**376A**

**IN THE INTERNATIONAL COURT OF JUSTICE**

**AT THE PEACE PALACE,**

**THE HAGUE, THE NETHERLANDS**

**THE 2024 PHILLIP C. JESSUP**

**INTERNATIONAL LAW MOOT COURT COMPETITION**



**CASE CONCERNING THE STERREN FORTY**

**APPLICANT**

**THE REPUBLIC OF ANTRANO**

**v.**

**THE KINGDOM OF REMISIA**

**RESPONDENT**

|  |
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| **MEMORIAL FOR THE APPLICANT** |

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# STATEMENT OF JURISDICTION

The Republic of Antrano **[“Antrano”]** and the Kingdom of Remisia **[“Remisia”]** appear before the International Court of Justice **[“the Court”]** in accordance with Article 40(1) of the Statute of the International Court of Justice **[“the Statute”]** through submission of a Special Agreement for resolution of the differences between them concerning the “Sterren Forty”. The Parties concluded the Special Agreement in the Hague, the Netherlands, and jointly notified the Court of their Special Agreement on 15 September 2023. Pursuant to Article 36(1) of the Statute, the Court has jurisdiction to decide all matters referred to it for decision. Both Parties accept the Court’s decision as final and binding on them and execute it in its entirety and in good faith.

# QUESTIONS PRESENTED

1. *Whether* Antrano has standing to bring the dispute concerning Remisia’s deprivation of nationality of its citizens before the Court;
2. *Whether* Remisia’s deprivation of nationality of the “Sterren Forty”, rendering them stateless, is a violation of international law;
3. *Whether* Antrano’s refusal to provide Remisian consular access to Saki Shaw on the basis of nationality violated international law; and
4. *Whether* Remisia violated international law by denying Antranan national Dr. Tulous Malex entry to Remisia as required by Security Council Resolution 99997.

# STATEMENT OF FACTS

**Background Information**

Antrano is a constitutional republic country established in 1951. Under the leadership of its first president, Antrano continues committed to the elimination of statelessness and takes a leading role in promoting the rights of stateless persons globally. Remisia is a constitutional monarchy. Remisia’s Constitution adopted in 1923 provides that the monarch is entitled to reverence, and the reigning monarch has been Queen Khasat since 2006.

**The Disrespect to the Crown Act [“DCA”]**

DCA is a legislature aimed at protecting the reputation of the Remisian monarch adopted in 1955. Under DCA, whoever defames the reigning monarch shall be punished with imprisonment for up to five years and can be deprived of his citizenship. However, the DCA had been invoked fewer than a dozen times and no defendant’s citizenship had been annulled before.

**The Naturalization of Saki Shaw**

Saki Shaw, born in 1970 in Molvania, is linked to the Shaw Corporation **[“ShawCorp”]**, a multinational minerals company registered and headquartered in Molvania and founded by her grandmother.

In 2008, the Naturalization by Investment Act**[“NIA”]** was issued by Remisia to grant citizenship to any applicant who purchases amounting to €500,000 in Remisia, and it does not require a residence. Then Remisia announced the “Naturalization by Investment Program” **[“NIP”]** promising to provide consular and diplomatic assistance to applicants who purchase Remisian citizenship.

On 1 June 2016, Saki Shaw became a Remisian citizen through the NIA while her application disclosed that she never entered Remisia again after attending the Queen’s coronation in 2006.

**Lithos-Remisia Cooperative [“LRC”]**

On 10 November 2015, Saki Shaw, head of Lithos Limited, signed an agreement with the Prime Minister of Remisia to create a joint venture named the LRC. In July 2016, Remisia’s Ministry of Mines approved LRC’s cobalt mining permits for three sites.

**Isidre League of Student Activists [“ILSA”] and Protests**

In August 2019, a correspondent for a popular international website posted about the pollution caused by cobalt mining. From 10 September to 27 February 2020, ILSA called for nationwide protests, claiming that the Queen should be responsible for the pollution and resisting the cobalt mining operations. On 8 February, seven students were suspected of coordinating the demonstrations but were released by the order of the Minister of Mines.

On 27 February, more than 1,000 student demonstrators were detained for crippling the cobalt mining activities. Forty students, including the released seven, formed a human chain blocking the Sterren Palace and were arrested although the Queen was not in residence. They were dubbed the “Sterren Forty”.

