for the total and immediate elimination of present statelessness.”[[22]](#footnote-23)

For example, in circumstances where individuals demonstrated disloyalty to the State, an individual’s nationality may be revoked even if it renders him stateless.[[23]](#footnote-24) Preventing a State from revoking nationality in exigent circumstances would force the State to maintain an individual within its borders who may jeopardize the State's vital interests.[[24]](#footnote-25) Therefore, an unequivocal guarantee to nationality is not a common interest to the CRS and Remisia did not breach its *erga omnes partes* obligation under this treaty.

### An unequivocal guarantee to nationality is not an *erga omnes partes* obligation under the CSP

Similarly, the object and purpose of the CSP is not to guarantee nationality, but provide minimum standards of treatment to individuals already classified as stateless.[[25]](#footnote-26) This core purpose does not apply to the Sterren Forty, whose treatment is not in question.[[26]](#footnote-27) The drafters intended for the CSP to be exclusive to this purpose and designated safeguards against the prevention of statelessness to the CRS.[[27]](#footnote-28) Therefore, because the CSP does not concern matters involving the conferral or revocation of nationality, there is no common interest in the CSP to guarantee nationality. Accordingly, Remisia did not breach its *erga omnes partes* obligations under this treaty.

### An unequivocal guarantee to nationality is not an *erga omnes partes* obligation under the ICCPR

The object and purpose of the ICCPR is to “promote universal respect for, and observance of, human rights and freedoms” to “all members of the human family.”[[28]](#footnote-29) Although nationality is important to the enjoyment of rights,[[29]](#footnote-30) the ICCPR does not require nationality to enjoy these freedoms. Rather, the core purpose and objective of the ICCPR is to ensure human rights regardless of an individual’s nationality or status.[[30]](#footnote-31)

Requiring nationality to enjoy the rights enshrined in the ICCPR would exclude stateless persons from its protection, which contravenes the object and purpose of the treaty.[[31]](#footnote-32) Moreover, Article 2 guarantees the enjoyment of these rights “without distinction” to an individual's nationality or status.[[32]](#footnote-33) As such, there is no *erga omnes partes* obligation to guarantee nationality under the ICCPR, and Antrano lacks standing to bring this claim.

## **Antrano Lacks Standing Because Statelessness is not an *Erga Omnes* Obligation Under Customary International Law.**

Antrano lacks standing because statelessness is not an *erga omnes* obligation under customary international law.[[33]](#footnote-34) This Court established in *Barcelona Traction* that *erga omnes* obligations are “obligations of a State toward the international community as a whole.”[[34]](#footnote-35) Distinct from *erga omnes partes* obligations, *erga omnes* obligations are “by their very nature . . . the concern of all States” where “all States [are] held to have a legal interest in their protection.”[[35]](#footnote-36)

### Statelessness is not a *jus cogens* norm.

*Erga omnes* obligations reflect *jus cogens* norms.[[36]](#footnote-37) This Court has identified several *erga omnes* obligations, including prohibitions against genocide, slavery, and racial discrimination,[[37]](#footnote-38) as well as the right to self-determination.[[38]](#footnote-39) *Erga omnes* obligations continue to be formed through customary international law[[39]](#footnote-40) and are identified by their non-derogable character.[[40]](#footnote-41) Statelessness has neither been considered a *jus cogens* norm, nor an *erga omnes* obligation, given treaties such as the CRS and CSP still permit forms of derogation.[[41]](#footnote-42)

Further, this Court has determined moral reasoning alone cannot constitute the basis of an *erga omnes* obligation.[[42]](#footnote-43) Simply because Antrano feels strongly about the plight of statelessness does not mean this issue rises to the level of *erga omnes*. Considering the lack of consensus about statelessness and its protections, this Court should not rely on Antrano’s moral reasoning alone to render statelessness an *erga omnes* obligation.

### Statelessness is not an obligation owed to the international community.

A State may “invoke the responsibility of another State if the obligation breached . . . radically [changes] the position of all other States.”[[43]](#footnote-44) A guarantee to nationality is not an obligation owed to the international community as a whole because it is a matter of *domaine réservé*.[[44]](#footnote-45)

Furthermore, if this Court were to determine statelessness is an obligation owed to the international community as a whole, the breach of this obligation would not radically change the position of all other States to which the obligation is owed. Although the status of stateless persons may impact other States, the resulting effect is too attenuated to determine what the consequence would look like.[[45]](#footnote-46) In fact, most stateless persons are stateless within their own countries meaning the effect of statelessness on other States is uncertain.[[46]](#footnote-47)

Moreover, given the safeguards created by the CSP to protect stateless persons, even if a State revokes the nationality of its nationals, it is required to afford them certain protections within its borders. Therefore, the consequences stemming from the revocation of nationality does not extend so far as to impact other States’ performance of this obligation. Therefore, statelessness is not an *erga omnes* obligation and Antrano lacks standing.

# **Remisia Complied with International Law when it Revoked the Sterren Forty’s Nationality.**

Under treaty and customary international law, there are permissible exceptions when a State may revoke an individual’s nationality. The DCA adheres to the exceptions.

## **Remisia Complied with Customary International Law when it Revoked the Sterren Forty’s Nationality**

Remisia complied with customary international law when it revoked the Sterren Forty’s nationality. It adhered to the principle of non-intervention and abided by the principles enshrined within international and regional human rights instruments.

### Remisia is permitted to maintain its domestic nationality laws without interference.

The principle of non-intervention prohibits a State from intervening into another State’s *domaine r*éservé.[[47]](#footnote-48)This Court affirmed the principle of non-intervention as “part and parcel of customary international law.”[[48]](#footnote-49) Naturalization, regulation, and revocation of nationality are inherent aspects of a State's domestic affairs and fall within the ambit of its sovereign privileges.[[49]](#footnote-50) Customary international law reaffirms how States historically maintained sovereign authority to confer nationality, which exclusively is within a State's domestic affairs.[[50]](#footnote-51)

As a domestic law regulating nationality,[[51]](#footnote-52) the DCA reflects Remisia’s exercise of sovereign authority within its domestic jurisdiction.Therefore, the principle of non-intervention preserves Remisia’s right to create and administer domestic laws without undue interference by Antrano.[[52]](#footnote-53)

### Remisia complied with international and regional human rights instruments.

Even if the right to nationality is absolute, Remisia complied with this obligation as interpreted through international and regional human rights instruments. This Court recognizes the Universal Declaration of Human Rights as customary international law.[[53]](#footnote-54) Article 15(2) of the Universal Declaration of Human Rights asserts “no [person] shall be arbitrarily deprived of his nationality.”[[54]](#footnote-55) Various regional treaties and human rights courts[[55]](#footnote-56) have affirmed this principle, concluding if the revocation of nationality is foreseeable, it is not arbitrarily.[[56]](#footnote-57) Foreseeability is constructive rather than actual knowledge.[[57]](#footnote-58) To be foreseeable, laws governing the withdrawal must be clear and accessible.[[58]](#footnote-59)

In *K2 v. The United Kingdom,* the ECtHR focused on whether the revocation of nationality was arbitrary as set forth in the European Convention on Human Rights.[[59]](#footnote-60) The ECtHR determined nationality revocation is not arbitrary if it was conducted: (1) in accordance with the law, (2) in a timely manner, and (3) with sufficient procedural safeguards.[[60]](#footnote-61)

Here, the Sterren Forty’s was revoked following a valid and timely legal process conducted in accordance with the law.[[61]](#footnote-62) The Sterren Forty had constructive knowledge of the potential revocation because the DCA explicitly specifies that disloyal conduct to the Queen results in a loss of nationality.[[62]](#footnote-63) Further, Remisia offered ample opportunity for the Sterren Forty to revoke their defaming comments, putting them on notice about their unlawful behavior.[[63]](#footnote-64) Finally, the Sterren Forty had the opportunity to appeal, therefore enjoying sufficient procedural safeguards to their revocation.[[64]](#footnote-65) Therefore, Remisia complied with customary international law when it revoked the Sterren Forty’s nationality.

## **Remisia Complied with its Treaty Obligations when it Revoked the Sterren Forty’s Nationality**

In addition to its obligations under customary international law, Remisia complied with its treaty obligations under the CRS, CSP, and ICCPR when it revoked the Sterren Forty’s nationality.

### Remisia complied with Article 8 of the CRS when it revoked the Sterren Forty’s nationality.

Article 8(3)(a) of the CRS permits exceptions to revoking nationality in circumstances of statelessness if a State submits a reservation under the Article’s exceptions.[[65]](#footnote-66) Reservations “exclude or to modify the legal effect of certain provisions of the treaty in their application to that State[.]”[[66]](#footnote-67) With the possibility of abstaining from certain provisions, States are more willing to ratify multilateral treaties.[[67]](#footnote-68) To be valid, reservations must comport with the treaty’s object and purpose.[[68]](#footnote-69)

States have submitted reservations under Article 8(3) similar to Remisia’s,[[69]](#footnote-70) while receiving objections similar to one Antrano’s.[[70]](#footnote-71) Yet, these reservation remains valid.[[71]](#footnote-72) Under its own valid reservation, Remisia properly invoked Article 8(3)(a)’s exception when it revoked the Sterren Forty’s nationality. Despite objections from Antrano and three other States, Remisia’s reservation comports with the object and purpose of the CRS.