Remisia’s Attorney-General announced that all ILSA protesters would be charged under the DCA unless they signed a written apology to Her Majesty. Finally, charges were laid against 230 students refusing to apologize, including the “Sterren Forty”.

Trials were concluded by the end of March 2021 and the “Sterren Forty” were each imposed five-year sentences and ordered deprivation of citizenship. They appealed to the Supreme Court of Remisia but were rejected unanimously by the court.

**The Extradition Request**

In April 2014, the Molvanian national newspaper reported the financial misconduct of ShawCorp, and the Molvanian Minister of Justice opened an inquiry with subpoenas into the Shaw family, including Saki Shaw. However, the subpoena failed to be served on Saki Shaw because she has not returned to Molvania since she purchased a residence near Trieste.

On 7 March 2022, Molvania revoked a 2014 subpoena for its national Saki Shaw and replaced it with an arrest warrant citing bank fraud, money laundering, and obstruction of justice. After that, Molvania made an extradition request for Saki Shaw to Antrano and Antrano acknowledged the request without judging Saki Shaw’s guilt or innocence.

**The Detention of Saki Shaw**

On 15 March 2022, Saki Shaw was cleared for entry in Duniya, the capital of Antrano, by her Remisian passport while signage at Duniya port informed travelers that passports obtained in purchased citizenship are not valid. The next day, Antranan police took Saki Shaw into custody and confiscated her two passports.

**Consular Access**

Upon her detention, the Antranan police informed Saki Shaw of the charges and her rights under the Vienna Convention on Consular Relations **[“VCCR”]** in a language she understood. Then, Saki Shaw, claiming Remisian citizenship, invoked her right to contact the Remisian consul. But Antrano authorities denied her request, stating her Remisian passport was invalid due to Antranan laws not recognizing purchased citizenship. Moreover, Antranan police informed her that she was only a Molvanian national and had entered Antrano in error with a Remisian passport. Then Saki Shaw refused to meet a Molvanian consular official who was notified by Antrano.

On 18 March, Remisia’s Ambassador urgently requested consular access for Saki Shaw in Antrano as she is a Remisian national under the NIA. However, Antrano rejected the request and recommended that Remisia coordinate any communication via the Molvania. In response, Remisia publicly released an announcement, advising against travel to Antrano for those naturalized under the NIA until the situation is resolved.

In April 2022, Saki Shaw passed away due to a heart attack and an autopsy confirmed her death as resulting from natural causes.

**United Nations Security Council Resolution 99997 [“Resolution 99997”]**

In January 2022, Antrano sought action by the United Nations Security Council **[“UNSC”]** as the application of the DCA gave rise to a dispute whose continuance might endanger international peace and security. After the meeting where representatives of both Antrano and Remisia were heard on 28 and 29 March, the UNSC unanimously adopted Resolution 99997 under Article 34 of the Charter of the United Nations **[“UN Charter”]** on 11 April. Resolution 99997 established the United Nations Inspection Mission to Remisia **[“UNIMR”]** to investigate the revocation of citizenship in Remisia, including in-person interviews with the prisoners. Moreover, Resolution 99997 required Remisia to “cooperate fully” with the UNIMR. Dr. Tulous Malex **[“Dr. Malex”]**, an Antranan national and an expert in statelessness, was selected to lead the UNIMR and granted the UN Certificate.

**Remisia’s Continued Non-compliance and Denial of Entry**

Immediately after the adoption of Resolution 99997, the Remisian Prime Minister responded as part of his prepared remarks that the revocation of nationality was purely a Remisian concern and the UNSC’s action was an assault on their sovereignty.

On 14 July 2022, Dr. Malex requested Remisia formally to meet with the “Sterren Forty”. Remisia announced that it would not permit Dr. Malex to enter without proper documentation and would not grant an entry visa to him. Remisia’s response was discussed on 18 July. While no resolution was adopted, the President of the UNSC concluded the discussion by noting that “denying entry to the UNIMR chief would be a violation of obligations under the UN Charter and of Resolution 99997.”

On 3 August, Dr. Malex wrote to Remisia to inform his arrival and pledged to observe Remisian law. However, Remisia responded that the UNIMR was illegal and unwelcome. On 9 August, Dr. Malex arrived at Remisia and requested to enter by declaring his official assignment and presenting his Certificate. However, he was not allowed to enter. Despite an Antrano-backed resolution calling for additional measures was vetoed, the Secretary-General and members of the UNSC all condemned Remisia’s non-compliance.