Remisia’s reservation falls squarely within the exception available under Article 8(3)(a)(ii), which provides a State may deprive a person of his nationality if the individual “inconsistently with his duty of loyalty to the . . . State . . . has conducted himself in a manner seriously prejudicial to the vital interests of the State.”[[72]](#footnote-73) Here, under the DCA, nationality may only be revoked if an individual proves himself disloyal to the Queen.[[73]](#footnote-74) Therefore, because the DCA accords with Article 8(3)’s exception, Remisia's reservation does not defy the CRS's object and purpose.

### Remisia complied with Article 27 of the CSP when it revoked the Sterren Forty’s nationality.

Article 27 of the CSP requires a State to “issue identity papers to any stateless person in their territory who does not possess a valid travel document.”[[74]](#footnote-75) By issuing non-citizen identity cards, Remisia complied with this provision.[[75]](#footnote-76) reflecting Remisia’s commitment to fulfill its obligations under the CSP.[[76]](#footnote-77) Therefore, Remisia complied with the CSP when it revoked the Sterren Forty’s nationality.

### Remisia complied with ICCPR Articles 19, 21, and 14 when it revoked the Sterren Forty’s nationality.

Remisia complied with Articles 19, 21, and 14 of the ICCPR when it revoked the Sterren Forty’s nationality.

#### i. Remisia complied with Article 19 when it revoked the Sterren Forty’s nationality.

ICCPR Article 19(3) permits limitations on freedom of speech when necessary to protect the reputation and rights of others,[[77]](#footnote-78) public order, and national security,[[78]](#footnote-79) particularly in cases where speech instigates or promotes actions that threaten the stability or well-being of a nation.[[79]](#footnote-80) Courts evaluate three factors to determine the lawfulness of a State’s Article 19(3) restriction.[[80]](#footnote-81) The enacted limitation must (1) be provided for by domestic law, (2) address one of the legitimate aims expressed in Article 19(3), and (3) be strictly necessary for that purpose.[[81]](#footnote-82)

Given the Sterren Forty’s critiques of the Queen were aimed at marring her reputation, Remisia’s application of the DCA complied with Article 19(3). Additionally, the Sterren Forty’s speech directly contributed to nationwide civil unrest impacting Remisia’s public order, resulting in arrests and demonstrations crippling Remisia’s mining industry for weeks.[[82]](#footnote-83) By helping coordinate these demonstrations, the Sterren Forty posed a national security threat to Remisia. Therefore, Remisia is justified in limiting the Sterren Forty’s speech.

#### ii. Remisia complied with Article 21 when it revoked the Sterren Forty’s nationality.

Furthermore, Article 21 protects the right to peaceful assembly.[[83]](#footnote-84) However, the right to assembly is not absolute when it endangers public order, health, safety, or the freedoms and rights of others.[[84]](#footnote-85) Given Remisia's actions complied with Article 19(3), it also complied with Article 21. Indeed, over the span of four months, Remisia permitted the Sterren Forty and other demonstrators to participate in peaceful protests.[[85]](#footnote-86) However, it was not until the Sterren Forty violated the DCA by insulting the Queen and inciting nationwide civil unrest did Remisia take action against them.

#### iii. Remisia complied with Article 14 when it revoked the Sterren Forty’s nationality.

Finally, Article 14 of the ICCPR outlines the principles of fair trial and due process.[[86]](#footnote-87) It guarantees the right of an individual to be treated fairly and equitably by his legal system.[[87]](#footnote-88) By providing the Sterren Forty a trial and opportunity to appeal their nationality revocation, Remisia complied with this Article.[[88]](#footnote-89)

# **Antrano Violated International Law When it Denied a Remisian National Consular Access to Remisia While Detained in Antrano**

As a threshold issue, Antrano must recognize Saki Shaw’s Remisian nationality. While States maintain sovereign authority to confer nationality through domestic laws, they must acknowledge and respect the nationality laws of other sovereign States.[[89]](#footnote-90) Antrano’s failure to recognize a Remisian citizen’s nationality is inconsistent with the duty States of to respect other State’s nationality laws.[[90]](#footnote-91) Indeed, similar systems to the NIA are common among State practice.[[91]](#footnote-92) Similar to the benefits Remisia receives from the NIA,[[92]](#footnote-93) these nationality programs contribute to the sustainment of the State and its international economic relations.[[93]](#footnote-94)

Although nationals must demonstrate a genuine link to the State, States have discretion to choose the nature of these links.[[94]](#footnote-95) Here, Remisia chooses to grant nationality to those who apply for citizenship under the NIA.[[95]](#footnote-96) The NIA is consistent with State practice that defines a genuine link through business and personal investments to the State.[[96]](#footnote-97) Thus, Shaw’s NIA citizenship through constitutes a genuine link to Remisia, therefore bestowing her Remisian nationality.

Should this Court not recognize the validity of Shaw’s NIA citizenship, she nevertheless maintains a genuine link to Remisia through other connections. Under *Nottebohm*, nationality depends on an individual’s genuine link to the State.[[97]](#footnote-98) These links include family ties, economic involvement, participation in social and cultural life, and intention to remain linked to that country.[[98]](#footnote-99)

The International Law Commission—the UN commission tasked with codifying international law—noted *Nottebohm* imposes a variety of problems to non-traditional forms of citizenship.[[99]](#footnote-100) Indeed, regional courts have recognized the “genuine link” test leads to discrimination and interferes with state sovereignty in establishing citizenship standards.[[100]](#footnote-101) Therefore, States have expanded beyond the genuine link test to establish nationality.[[101]](#footnote-102)

Here, in addition to Shaw’s intention to gain Remisian nationality,[[102]](#footnote-103) her business and personal connections to Remisia render her a Remisian national. To start, Shaw chose to remain connected to Remisan life and culture given her longstanding relationship with Queen Khasat.[[103]](#footnote-104) Moreover, for nearly a decade, Shaw expanded her business into Remisia, conducting a joint venture with the State.[[104]](#footnote-105) In fact, Remisia receives mutual benefit from Shaw’s business as it created thousands of Remisian jobs.[[105]](#footnote-106) Therefore, her close relational ties and economic involvement in Remisia make her a national of Remisia.[[106]](#footnote-107)

In contrast, Shaw lacks a genuine link with Molvania because she has resided outside the country for over a decade with no intention to return.[[107]](#footnote-108) Given Shaw no longer has ties to Molvania, it cannot best represent her interests in consular protection. Accordingly, by denying Shaw—a Remisian national—consular access to Remisia, Antrano violated (1) its treaty obligations under the VCCR and ICCPR, and (2) its customary international law obligations.

## **Antrano Violated its Treaty Obligations when it Denied a Remisian National Access to Remisian Consular Representatives**

Antrano violated its treaty obligations under the VCCR and ICCPR when it denied Shaw, a Remisian national,[[108]](#footnote-109) access to Remisian consular representatives. First, Antrano violated Articles 36 and 5 of the VCCR by failing to notify and provide Shaw her right to communicate with Remisian consular representatives. Second, Antrano violated Articles 9 and 14 of the ICCPR by denying her right to liberty and right to due process, respectively.

### Antrano violated Articles 36 and 5 of the VCCR when it failed to inform and grant a Remisian national access to a Remisian consular representative

Under Article 36 of the VCCR, consular officers must be able to access nationals detained in a foreign State.[[109]](#footnote-110) The core objective of the VCCR is to ensure a party can perform its consular duties within other party’s jurisdictions.[[110]](#footnote-111) Permitting such consular access to nationals is essential for maintaining peace between States.[[111]](#footnote-112) Adherence to these rights is essential for the effective execution of consular duties.[[112]](#footnote-113) Indeed, the right to consular access is binding and non-derogable.[[113]](#footnote-114) Further, Article 36’s rights are coextensive to both the individual and the State.[[114]](#footnote-115) Accordingly, any rights violated by Antrano owed to Remisia violate Shaw's rights. Therefore, Antrano’s failure to recognize the NIA does not nullify Shaw and Remisia's Article 36 rights.[[115]](#footnote-116)

Article 36(1)(b) mandates States to allow communication between detained foreign nationals and their consular representatives.[[116]](#footnote-117) As a Remisian national, Shaw must be permitted to communicate with Remisian consular representatives. This Court reiterates the importance of consular access in its decisions.[[117]](#footnote-118) In *Avena*, this Court outlines three obligations for the detaining State: (1) to inform the detainee of their right to be notified of their entitlement to their national State’s consulate; (2) to allow the national State’s consular representative access to the detainee upon request; and (3) to deliver messages between the national State’s consular representative and the detainee.[[118]](#footnote-119) Remisia submits Antrano fulfilled the first obligation outlined in *Avena* because Shaw asserted her VCCR rights at the moment of arrest. Nevertheless, Antrano violated the other obligations owed to Shaw.