# SUMMARY OF PLEADINGS

**Ⅰ**

Antrano has standing to bring the dispute concerning Remisia’s deprivation of nationality of its citizens before the Court. *First*, Antrano has standing to bring the claim for breaches of the obligation *erga omnes partes.* The obligation under Article 8 of the Convention on the Reduction of Statelessness **[“CRS”]** is owed *erga omnes partes*, as the Contracting States have a common interest under the CRS and the obligation under Article 8 is central to the fulfillment of common interest. Since the common interest under the CRS entails the standing of any Contracting State, Antrano has standing as a Contracting State to the CRS. *Second*, Antrano has standing to bring the claim as the obligation to reduce statelessness is owed *erga omnes*. *Third*, Antrano has standing to bring the claim as it has a special interest in ending the breach of the obligation to reduce statelessness, distinguishing it from the generality of other States.

**II**

The deprivation of nationality of the “Sterren Forty” violated international law. *First*, Remisia’s deprivation of nationality, resulting in statelessness, violated Article 8(1) of the CRS. Remisia cannot invoke the declaration under Article 8(3) of the CRS to justify the deprivation of nationality as it amounts to an invalid reservation. Alternatively, the conduct of the “Sterren Forty” did not meet the threshold under Article 8(3) of the CRS. *Second*, the deprivation of nationality of the “Sterren Forty” violated the International Covenant on Civil and Political Rights **[“ICCPR”]**. Remisia violated the right to freedom of expression under Article 19 of the ICCPR and the right of peaceful assembly under Article 21 of the ICCPR. *Third*, Remisia’s deprivation of nationality violated the prohibition of arbitrary deprivation of nationality under customary international law as it did not serve a legitimate purpose. In any event, it was not proportionate.

**III**

*First,* Remisia lacks standing to claim because the nationality of Remisia cannot be validly invoked. Antrano is under no obligation to recognize Saki Shaw’s Remisian nationality as she lacked a genuine link with Remisia and applied for Remisia citizenship in bad faith. Even if the obligation exists, as a dual Molvania-Remisia national, the State of dominant and effective nationality of Saki Shaw is Molvania, and not Remisia, thereby barring the claim. *Second*, Antrano did not violate the rights of Remisia under the VCCR. Antrano bears no obligation to provide Remisian consular access to Saki Shaw because the bond of nationality had not been established. Alternatively, Antrano should only provide Molvanian consular access which is the dominant and effective nationality of Saki Shaw. *Third*, Antrano did not infringe on the right of Saki Shaw to consular access as it is neither provided by Article 36 of the VCCR nor human rights law. Assuming Saki Shaw had the right to consular access, Antrano informed her of this right and provided Saki Shaw with Molvanian consular access. As a result, Antrano’s refusal to provide Remisian consular access to Saki Shaw did not violate international law.

**IV**

Remisia violated international law by denying Antranan national Dr. Tulous Malex entry to Remisia as Resolution 99997 required. *First*, Antrano’s claim is admissible since the involvement of the UNSC would not preclude the Court from exercising its judicial function. *Second*, Remisia’s denial of entry violated Article 25 of the UN Charter as Resolution 99997 is a valid decision under Article 25. It imposes a binding obligation on Remisia to allow entry. *Third*, Remisia’s denial of entry failed to comply with the principle of good faith under Article 2(2) and the obligation of assistance under Article 2(5) of the UN Charter. *Fourth*, Remisia’s denial of entry violated Section 26 of the 1946 Convention on the Privileges and Immunities of the United Nations **[“CPI”]** as Remisia is obliged to grant Dr. Malex facilities for speedy travel. Moreover, Remisia cannot deny Dr. Malex entry by declaring him *persona non grata*.

# PLEADINGS

## ANTRANO HAS STANDING TO BRING THE DISPUTE CONCERNING REMISIA’S DEPRIVATION OF NATIONALITY OF ITS CITIZENS BEFORE THE COURT.

Antrano has standing to bring the claim against Remisia for breaching the obligation **[A]** *erga omnes partes* and **[B]** *erga omnes*. **[C]** Antrano can also bring the claim as it is a specially affected State by the breach.