Pursuant to Remisia's right to be accessed upon Shaw’s request, Antrano must notify Remisia of Shaw’s presence in Antano’s jurisdiction without delay.[[119]](#footnote-120) The term “without delay” is interpreted by this Court to mean notification must be given to the appropriate consulate once the detaining State recognizes the detainee is a foreign national.[[120]](#footnote-121) Regional human rights courts have affirmed the need for timely notice to the State.[[121]](#footnote-122) Indeed, this Court acknowledges timely notice is essential for both the individual to have his rights protected, as well as the State's right to protect its nationals.[[122]](#footnote-123) In *LaGrand*, this Court ruled the United States violated Germany's rights under Article 36(1)(b) when it failed to notify both Germany and Germany's nationals of their right to reciprocal consular access.[[123]](#footnote-124)

Although Shaw's knowledge of her rights is distinguishable to the detainees in *LaGrand*, Remisia's rights were violated similar to Germany's because Remisia did not receive notice of Shaw's detainment.[[124]](#footnote-125) Here, because Shaw is a Remisian national,[[125]](#footnote-126) Remisia is entitled to notification of Shaw’s detention. However, Remisia only became aware of her detention days after her arrest.[[126]](#footnote-127) Moreover, there are no facts indicating whether Remisia received this notification from Antrano.[[127]](#footnote-128) Therefore, akin to Germany, Remisia was deprived of the opportunity to assist its nationals.

Without notifying Remisia of Shaw's detention, Antrano also failed to abide by the obligation to deliver messages between Shaw and Remisia. Detaining States must allow the detainee's national State to communicate with the detainee while in custody or prison.[[128]](#footnote-129) This Court found in *Jadhav* that these communications are essential to safeguard the rights of the detained individual and to arrange legal representation.[[129]](#footnote-130)

Here, Antrano violated Article 36(1)(b) by failing to provide Shaw consular access to Remisia. Immediately after discovering Shaw's detainment, Remisia asserted its right to access Shaw to Antrano.[[130]](#footnote-131) However, Antrano denied Remisia the right to communicate with Shaw because it did not recognize her Remisian nationality.[[131]](#footnote-132)

Instead, Antrano redirected Remisia to communicate with Shaw through Molvanian consular representatives.[[132]](#footnote-133) Antrano’s failure to facilitate communication between Shaw and Remisian consular representatives resulted in Shaw’s prolonged detention in Antrano without representation.[[133]](#footnote-134) Therefore, by failing to provide notice and denying consular access to Remisia, Antrano violated VCCR Article 36.

Additionally, VCCR Article 36’s rights are necessary to perform the consular functions listed in Article 5.[[134]](#footnote-135) Under Article 5 the detaining State must safeguard “the interests of the sending State and of its nationals.”[[135]](#footnote-136) This Court determined in *LaGrand* the United States's failure to protect the interests of Germany and its citizens through Article 36 resulted in a violation of Article 5.[[136]](#footnote-137) Within the context of Antrano's Article 36 violation, it violated Article 5 by failing to protect the rights and interests of Shaw and her national State, Remisia.

### Antrano violated ICCPR Articles 9 and 14 when it failed to inform and grant a Remisian citizen access to a Remisian consular representative

Antrano violated its treaty obligations under the ICCPR when it denied Shaw, a Remisian national,[[137]](#footnote-138) access to Remisian consular representatives. Antrano violated Articles 9 and 14 of the ICCPR by denying her right to liberty and right to due process, respectively.

#### i. Antrano violated ICCPR Article 9 when it failed to provide a Remisian citizen access to a Remisian consular representative

Article 9 of the ICCPR enshrines the “right to liberty and security of person.”[[138]](#footnote-139) This includes the right to consular assistance when detained in a foreign State.[[139]](#footnote-140) If a State does not provide consular access to a detainee, it violates Article 9.[[140]](#footnote-141) Although Antrano provided Shaw access to the Molvanian consulate, such access was inadequate because (1) it was not the consulate of her national State and (2) it was not her preferred consulate access.[[141]](#footnote-142) Courts have established an individual is entitled to decline consular officer assistance.[[142]](#footnote-143) Thus, the failure to grant Shaw access to consular services from her preferred consulate, Remisia, constituted a breach of Article 9 of the ICCPR.

Antrano was obliged to provide Shaw access to Remisia consular representatives because Remisia is Shaw's national State.[[143]](#footnote-144) Further, even if this Court does not find Remisia to be Shaw's national State, Antrano failed to provide Shaw adequate consular access because it gave Molvania unauthorized access to Shaw.[[144]](#footnote-145) Therefore, to deny Shaw access to Remisian consular assistance is a violation of Article 9 of the ICCPR.

#### ii. Antrano violated ICCPR Article 14 when it failed to provide due process to a detained Remisian citizen

Antrano violated Article 14 of the ICCPR when it deprived Shaw due process while detained in Antrano. Under Article 14 detainees must receive due process before courts.[[145]](#footnote-146) This includes “hav[ing] adequate time and facilities [to] prepare [a] defence” and “to communicate with counsel of [her] own choosing.”[[146]](#footnote-147) Extradition requests traditionally require judgment before a court to determine whether a State should fulfill the request.[[147]](#footnote-148)

By denying Shaw access to Remisian consular representatives, Antrano deprived her right to communicate with counsel of her own choosing for her extradition proceedings.[[148]](#footnote-149) Molvania cannot properly represent Shaw. Molvania’s conflict of interest stems from the fact that it is overly invested in the outcome of Shaw’s Molvanian criminal proceedings.[[149]](#footnote-150) Without legal counsel, Shaw was further deprived of the time and facilities required to adequately prepare her defense for her extradition case. Therefore, Antrano violated ICCPR Article 14 by denying Shaw her right to due process while detained in Antrano.

## **Antrano Violated Customary International Law when it Denied a Remisian Citizen Access to Remisian Consular Representatives**

Antrano's arbitrary deprivation of Shaw’s Remisian nationality constitutes a violation of customary international law. The right to a nationality is protected under international treaties,[[150]](#footnote-151) regional agreements,[[151]](#footnote-152) and UN resolutions.[[152]](#footnote-153) Regional human rights courts reaffirm the importance of this right, finding its arbitrary deprivation harms the basic liberties of those affected.[[153]](#footnote-154) Typically, the refusal of citizenship takes the form of an automatic cancellation of nationality through legal processes. This often results in complete loss of citizenship rights when one spends an extended duration abroad.[[154]](#footnote-155)

By failing to recognize Shaw’s nationality, Antrano deprived her of the benefits of Remisian nationality. The right to a nationality is widely and consistently accepted, therefore it reflects customary international law.[[155]](#footnote-156) Although States maintain sovereign authority to govern this right,[[156]](#footnote-157) their margin of discretion is narrow and must ensure the deprivation of nationality is not arbitrary.[[157]](#footnote-158)

To ensure a deprivation is not arbitrary, the loss must be “prescribed by law,” “achiev[e] a legitimate aim,” and be proportionate.[[158]](#footnote-159) Although Antrano’s statutory non-recognition of purchased nationality is prescribed by law,[[159]](#footnote-160) the law itself does not achieve a legitimate aim. Antrano's laws do not recognize purchased nationality, or any passports issued under such an arrangement.[[160]](#footnote-161) In fact, Antrano has expressed no reason for their nonrecognition of purchased nationality.[[161]](#footnote-162) The only legitimate aims afforded to deprive nationality stem from CRS Articles 7 and 8.[[162]](#footnote-163) Remisian law considers citizenship and nationality synonymous.[[163]](#footnote-164) Therefore, if any of the hundreds of individuals[[164]](#footnote-165) with purchased Remisian nationality were to travel to Antrano, they would automatically lose the benefits and protection of their Remisian nationality.

Even if this Court finds Antrano’s law has a legitimate aim, the deprivation is not proportionate. Proportionality must consider the deprivation’s consequences.[[165]](#footnote-166) The consequences here have already manifested: Shaw was detained for weeks in an Antranan jail without access to legal representation.[[166]](#footnote-167)

Had Antrano recognized Shaw's valid Remisian nationality, Shaw would have received legal representation who may have prevented her prolonged detention. Therefore, the consequences of the deprivation of her nationality were disproportionate to any conceivable legitimate aim Antrano's law upholds. Because the deprivation does not serve a legitimate purpose and is not proportional, Antrano arbitrarily deprived Shaw of her Remisian nationality. Accordingly, Antrano violated customary international law.

# **Remisia Complied with International Law When it Refused to Allow Dr. Malex Entry into Remisia**

As a threshold matter, UNSC Resolution 99997 is void. Article 27(3) of the UN Charter provides that in voting on UNSC resolutions, "a party to a dispute shall abstain from voting."[[167]](#footnote-168) In *Namibia,* this Court ruled that a dispute exists when a State labels the issue as such.[[168]](#footnote-169) Here, Antrano explicitly referenced the issue under UNSC Resolution 99997 as a dispute.[[169]](#footnote-170)

Under Article 27(3), because the resolution was voted on in a manner that violates this Article, the resolution is void.[[170]](#footnote-171) Therefore, under Antrano's own admission, it should have abstained from voting upon UNSC Resolution 99997 as a party to the dispute. Even if this Court determines UNSC Resolution 99997 is valid, Remisia complied with international law when it denied Dr. Malex entry.