### ANTRANO HAS STANDING TO BRING THE CLAIM FOR BREACHES OF THE OBLIGATION *ERGA OMNES PARTES*.

#### The obligation under Article 8 of the CRS is owed *erga omnes partes*.

The obligation under Article 8 of the CRS is owed *erga omnes partes* since **[a]** theContracting States have a common interest under the CRS and **[b]** this obligation is central to the fulfillment of common interest.

##### The Contracting States to the CRS share a common interest.

The common interest of the Contracting States is a prerequisite for obligations under a convention to be owed *erga omnes partes*.[[1]](#footnote-1) Whether a common interest exists requires the assessment of the object and purpose of the convention.[[2]](#footnote-2)

As affirmed by the United Nations High Commissioner for Refugees **[“UNHCR”]**, the object and purpose of the CRS is to prevent and reduce statelessness[[3]](#footnote-3) which would jeopardize human rights.[[4]](#footnote-4) As enforcing human rights is a community interest[[5]](#footnote-5) that is far detached from individual State interests,[[6]](#footnote-6) the Contracting States to the CRS are not acting in their own interests but in the interests of the international community as a whole.[[7]](#footnote-7) Hence, the Contracting States have a common interest under the CRS.

##### The obligation under Article 8 is central to the fulfillment of common interest under the CRS.

An obligation is owed *erga omnes partes* if it is central to the fulfillment of common interest[[8]](#footnote-8) manifested through the object and purpose of the convention.[[9]](#footnote-9) Moreover, since the obligation *erga omnes partes* is central to the achievement of the object and purpose, no reservation to the relevant article will be permissible.[[10]](#footnote-10)

To fulfill the purpose of reducing statelessness, the CRS establishes rules for Contracting States on the deprivation of nationality.[[11]](#footnote-11) Article 8 of the CRS obligates States not to deprive a person of nationality if it would render the person stateless and sets out exhaustive exceptions.[[12]](#footnote-12) Additionally, the prohibition of reservation to Article 8[[13]](#footnote-13) reinforces the conclusion that this obligation is central. Hence, the obligation under Article 8 is owed *erga omnes partes*.

#### As a Contracting State to the CRS, Antrano has standing to bring the claim for breaches of the obligation *erga omnes partes*.

##### The common interest under the CRS entails the standing of any Contracting State.

As the Court affirmed in *Belgium v Senegal* case and *The Gambia v Myanmar* case, the common interest in compliance with the obligation *erga omnes partes* entails the standing of any Contracting State.[[14]](#footnote-14) Such standing to invoke a common interest must be presumed.[[15]](#footnote-15) Here, the common interest in compliance with the obligation *erga omnes partes* entails the standing of Antrano as a Contracting State to the CRS.[[16]](#footnote-16)

##### Antrano’s standing stems from the conferral of the CRS.

The standing of a Contracting State can be conferred by a convention.[[17]](#footnote-17) Contrary to the view that such standing can be presumed from the common interest of the convention, some Judges of the Court maintain that it needs to be expressly provided for in the convention.[[18]](#footnote-18) In *The Gambia v Myanmar* case, the Court found that the terms “at the request of any of the parties to the dispute” of Article IX of the *Genocide Convention* entitled each Contracting State to the convention to invoke the responsibility, including through the institution of proceedings before the Court.[[19]](#footnote-19)

Here, Article 14 of the CRS provides that the dispute is to be submitted to the Court “at the request of any one of the parties to the dispute”.[[20]](#footnote-20) Similarly, it does not limit the category of Contracting States entitled to bring claims. Therefore, the CRS fulfills this test of express conferral[[21]](#footnote-21) and confers standing on Antrano to bring this claim.

### ANTRANO HAS STANDING TO BRING THE CLAIM FOR BREACHES OF THE OBLIGATION *ERGA OMNES*.

#### The obligation to reduce statelessness is owed *erga omnes*.

Obligations *erga omnes* are owed to the international community as a whole and all States have a legal interest in the protection of the rights involved.[[22]](#footnote-22) Such obligations are non-reciprocal and serve to protect important values.[[23]](#footnote-23) A non-reciprocal compliance structure is established when States are obligated to adopt parallel conduct within national boundaries.[[24]](#footnote-24) Obligations protecting basic human rights meet the threshold of importance to be owed *erga omnes*.[[25]](#footnote-25)

The obligation to reduce statelessness is non-reciprocal and concerns the basic human rights. *First*, it requires States to cooperate with the international community,[[26]](#footnote-26) especially to adopt nationality legislation to reduce statelessness by preventing arbitrary deprivation of nationality.[[27]](#footnote-27) Such an obligation to harmonize national laws is non-reciprocal in nature.[[28]](#footnote-28) *Second*, the right to nationality is fundamental for enjoying the full range of human rights.[[29]](#footnote-29) Being deprived of nationality, stateless persons are vulnerable to the violations of human rights[[30]](#footnote-30) as States may lawfully restrict the enjoyment of certain human rights *vis-à-vis* non-citizens.[[31]](#footnote-31) As the arbitrary deprivation of nationality resulting in statelessness would amount to a violation of basic human rights,[[32]](#footnote-32) the obligation to reduce statelessness meets the threshold of importance. Therefore, the obligation to reduce statelessness is owed *erga omnes*.

#### Antrano has standing to bring claims for breaches of the obligation *erga omnes*.

Each State is entitled to invoke the responsibility of another State for breaches of the obligation *erga omnes*.[[33]](#footnote-33) *First,* without such a right to respond to violations, the value of the obligation *erga omnes* will be limited[[34]](#footnote-34) as the community interests would remain unenforceable.[[35]](#footnote-35) *Second*, the Court has conferred *erga omnes partes* standing in the protection of the common interest.[[36]](#footnote-36) Since the interests of States in the compliance of obligations *erga omnes* and *erga omnes partes* do not differ,[[37]](#footnote-37) standing should be conferred similarly.[[38]](#footnote-38) Thus, Antrano has standing to bring this claim.

### ANTRANO HAS STANDING TO BRING THE CLAIM AS A SPECIALLY AFFECTED STATE.

States have standing to bring claims based on obligations owed to all Contracting States where they have a special interest.[[39]](#footnote-39) Specifically, a State with historical proximity to the claim may qualify[[40]](#footnote-40) since its historical experience would create a compelling interest in ending the breach.[[41]](#footnote-41)

Here, Antrano, a nation of people historically stateless, has committed to promoting the rights of the stateless globally since its establishment.[[42]](#footnote-42) In particular, Antrano made multiple attempts to resolve the dispute concerning the deprivation of nationality of the “Sterren Forty” multiple times.[[43]](#footnote-43) Further, Antrano’s continued efforts were commended by the UNSC.[[44]](#footnote-44) These facts together demonstrate Antrano’s special interest in ending the breach of the obligation to reduce statelessness by Remisia, distinguishing Antrano from the generality of other States. Thus, Antrano has standing to bring this claim.

## REMISIA’S DEPRIVATION OF NATIONALITY OF THE “STERREN FORTY”, RENDERING THEM STATELESS, IS A VIOLATION OF INTERNATIONAL LAW.

### REMISIA’S DEPRIVATION OF NATIONALITY OF THE “STERREN FORTY” VIOLATED THE CRS.

#### Remisia’s deprivation of nationality violated Article 8(1) of the CRS.

Article 8(1) of the CRS obligates States not to deprive a person of his nationality if it would render him stateless.[[45]](#footnote-45) A stateless person is not considered a national by any State under the operation of its law.[[46]](#footnote-46) Since the “Sterren Forty” were citizens of no country other than Remisia, the deprivation of nationality rendered them stateless.[[47]](#footnote-47) Therefore, Remisia violated Article 8(1) of the CRS.

#### Remisia cannot invoke Article 8(3)(a)(ii) of the CRS to justify the deprivation of nationality.

Remisia cannot invoke its declaration under Article 8(3) of the CRS[[48]](#footnote-48) to justify the deprivation of nationality since **[a]** the declaration amounts to an invalid reservation. **[b]** Alternatively, the deprivation cannot be justified since the conduct of the “Sterren Forty” did not meet the threshold of the deprivation of nationality under Article 8(3) of the CRS.

##### Remisia’s declaration under Article 8(3) of the CRS amounts to an invalid reservation.

###### The declaration amounts to a reservation as the DCA is inconsistent with Article 8(3)(a) of the CRS.

To comply with the CRS, Article 8(3) declarations must be explicitly limited to the grounds mentioned.[[49]](#footnote-49) Otherwise, it amounts to a reservation for modifying the legal effects of the provisions in application to the State.[[50]](#footnote-50) Under Article 8(3)(a) of the CRS, a State may deprive a person of his nationality when his behavior is seriously prejudicial to the State’s vital interests and thus breaches his duty of loyalty to the Contracting State.[[51]](#footnote-51)