## **Remisia Complied with its Treaty Obligations when it Denied Entry to Dr. Malex**

Remisia denied entry to Dr. Malex in accordance with treaty law. The UNC maintains Remisia, as a sovereign state, has the right to control its territorial borders.

### Remisia complied with UN Charter Article 2(7) by maintaining its sovereign authority of its domestic affairs

Remisia complied with Article 2(7) of the UN Charter because UNSC Resolution 99997 is not binding. Therefore, any attempt to enforce it constitutes UN interference in Remisia’s *domaine réservé*. Under Article 2(7), the UN is prohibited from interfering with a State's domestic affairs.[[171]](#footnote-172) The only exception to Article 2(7) is “enforcement measures under Chapter VII.”[[172]](#footnote-173) Here, no such enforcement measures exist. Rather, the dispute at issue arises under Chapter VI, which may be limited by Article 2(7)'s conditions.[[173]](#footnote-174)

Although scholars dispute whether Chapter VI is binding,[[174]](#footnote-175) this Court stressed in its *Namibia* case, “[t]he language of a [UNSC Resolution] should be carefully analysed before a conclusion can be made as to its binding effect."[[175]](#footnote-176) There, it ruled UNSC Resolution 269 concerning South Africa's presence in Namibia was binding.[[176]](#footnote-177) This was because the Court determined UN Charter Article 25, under which Resolution 269 was invoked, was a non-disposable article granting the UNSC “its essential functions and powers under the Charter.”[[177]](#footnote-178)

In contrast, UNSC Resolution 99997 is invoked under Article 34.[[178]](#footnote-179) Article 34 grants the UNSC power to investigate disputes that “might lead to international friction . . . in order to determine whether the continuance of the dispute . . . is likely to endanger the maintenance of international peace and security.”[[179]](#footnote-180) Unlike Article 25, which grants the UNSC its power as a UN body,[[180]](#footnote-181) Article 34 is a subsidiary function of the UNSC and is not essential to its operation.

Indeed, in its Repertory of Practice relating to Article 34, the UN acknowledges Article 34 requires “the consent of host countries" to operate UNSC missions.”[[181]](#footnote-182) Therefore, Article 34 should not be considered a binding provision under Chapter VI. Given Article 34’s broad scope, to hold it as binding would contravene the fundamental purpose of Chapter VI by allowing States to frivolously invoke the UNSC’s power to interfere in domestic affairs. Here, Remisia did not give the UNSC consent to conduct its fact-finding mission into the DCA.[[182]](#footnote-183) Therefore, UNSC Resolution 99997 is not binding upon Remisia.

Should this Court hold UNSC Resolution 99997 binding, it would permit the UNSC to breach UN Charter Article 2(7). Nationality laws are wholly within the domestic jurisdiction of a State unless the laws arbitrarily deprive nationality.[[183]](#footnote-184) Remisia's nationality laws do not.[[184]](#footnote-185) By requiring Remisia to permit Dr. Malex entry and inspect the condition of its nationality laws, the UN is impermissibly intervening in Remisia's domestic affairs. Accordingly, Remisia complied with Article 2(7) by asserting its sovereign authority against UN intervention in Remisian domestic affairs.

### Remisia complied with CPI Article 6 when it denied entry to Dr. Malex

Article VII, Section 26 of CPI requires travel documents to be afforded to experts on UN missions.[[185]](#footnote-186) However, this Court’s *Conventions on the Privileges and Immunities* advisory opinion noted "[w]hile some experts have necessarily to travel in order to perform their tasks, others can perform them without having to travel."[[186]](#footnote-187) Here, Dr. Malex's can perform his tasks without traveling to Remisia.

While the text of UNSC Resolution 99997 requires civilian experts appointed must conduct in-person interviews, it also affords them the ability to hire support staff for their mission.[[187]](#footnote-188) Rather than visiting Remisia, Dr. Malex had full authority to appoint Remisian citizens to interview the Sterren Forty. Indeed, after receiving a formal rejection of entry from Remisia's UN Ambassador,[[188]](#footnote-189) Dr. Malex had ample opportunity to create a taskforce comprised of Remisian nationals to complete his professional responsibilities.

Further, the Sterren Forty agreed to conduct their trials by Zoom.[[189]](#footnote-190) Thus, even if Dr. Malex's presence were necessary, he would have been able to attend interviews via Zoom with in-person support staff. Indeed, State practice has evolved to allow remote participation for a variety of legal proceedings, including trials and prison interviews.[[190]](#footnote-191) As such, Dr. Malex's travel to Remisia was not necessary, and there was no necessity for Dr. Malex to enter Remisia.

States have denied entry to UN experts on a variety of grounds, one of which includes maintenance of public order and national security.[[191]](#footnote-192) As established, the Sterren Forty pose a risk to Remisia's public order and national security.[[192]](#footnote-193) Allowing Dr. Malex into the country would reignite protests in Remisia, because his presence supports the Sterren Forty’s ideologies. Thus, his privileges and immunities under the CPI may not be invoked against Remisia as it would jeopardize the State’s peace and security.

### Remisia complied with VCDR Article 9 when it denied a diplomatic agent entry into its territory

Although Dr. Malex claims to be an independent expert, the underlying motivation of his mission to Remisia is to represent Antrano's interests in reducing statelessness. Therefore, Dr. Malex should be considered a diplomatic agent and his mission a diplomatic mission.[[193]](#footnote-194) Article 3(a) of the VCDR describes a diplomatic mission as, inter alia, "[r]epresenting the sending State in the receiving State." Here, Dr. Malex is visiting Remisia with the intent to represent Antrano's interests in reducing statelessness.

Further, as the head of the mission, Dr. Malex is considered a diplomatic agent. With this status, under VCDR Article 9, Remisia may deny his entry “at any time without having to explain its decision[.]” Indeed, this Court in *Diplomatic and Consular Staff* highlighted that diplomatic premises are inviolable, but entry is subject to the consent of the receiving state.[[194]](#footnote-195) Accordingly, Remisia complied with its treaty obligations under the VCDR by denying Dr. Malex entry into Remisia.

## **Remisia Complied with its Customary International Law Obligations when it Denied Entry to Dr. Malex**

Customary international law does not specifically prohibit states from denying entry, and the Lotus principle supports the idea that states possess broad discretion in regulating entry into their territories. In denying entry to Dr. Malex, Remisia was not allowing intervention into its domestic affairs.

### Customary international law recognizes States are free to act in absence of a prohibitory rule

Absent a rule prohibiting action, “[a] State remains free to adopt the principles which it regards as best and most suitable.”[[195]](#footnote-196) Under the Lotus principle, Remisia is free to deny Dr. Malex access to its jails. Indeed, there is no general prohibition in international law preventing States from denying UN experts entry into their territories.[[196]](#footnote-197) In Remisia's situation, allowing otherwise would conflict with its interests to protect public order and national security. As such, it is entitled under the Lotus principle to deny Dr. Malex's entry into Remisia. Therefore, because Remisia is not explicitly prohibited by any law to deny Dr. Malex entry, its denial was in compliance with customary international law.

### Customary international law recognizes the sovereignty of States to maintain the integrity of their borders

This Court affirmed the principle of non-intervention is “part and parcel of customary international law.”[[197]](#footnote-198) This principle prohibits States from intervening into another State’s *domaine r*éservé.[[198]](#footnote-199)In *Military and Paramilitary Activities*, this Court ruled the United States violated the principle of non-intervention by interfering with Nicaragua's internal affairs through funding the Contras, a political group who opposed the Nicaraguan government.[[199]](#footnote-200) Similar to the United States, Antrano is leveraging the funding and power of its position in the UNSC to interfere with Remisian domestic policies that Antrano opposes.

As an Antranan civilian expert on statelessness, Dr. Malex is incapable of acting as a neutral representative in his assigned mission to Remisia. Instead, Antrano's statements about Dr. Malex's mission[[200]](#footnote-201) reveal the pretext of his mission is to achieve Antrano's political goal of “eliminating the stain of statelessness.”[[201]](#footnote-202) By erroneously labeling the DCA as a law facilitating statelessness, Antrano's intentions through UNSC Resolution 99997 are to coerce Remisia into changing its domestic nationality laws.

Antrano has no reason to initiate a fact-finding mission into the circumstances around the Sterren Forty’s nationality revocation because the Sterren Forty's judicial proceedings were public and livestreamed.[[202]](#footnote-203) Indeed, the UN had access to all necessary evidence to determine the condition of the Sterren Forty’s nationality revocation.[[203]](#footnote-204) Further, there is no evidence the Sterren Forty suffered human rights abuses during their detention. Therefore, there is no need to investigate their prison conditions. The UNSC should not have approved Resolution 99997 because, as their previous practice indicates, calls for fact-finding missions without ample evidence are denied.[[204]](#footnote-205)

Antrano used its position as president of the UNSC[[205]](#footnote-206) to initiate a baseless fact-finding mission under Resolution 99997. This mission was to forward Antrano's own political motivations to eradicate statelessness.[[206]](#footnote-207) However, Remisia's application of the DCA was well within its right to protect its national security and public order.[[207]](#footnote-208) Antrano used the UN body to forward its own political agenda against Remisia’s sovereign interest. Therefore, Remisia complied with customary international law by preventing Antrano from interfering in Remisia’s domestic affairs.

**Conclusion and Prayer for Relief**

The Kingdom of Remisia respectfully requests this Court to adjudicate that:

1. Antrano lacks standing to bring the dispute of the Sterren Forty’s nationality to this Court.
2. Remisia complied with international law when it revoked the Sterren Forty’s Remisian nationality.
3. Antrano violated international law when it denied Saki Shaw, a Remisian citizen, Remisian consular access while detained in Antrano.
4. Remisia complied with international law when it denied Dr. Malex entry into Remisia.

1. South West Africa (Liberia v. South Africa), Second Phase, Judgment, 1966 I.C.J. Rep. 6, ¶ 88 (July 18) [“South West Africa”]. [↑](#footnote-ref-2)
2. Nottebohm (Liech. v. Guat.), Judgment, 1955 I.C.J. Rep. 4, at 11 (Apr. 6) [“Nottebohm”]. *See also* Barcelona Traction, Light and Power Company, (Belg. v. Spain), Judgment, 1970 I.C.J. Rep. 3, ¶ 46 (Feb. 5) [“Barcelona Traction”]. [↑](#footnote-ref-3)
3. Nottebohm, *supra* note 2, 11. [↑](#footnote-ref-4)
4. Compromis, para. 34. [↑](#footnote-ref-5)
5. South West Africa, *supra* note 1; William J. Aceves, *Actio Popularis - The Class Action in International Law*, 2003 U. Chi. Legal F. 356 (2003). [↑](#footnote-ref-6)
6. *See* Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Gam. v. Myan.), Preliminary Objections, 2020 I.C.J. Rep. 477, ¶ 41 (July 22) [“Application of Genocide Convention”]; Questions Relating to the Obligation to Prosecute or Extradite (Belg. v. Sen.), Judgment, 2012 I.C.J. Rep. 422, ¶ 68 (July 20) [“Obligation to Prosecute or Extradite”]; Barcelona Traction, *supra* note 2, ¶ 68. [↑](#footnote-ref-7)
7. Barcelona Traction, *supra* note 2, ¶ 68. [↑](#footnote-ref-8)
8. G.A. Res. 56/83, Articles on the Responsibility of States for Internationally Wrongful Acts, art. 42(b)(ii) (Jan. 28, 2002) [“(D)ARSIWA”]. [↑](#footnote-ref-9)
9. *Id.*; Int’l L. Comm’n, Draft Articles on Responsibility of States for Internationally Wrongful Acts with Commentaries, art. 42(b)(ii), 2 Y.B. Int’l Law Comm’n 31, para. 15 (2001) [“(D)ARSIWA Commentaries”]. [↑](#footnote-ref-10)
10. *See* Obligation to Prosecute or Extradite, *supra* note 6; *See* Application of Genocide Convention, *supra* note 6, ¶¶ 111-12; Reservations to the Convention on the Prevention and Punishment of the Crime of Genocide, Advisory Opinion, 1951 I.C.J. Rep. 15, 22 (May 28) [“Reservations to the Convention Advisory Opinion”]. [↑](#footnote-ref-11)
11. *See* Obligation to Prosecute or Extradite, *supra* note 6, ¶ 68. *See also* Reservations to the Convention Advisory Opinion, *supra* note 10, ¶ 23. [↑](#footnote-ref-12)
12. Obligation to Prosecute or Extradite, *supra* note 6, ¶ 68. [↑](#footnote-ref-13)
13. *Id.* [↑](#footnote-ref-14)
14. *Id.* [↑](#footnote-ref-15)
15. Vienna Convention on the Law of Treaties art. 31, May 23, 1969, 1155 U.N.T.S. 331 [“VCLT”]. [↑](#footnote-ref-16)
16. Compromis, para. 62. [↑](#footnote-ref-17)
17. *See* Convention on the Reduction of Statelessness, arts. 8(3)(a)(ii) & 8(3)(b), Aug. 30, 1961, 989 U.N.T.S. 175 [“CRS”]. [↑](#footnote-ref-18)
18. *Id.* pmbl. [↑](#footnote-ref-19)
19. *Id.* art. 8(3)(a)(ii), 8(3)(b) (1961). [↑](#footnote-ref-20)
20. *Id.* art. 8; *See* *infra* II(A)(2). [↑](#footnote-ref-21)
21. VCLT, *supra* note 15, art. 33. [↑](#footnote-ref-22)
22. Draft Convention on the Reduction of Future Statelessness, 2 Y.B. Int’l Law Comm’n 143, 147, para. 29 (1954). [↑](#footnote-ref-23)
23. *See* CRS, *supra* note 17, at art. 8(3)(a)(ii). *See also* Luca Bucken & Rene de Groot, *Deprivation of Nationality under Article 8 (3) of the 1961 Convention on the Reduction of Statelessness*, 25 Maastricht J. Eur. & Comp. L. 38, 39 (2018). *See also* Maarten P. Bolhuis & Joris van Wijk, *Citizenship Deprivation as a Counterterrorism Measure in Europe; Possible Follow-Up Scenarios, Human Rights Infringements and the Effect on Counterterrorism*, 22 Eur. J. Migration & L. 338, 341-349 (2020). [↑](#footnote-ref-24)
24. *Infra* II(B)(1). [↑](#footnote-ref-25)
25. Convention Relating to the Status of Stateless Persons art. 1, Sept. 28, 1954, 360 U.N.T.S. 117. [“CSP”] [↑](#footnote-ref-26)
26. *Infra* II(B)(2). [↑](#footnote-ref-27)
27. U.N. High Comm’r for Refugees (UNHCR), Handbook on Protection of Stateless Persons 3 (2014). [↑](#footnote-ref-28)
28. International Covenant on Civil and Political Rights pmbl., Dec. 16, 1966, 999 U.N.T.S. 171 [“ICCPR”]. [↑](#footnote-ref-29)
29. *See* UNHCR, Preventing and Reducing Statelessness, n.85 (2010); UN Secretary-General, Human Rights and Arbitrary Deprivation of Nationality, para. 4, U.N. Doc. A/HRC/25/28 (Dec. 19, 2013) [“HRC Res. 25/28”]; Jeffrey L. Blackman, *State Successions and Statelessness: The Emerging Right to an Effective Nationality Under International Law*, 19 Mich. J. Int’l L. 1141, 1148 (1998). *See generally* UN Secretary-General, Human Rights and Arbitrary Deprivation of Nationality, UN Doc. A/HRC/19/43 (Dec. 19, 2011); UN Secretary-General, Impact of the Arbitrary Deprivation of Nationality on the Enjoyment of the Rights of Children Concerned, UN. Doc. A/HRC/31/29 (Dec. 16, 2015). [↑](#footnote-ref-30)
30. ICCPR, *supra* note 28. [↑](#footnote-ref-31)
31. *Id.* [↑](#footnote-ref-32)
32. *Id.* art. 2. [↑](#footnote-ref-33)
33. (D)ARSIWA, *supra* note 8, art. 48. [↑](#footnote-ref-34)
34. Barcelona Traction, *supra* note 2, ¶ 33. [↑](#footnote-ref-35)
35. *Id.* [↑](#footnote-ref-36)
36. *Id*. *See also* (D)ARSIWA, *supra* note 8, art. 48(1)(b). [↑](#footnote-ref-37)
37. Barcelona Traction, *supra* note 2, ¶ 34. [↑](#footnote-ref-38)
38. Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, 2004 I.C.J. Rep. 136, ¶ 155 (July 9) [“Construction of a Wall Advisory Opinion”]; East Timor (Port. v. Austl.) 1995 I.C.J. Rep. 90, ¶ 29 (June 30); Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) Notwithstanding Security Council Resolution 276, Advisory Opinion, 1971 I.C.J. Rep. 16, paras. 52-53 (June 21) [“Namibia Advisory Opinion”]. [↑](#footnote-ref-39)
39. Int’l Law Comm’n, Draft Conclusions on Identification and Legal Consequences of Peremptory Norms of General International Law (*Jus Cogens*), 2, UN. Doc. A/74/10 (2022) [“Draft on Preemptory Norms”]; Barcelona Traction, *supra* note 2, ¶ 34; Namibia Advisory Opinion, *supra* note 38. [↑](#footnote-ref-40)
40. Draft on Preemptory Norms, *supra* note 39. *See also* Construction of a Wall Advisory Opinion, supra note 38, ¶ 155; Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion, 1996 I.C.J. Rep. 226, ¶ 79 (July 8). [↑](#footnote-ref-41)
41. *See* CRS, *supra* note 17. [↑](#footnote-ref-42)
42. South West Africa, *supra* note 1, ¶ 78. [↑](#footnote-ref-43)
43. (D)ARSIWA, *supra* note 9, art. 4. [↑](#footnote-ref-44)
44. Nationality Decrees Issued in Tunis and Morocco, Advisory Opinion, 1923 P.C.I.J. (ser. B) no. 4, at 24 (Feb. 7) [“PCIJ Nationality Decrees Advisory Opinion”]. [↑](#footnote-ref-45)
45. Michelle Foster, *Protection Elsewhere: The Legal Implications of Requiring Refugees to Seek Protection in another State*, 28 Mich. J. Int'l L. 223, 224-225 (2007). [↑](#footnote-ref-46)
46. Handbook on Protection of Stateless Persons, *supra* note 27, at 5. [↑](#footnote-ref-47)
47. Military and Paramilitary Activities in and Against Nicaragua (Nicar. v. U.S.), Judgment, 1986 I.C.J. Rep. 14, paras. 202, 205 (June 27) [“Military and Paramilitary Activities”]. [↑](#footnote-ref-48)
48. *Id.* para. 276. *See also* Armed Activities on the Territory of the Congo (Dem. Rep. Congo v. Uganda), Judgments, 2005 I.C.J. Rep 168, para. 164 (Dec. 19); Corfu Channel (U.K. v. Alb.), Judgment, 1949 I.C.J. Rep. 4, 35 (Apr. 9). [↑](#footnote-ref-49)
49. Satvinder S. Juss, *Nationality Law, Sovereignty, and the Doctrine of Exclusive Domestic Jurisdiction*, 9 FLA. J. Int'l L. 219, 222 (1994). [↑](#footnote-ref-50)
50. Nottebohm, *supra* note 2. *See also* Convention on Certain Questions Relating to the Conflict of Nationality Law, art. 2, July 1, 1937, 179 L.N.T.S 89. *See generally* 4 U.N., Laws Concerning Nationality (1954). [↑](#footnote-ref-51)
51. Compromis, para. 7. [↑](#footnote-ref-52)
52. Military and Paramilitary Activities, *supra* note 47, ¶ 276. [↑](#footnote-ref-53)
53. Hurst Hannum, *The Status of the Universal Declaration of Human Rights in National and International Law*, 25 Ga. J. Int'l & Comp. L. 287, 337 (1995). [↑](#footnote-ref-54)
54. G.A. Res. 217 (III) A, Universal Declaration of Human Rights, art. 15(2) (Dec. 10, 1948) [“UDHR”]. [↑](#footnote-ref-55)
55. OAS, American Convention on Human Rights, art. 20, Nov. 22, 1969, 1144 U.N.T.S. 123. *See also* Kawas Fernández v. Honduras, IACtHR (ser. C) No. 118 (2009); K2 v. U.K.., App. No. 42387/13, ECtHR (Feb. 7, 2017). [↑](#footnote-ref-56)
56. *See* Guilio Bartolini, *The Historical Roots of the Due Diligence Standard* in Due Diligence in the International Legal Order 23-41 (Heidi Krieger et al. eds. 2020). *See also* Medes Malaihollo, *Due Diligence in International Environmental Law and International Human Rights Law: A Comparative Legal Study of the Nationally Determined Contributions under the Paris Agreement and Positive Obligations under the European Convention on Human Rights*, 68 Netherlands Int’l. LR 121, n.105 (2021). [↑](#footnote-ref-57)
57. Malaihollo, *supra* note 56 n.106. [↑](#footnote-ref-58)
58. *Id.*  [↑](#footnote-ref-59)
59. K2, *supra* note 56, para. 61. [↑](#footnote-ref-60)
60. *Id.* at para. 61. [↑](#footnote-ref-61)
61. Compromis, paras. 33, 34. [↑](#footnote-ref-62)
62. Compromis para. 7. [↑](#footnote-ref-63)
63. Compromis, para. 31. [↑](#footnote-ref-64)
64. Compromis, para. 34. [↑](#footnote-ref-65)
65. CRS, *supra* note 17, art. 8(3)(a). [↑](#footnote-ref-66)
66. VCLT, *supra* note 15, art. 2(1)(d) and 19-23. [↑](#footnote-ref-67)
67. Kelebogile Zvobgo et al., *Reserving Rights: Explaining Human Rights Treaty Reservations*, 64 Int'l Studies Q., 785, 797 (2020). [↑](#footnote-ref-68)
68. VCLT, *supra* note 15, art. 19(c). [↑](#footnote-ref-69)
69. *See* UNGA, 1961 Signatory States, Declarations and Reservations on the Reduction of Statelessness, 30 August 1961 at 2 (Apr. 19, 2012). [↑](#footnote-ref-70)
70. Tunisia, Declaration under the Convention on the Reduction of Statelessness (done at New York on August 30, 1961). Compromis, para. 11. [↑](#footnote-ref-71)
71. Bos. U. Sch. L., Statelessness and National Policy in Tunisia 45 (2023). [↑](#footnote-ref-72)
72. CRS, *supra* note 17, art. 8(3)(a)(ii). [↑](#footnote-ref-73)
73. Compromis, para. 7. [↑](#footnote-ref-74)
74. CRS, *supra* note 17, art. 27. [↑](#footnote-ref-75)
75. Compromis, para. 34. [↑](#footnote-ref-76)
76. Compromis, para. 34. [↑](#footnote-ref-77)
77. ICCPR, *supra* note 28, art. 19(3)(a). [↑](#footnote-ref-78)
78. ICCPR, *supra* note 28, art. 19(3)(b). [↑](#footnote-ref-79)
79. *See generally* Gehan Gunatilleke, *Justifying Limitations on the Freedom of Expression*, 22 Hum. Rts. Q. 91 (2021). [↑](#footnote-ref-80)
80. Mukong v. Cameroon, Communication No. 458/1991, HRComm, U.N. Doc. CCPR/C/51/D/458/1991, para. 9.7 (July 21, 1994). [↑](#footnote-ref-81)
81. *Id.*  [↑](#footnote-ref-82)
82. Compromis, para. 30. [↑](#footnote-ref-83)
83. ICCPR, *supra* note 28, at art. 21. [↑](#footnote-ref-84)
84. *Id.*  [↑](#footnote-ref-85)
85. Compromis, para. 23. [↑](#footnote-ref-86)
86. ICCPR, *supra* note 28, art. 14. [↑](#footnote-ref-87)
87. *Id.*  [↑](#footnote-ref-88)
88. Compromis, paras. 26, 33, 34. *See supra* II(A)(2). [↑](#footnote-ref-89)
89. Nottebohm, *supra* note 2, 23. [↑](#footnote-ref-90)
90. Int’l L. Comm’n, Draft Articles on Diplomatic Protection, 2 Y.B. Int’l Law Comm’n 26, art. 3 (2006). [↑](#footnote-ref-91)
91. Tsilly Dagan & Talia Fisher, *State Inc.*, 27 Cornell J. L. & Pub. Pol’y 661, 664-666 (2018). *See also* Luke Hurst, Buying EU Citizenship: What are Golden Passports and Visas and How Do They Work?, EuroNews (Oct. 20, 2020), https://www.euronews.com/2020/10/20/buying-eu-citizenship-what-are-golden-passports-and-visas-and-how-do-they-work. [↑](#footnote-ref-92)
92. Compromis, paras. 11, 13. [↑](#footnote-ref-93)
93. *See* Francisca Fernando et al., *Citizenship for Sale*, Int’l Monetary Fund (2021). [↑](#footnote-ref-94)
94. Petra Weingerl & Matjaz Tratnik, *Citizenship by Investment Programs from the Perspective of International and EU Law*, 11 LeXonomica 95-126 (2019). *See also* Nationality Decrees Advisory Opinion, *supra* note 44, at ¶ 24. [↑](#footnote-ref-95)
95. Compromis, paras. 11-13 [↑](#footnote-ref-96)
96. *Id*. at para. 194. [↑](#footnote-ref-97)
97. Nottebohm, *supra* note 2, 23. [↑](#footnote-ref-98)
98. *Id.* [↑](#footnote-ref-99)
99. Int’l L. Comm’n, Draft Articles on Diplomatic Protection with Commentaries, 30, U.N. Doc. A/65/10 (2006). [↑](#footnote-ref-100)
100. Craig Meyers, “Checkbook Citizenship”: Renewed Relevance for the Nottebohm Ruling, E-Int’l. Relations (Oct. 5, 2020), https://www.e-ir.info/pdf/88004. [↑](#footnote-ref-101)
101. *Id.* [↑](#footnote-ref-102)
102. Compromis, para. 19 [↑](#footnote-ref-103)
103. Compromis, para. 15 [↑](#footnote-ref-104)
104. Compromis, para. 17 [↑](#footnote-ref-105)
105. Compromis, para. 21. [↑](#footnote-ref-106)
106. Compromis, paras. 15, 17. [↑](#footnote-ref-107)
107. Compromis, para. 16. [↑](#footnote-ref-108)
108. *Supra* Part III. [↑](#footnote-ref-109)
109. Vienna Convention on Consular Relations, art. 36, 24 April 1963, 596 U.N.T.S. 261 [“VCCR”]. [↑](#footnote-ref-110)
110. *Id.*, pmbl. [↑](#footnote-ref-111)
111. Willian J. Aceves, *The Vienna Convention on Consular Relations: A Study of Rights, Wrongs, and Remedies*, 31 Vand. J. Transactional L. 257, 314 (1998). [↑](#footnote-ref-112)
112. Brief of Amici Curiae Republic of Argentina, Republic of Brazil, Republic of Ecuador, and Republic of Mexico in Support of Petition for a Writ of Certiorari, Paraguay v. Gilmore (No. 97–1390), annex 28. *See generally* Cindy Buys, *Do Unto Others: The Importance of Better Compliance with Consular Notification Rights*, 21 Duke J. Comp. & Int’l. L. 461 (2011). [↑](#footnote-ref-113)
113. UN High Comm’n Hum. Rts., The Rights of Non-Citizens 5 (2005). [↑](#footnote-ref-114)
114. Jadhav (India v. Pak.), Judgment, 2019 I.C.J. Rep. 418, para. 123 (July 17) [“Jadhav”].; Avena and Other Mexican Nationals (Mex. v. U.S.), Judgment, 2004 I.C.J. Rep. 12, paras. 40, 47 (Mar. 31) [“Avena”]; LaGrand (Ger. v. U.S.), Judgment, 2001 I.C.J. Rep. 466, para. 77 (June 27) [“LaGrand”]. [↑](#footnote-ref-115)
115. Int’l L. Comm’n, Draft Articles on Consular Relations with Commentaries, 2 Y.B. Int’l Law Comm’n 92, 113 (1961) [“VCCR with Commentaries”]. [↑](#footnote-ref-116)
116. VCCR, art. 36(1)(b). [↑](#footnote-ref-117)
117. Jadhav, *supra* note 114, ¶ 123. *See also* Avena, *supra* note 114, ¶¶ 40, 47. *See generally* United States Diplomatic and Consular Staff in Tehran (U.S. v. Iran), Judgment, 1980 I.C.J. Rep. 3 (May 24). [↑](#footnote-ref-118)
118. Avena, *supra* note 114, ¶ 61. *See also*, Jadhav, *supra* note 114, ¶ 133. [↑](#footnote-ref-119)
119. ILC, Draft Articles on Consular Relations with Commentaries, 2 Y.B. Int’l Law Comm’n 92, 112 (1961). [↑](#footnote-ref-120)
120. Avena, *supra* note 114, ¶ 63. [↑](#footnote-ref-121)
121. *See* Almonacid-Arellano v. Chile, IACtHR (ser. C) No. 254, para. 48 (2006); Acosta-Calderón v. Ecuador, IACtHR (ser. C) No. 129, para. 101(g) (2005). [↑](#footnote-ref-122)
122. LaGrand, *supra* note 114, ¶ 73. [↑](#footnote-ref-123)
123. *Id.* [↑](#footnote-ref-124)
124. Compromis, para. 45. [↑](#footnote-ref-125)
125. *Supra* III. [↑](#footnote-ref-126)
126. Compromis, para. 45. [↑](#footnote-ref-127)
127. Compromis, para. 45. [↑](#footnote-ref-128)
128. VCCR with Commentaries, *supra* 14, 113. [↑](#footnote-ref-129)
129. Jadhav, *supra* note 114, ¶ 118. *See also* El-Masri v. The Former Yugoslav Republic of Macedonia, App. No. 39630/09, ECtHR, para. 236 (2012). [↑](#footnote-ref-130)
130. Compromis, para. 45. [↑](#footnote-ref-131)
131. Compromis, para. 45. [↑](#footnote-ref-132)
132. Compromis, para. 45. [↑](#footnote-ref-133)
133. Compromis, para. 47. [↑](#footnote-ref-134)
134. LaGrand, *supra* note 114, ¶ 73. [↑](#footnote-ref-135)
135. VCCR, art. 5(a). [↑](#footnote-ref-136)
136. LaGrand, *supra* note 114, at ¶ 73. [↑](#footnote-ref-137)
137. *See* *supra* III. [↑](#footnote-ref-138)
138. ICCPR, *supra* note 28, at art. 9. [↑](#footnote-ref-139)
139. *See* HRComm, General Comment No. 35, Article 9, Liberty and Security of Person, U.N. Doc. CCPR/C/GC/35, para. 58 (Dec. 16, 2014) [“HRComm General Comment No. 35”]; HRComm, Communication No. 1450/2006, Views of the Human Rights Committee Under Article 5, Paragraph 4, of the Optional Protocol to the International Covenant on Civil and Political Rights, U.N. Doc. CCPR/C/93/D/1450/2006, para. 7.3 (Aug. 5, 2008). [↑](#footnote-ref-140)
140. Eur. Consult. Ass., *European Convention on Consular Functions*, E.T.S 6, Doc. 11.XII.1967 art 2(2) (1967); *The Right to Consular Access* in A Jailhouse Lawyer’s Manual: Immigration and Consular Access Supplement, 11 Supp. Columbla Hum. Rts. L.R. 70 (2018); Foster & Elam v. Neilson, 27 U.S. 253 (1829); Sanchez-Llamas v. Oregon, 548 U.S. 331 (2006). [↑](#footnote-ref-141)
141. Compromis, para. 44. [↑](#footnote-ref-142)
142. The Right to Information on Consular Assistance in the Framework of the Guarantees of the Due Process of Law, IACtHR (ser. C) No. OC-16/99, paras. 83-87 (1999) [“The Right to Information on Consular Assistance”]. [↑](#footnote-ref-143)
143. *See* *supra* III. [↑](#footnote-ref-144)
144. Compromis, para. 44. [↑](#footnote-ref-145)
145. *See generally* ICCPR, *supra* note 28, at art. 14. [↑](#footnote-ref-146)
146. ICCPR, *supra* note 28, at art. 14. *See also* The Right to Information on Consular Assistance, *supra* note 142, para. 124. *See* William J. Aceves*, The Right of Information on Consular Assistance in the Framework of the Guarantees of the Due Process of Law. Advisory Opinion OC-16-99*, 94 Am. J. Int’l. L. 555, 559 (2000). [↑](#footnote-ref-147)
147. Obligation to Prosecute or Extradite, *supra* note 6, at ¶¶ 92-95. [↑](#footnote-ref-148)
148. Compromis, para. 47. [↑](#footnote-ref-149)
149. Compromis, para. 16. [↑](#footnote-ref-150)
150. *See generally* CSP *supra* note 25; CRS, *supra* note 17. *See also* ICCPR, *supra* note 28, at art. 23(3); International Convention on the Elimination of All Forms of Racial Discrimination, art. 5(d)(iii), Dec. 21, 1965, 660 U.N.T.S. 195; Convention on the Rights of the Child, arts. 7 & 8, Nov. 20, 1989, 1577 U.N.T.S. 3; Convention on the Elimination of All Forms of Discrimination against Women, art. 9, Dec. 18, 1979, 1249 U.N.T.S. 13. [↑](#footnote-ref-151)
151. *See* American Convention on Human Rights “Pact of San Jose, Costa Rica”, art. 20, Nov. 22, 1969, 1144 U.N.T.S. 123; OAU, African Charter on the Rights and Welfare of the Child, art. 6, July 11, 1990, CAB/LEG/24.9/49; IACHR, American Declaration of the Rights and Duties of Man, art. xix, May 2, 1948, Res. XXX; League of Arab States, Arab Charter on Human Rights, art. 29(1) Sept. 15 1994, [ST/HR/]CHR/NONE/2004/40/Rev.1; Council of Europe, European Convention on Nationality, art. 4(a), Nov. 6, 1997, E.T.S. 166. [↑](#footnote-ref-152)
152. UDHR, *supra* note 54, at art. 15. *See also* G.A. Res. 49/169, para. 8 (Dec. 23, 1994); G.A. Res. 50/152, prmbl. (Dec. 21 1995); G.A. Res. 61/137, para. 7 (Dec. 19, 2006); G.A. Res. 67/149, para. 7(December 20, 2012); G.A. Res. 68/141, para. 9 (December 18, 2013); G.A. Res. 70/135, para. 12 (Dec. 17, 2015). [↑](#footnote-ref-153)
153. *See* Riener v. Bulgaria, App. No. 46343/99, ECtHR, para. 151 (2006); Karassev v. Finland, App. No. 31414/96, ECtHR, para. 5 (1999); Slivenko v. Latvia*,* App. No. 48321/99*,* ECtHR, para. 98 (2002); Girls Yean and Bosico v Dominican Republic*,* IACtHR (ser. C) No. 130, para. 140 (2005); Anudo Ochieng Anudo v. United Republic of Tanzania, App. No. 012/2015, ACtHPR, para. 78 (2018); Robert John Penessis v. United Republic of Tanzania, App. No. 013/2015, ACtHPR, para. 87 (2019).  [↑](#footnote-ref-154)
154. UNHCR, Guidelines on Statelessness No. 5: Loss and Deprivation of Nationality under Articles 5-9 of the 1961 Convention on the Reduction of Statelessness, HCR/GS/20/05, para. 49 (May 2020) [“UNHRC Guidelines on Statelessness No. 5”]. [↑](#footnote-ref-155)
155. Military and Paramilitary Activities, *supra* note 47, at ¶ 183. *See also* Jurisdictional Immunities of the State (Ger. v. Italy: Greece intervening), Judgment, 2012 I.C.J. Rep. 99, ¶ 55 (Feb. 3); North Sea Continental Shelf (Ger. v. Neth.), Judgment, 1969 I.C.J. Rep. 3 ¶ 77 (Feb. 20). [↑](#footnote-ref-156)
156. CSP *supra* note 25, at art. 12(1). Nottebohm, *supra* note 2, at 23. [↑](#footnote-ref-157)
157. Proposed Amendments to the Naturalization Provision of the Constitution of Costa Rica, Advisory Opinion OC-4/84, IACtHR (ser. A) No. 4, para. 32 (Jan. 19, 1984). *See also* Expelled Dominicans and Haitians v. Dominican Republic, Preliminary Objections, Merits, Reparations and Costs, IACtHR (ser. C) No. 282, para. 256 (Aug. 28, 2014).  [↑](#footnote-ref-158)
158. HRC Res. 25/28, *supra* note 29, at para. 4. *See* UNHRC Guidelines on Statelessness No. 5, *supra* note 154, at paras. 62, 91-9. *See also* Pham v. U.K., App. No. 37478/20, ECtHR, para. 3 (Apr. 19, 2021); Genovese v. Malta,App. No. 53124/09, ECtHR, para. 30 (2011); Karassev v. Finland, App. No. 31414/96, ECtHR, para. 5 (1999).  [↑](#footnote-ref-159)
159. Clarifications, para. 8. [↑](#footnote-ref-160)
160. Compromis, para. 43(1). [↑](#footnote-ref-161)
161. *Id.* [↑](#footnote-ref-162)
162. *Supra* II(B)(1), *See also*, UN Secretary-General, Human Rights and Arbitrary Deprivation of Nationality, UN Doc. A/HRC/25/28, para. 4 (Dec. 19, 2013). [↑](#footnote-ref-163)
163. Clarifications, para. 2. [↑](#footnote-ref-164)
164. Compromis, para. 13. [↑](#footnote-ref-165)
165. *See* Slivenko v. Latvia*,* App. No. 48321/99*,* ECtHR, para. 98 (2002); Karassev v. Finland, Application No. 31414/96, ECtHR, para. 10 (1999). *See also* UNHCR, Expert Meeting, Interpreting the 1961 Statelessness Convention and Avoiding Statelessness resulting from Loss and Deprivation of Nationality, Summary Conclusion, paras. 21-22 (2013). [↑](#footnote-ref-166)
166. Compromis, para. 47. [↑](#footnote-ref-167)
167. UN Charter, art. 27(3). [↑](#footnote-ref-168)
168. Namibia Advisory Opinion, *supra* 38, at ¶ 25. [↑](#footnote-ref-169)
169. Compromis, para. 39. [↑](#footnote-ref-170)
170. Namibia Advisory Opinion, *supra*note 38, at ¶¶ 52-53. [↑](#footnote-ref-171)
171. UN Charter, art. 2(7). [↑](#footnote-ref-172)
172. UN Charter, art. 2(7). [↑](#footnote-ref-173)
173. UN Charter, art. 2(7). *See also* Mohammad Alipour, *The Competence of the Security Council Over Situations or Disputes Arising from Human Rights Violations by a State Under Chapter VI of the United Nations Charter*, Hungarian J. Legal Studies 1, 9 (2023). [↑](#footnote-ref-174)
174. D. R. Gilmour, *The Meaning of ‘Intervene’ within Article 2 (7) of the United Nations Charter, An Historical Perspective*, 16 Int'l & Comp. L.Q., 346–49 (1967). [↑](#footnote-ref-175)
175. Namibia Advisory Opinion, *supra* note 38, at ¶ 114. [↑](#footnote-ref-176)
176. *Id*. at ¶ 116. [↑](#footnote-ref-177)
177. *Id.* [↑](#footnote-ref-178)
178. Compromis, Annex A, pmbl. *See also* Compromis, para. 39. [↑](#footnote-ref-179)
179. UN Charter, art. 34. [↑](#footnote-ref-180)
180. UN Charter, art. 25; Namibia Advisory Opinion, *supra* note 38, at ¶ 116. [↑](#footnote-ref-181)
181. 3 UN, *Article 34* in Repertory of Practice of United Nations Organs, Supplements No. 10 (2000-2009) para. 5 (forthcoming); *See also* G.A. Res. 46/59 at para. 19 (Dec. 9, 1991). [↑](#footnote-ref-182)
182. Compromis, para. 52. [↑](#footnote-ref-183)
183. *Supra* II(A)(2). [↑](#footnote-ref-184)
184. *Id.* [↑](#footnote-ref-185)
185. Convention on the Privileges and Immunities of the United Nations, art. VII, sec. 26, Feb. 13, 1946, 1 U.N.T.S. 15. [↑](#footnote-ref-186)
186. Applicability of Article VI, Section 22, of the Convention on the Privileges and Immunities of the United Nations, Advisory Opinion, 1989 I.C.J. Rep. 177, ¶ 50 (Dec. 15). [↑](#footnote-ref-187)
187. Compromis, Annex A.(1)(b). [↑](#footnote-ref-188)
188. Compromis, para. 52. [↑](#footnote-ref-189)
189. Compromis, para. 33. [↑](#footnote-ref-190)
190. Stanford Crim. Justice Ctr, Virtual Justice? A National Study Analyzing the Transition to Remote Criminal Court 6-8 (2021). *See also* Anne Sanders, *Video-Hearings in Europe Before, During and After the COVID-19 Pandemic*, 12 Int’l J. Court Admin. 1, 3-7 (2020). [↑](#footnote-ref-191)
191. G20 Anti-Corruption Working Group, G20 Denial of Entry Experts Network Inaugural Meeting, Chairman’s Summary(Oct. 14, 2015). [↑](#footnote-ref-192)
192. *Supra* II(B)(3)(a). [↑](#footnote-ref-193)
193. Vienna Convention on Diplomatic Relations, art. 1(b), Apr. 18, 1961, 500 U.N.T.S. 95. [↑](#footnote-ref-194)
194. United States Diplomatic and Consular Staff in Tehran (U.S. v. Iran), Judgment, 1980 I.C.J. Rep. 3, para. 77 (May 12). [↑](#footnote-ref-195)
195. S.S. “Lotus” (Fr. v. Turk.), Judgment, 1927 P.C.I.J. (ser. A) No. 10 at para. 19 (Sept. 7). *See also* Nuclear Weapons Advisory Opinion, *supra* note 40, at ¶ 20; Accordance with International Law of the Unilateral Declaration of Independence in Respect of Kosovo, Advisory Opinion, 2010 I.C.J. Reports 403, para. 79 (July 22). [↑](#footnote-ref-196)
196. Press Release, UNHRC, Myanmar Refuses Access to UN Special Rapporteur (Dec. 20 2017); *Adam Entous*, Israel Denies Entry to U.N. Rights Investigator, Reuters (Dec. 15, 2008), https://www.reuters.com/article/us-palestinians-israel-un-sb-idUSTRE4BE33A20081215/ ; *UN Expert 'Denied Zimbabwe Entry' 2009*, BBC (Oct. 29, 2009), http://news.bbc.co.uk/2/hi/africa/8329984.stm; Dechlan Brennan, *2 State Governments in Australia Block UN Visits to Prisons*, The Diplomat (Nov. 19, 2022), https://thediplomat.com/2022/11/2-state-governments-in-australia-block-un-visits-to-prisons; Mike Ives, *Myanmar Vows to Block U.N. Investigators From Entering*, N.Y. Times (June 30, 2017), https://www.nytimes.com/2017/06/30/world/asia/myanmar-united-nations-rohingya.html. [↑](#footnote-ref-197)
197. *Supra* II(A)(1). *See also* Military and Paramilitary Activities, *supra* note 47, ¶ 276. See also Armed Activities on the Territory of the Congo (Dem. Rep. Congo v. Uganda), Judgment (Merits) 2005 I.C.J. Rep. 168, para. 164 (Dec. 19). [↑](#footnote-ref-198)
198. Military and Paramilitary Activities, *supra* note 47, ¶¶ 202, 205. [↑](#footnote-ref-199)
199. *Id*. at 242. [↑](#footnote-ref-200)
200. Compromis, paras. 50, 59. [↑](#footnote-ref-201)
201. Compromis, para. 59. [↑](#footnote-ref-202)
202. Compromis, paras. 35, 49. [↑](#footnote-ref-203)
203. Compromis, paras. 35, 49. [↑](#footnote-ref-204)
204. Press Release, UNSC, Security Council Rejects Text to Investigate Complaint Concerning Non-Compliance of Biological Weapons Convention by Ukraine, United States, UN Doc. SC/15095 (Nov. 2, 2022). [↑](#footnote-ref-205)
205. Compromis, para. 39. [↑](#footnote-ref-206)
206. Compromis, paras. 3,4, 36, 50, 59; Annex A. pmbl. [↑](#footnote-ref-207)
207. *Supra* II(B)(3)(a). [↑](#footnote-ref-208)