Here, the DCA is incongruous with Article 8(3)(a) of the CRS. *First*, distinct from the loyalty to the Crown under the DCA,[[52]](#footnote-52) the duty of loyalty to the State encompasses respect for the State’s constitution, laws, institutions, independence and territorial integrity.[[53]](#footnote-53) *Second*, vital interests under Article 8(3)(a)(ii) concern the integrity, external security and constitutional foundations of States.[[54]](#footnote-54) The loyalty to the Crown[[55]](#footnote-55) is not viewed to be a qualified vital interest for denationalization since this duty is rejected as archaic and replaced in most States.[[56]](#footnote-56) Modifying the legal effects of provisions by extending the exceptional grounds for the deprivation of nationality, Remisia’s declaration amounts to a reservation.

###### The reservation is invalid.

Reservations prohibited by the convention or contrary to the object and purpose of the convention will be null and void.[[57]](#footnote-57) The convention may enter into force for the reserving State without benefiting from the reservation.[[58]](#footnote-58)

*First*, under Article 17 of the CRS, Remisia’s reservation to Article 8 is not admissible.[[59]](#footnote-59) *Second*, it is contrary to the object and purpose of the CRS since it restricts an essential obligation to reduce statelessness, as noted by multiple Contracting States when making objections.[[60]](#footnote-60) As a result, Remisia’s reservation is invalid, and the CRS may enter into force without Remisia benefited. Hence, Remisia cannot justify the deprivation of nationality by invoking this reservation devoid of legal effect.

##### Alternatively, the conduct of the “Sterren Forty” did not meet the threshold under Article 8(3) of the CRS.

States can only deprive a person of nationality if his conduct satisfies the standard set out under Article 8(3) of the CRS. *First*, Article 8(3)(a)(ii) establishes a high threshold for the vital interests.[[61]](#footnote-61) As the *travaux préparatoires* indicate, criminal offenses of a general nature do not satisfy this requirement.[[62]](#footnote-62) *Second*, even if the threshold in Article 8(3)(a)(ii) is met, the nationality can only be deprived with clear evidence that the individual intended to violate the duty of loyalty to the Contracting State under Article 8(3)(a) of the CRS.[[63]](#footnote-63)

Here, the conduct of the “Sterren Forty” did not meet the threshold under Article 8(3) of the CRS. Apologies can only alleviate minor offenses.[[64]](#footnote-64) That the charge could be dismissed simply by signinga written apology[[65]](#footnote-65) evidenced that the conduct of the “Sterren Forty” was a general criminal offence instead of prejudicing vital interests. Moreover, the “Sterren Forty” only intended to speak the truth[[66]](#footnote-66) instead of violating the duty of loyalty to the State. Assuming that their acts concerned vital interests, absent clear evidence of the intention to violate the loyalty to the State, the deprivation of nationality violated Article 8(3) of the CRS.

### REMISIA’S DEPRIVATION OF NATIONALITY OF THE “STERREN FORTY” VIOLATED THE ICCPR.

States that allow the deprivation of nationality for the disloyalty “by act or speech” in nationality legislation must avoid applying such provisions in a modality that infringes human rights norms.[[67]](#footnote-67) Remisia, which deployed deprivation of nationality as a criminal sanction,[[68]](#footnote-68) violated the ICCPR as it unlawfully interfered with **[1]** the right tofreedom of expression and **[2]** the right of peaceful assembly.

#### Remisia violated the right to freedom of expression of the “Sterren Forty” under Article 19 of the ICCPR.

Interferences with the freedom of expression protected by Article 19 of the ICCPR[[69]](#footnote-69) can only be justified if they are **[a]** provided by law consistent with Article 19 of the ICCPR, **[b]** in pursuance of a legitimate aim under Article 19(3) of the ICCPR, and **[c]** necessary and proportionate.[[70]](#footnote-70)

##### Remisia’s deprivation of nationality was provided by law inconsistent with Article 19 of the ICCPR.

To be consistent with Article 19 of the ICCPR, the law must be formulated with enough precision to guide the interference instead of granting authorities unfettered discretion.[[71]](#footnote-71) Here, the DCA fails this test as the deprivation of nationality for “disloyalty by act or speech” confers broad discretion upon the authorities.[[72]](#footnote-72) The phrase “defame, insult, or threaten” in the DCA does not make the legislation more precise as it is also vague.[[73]](#footnote-73) Hence, the deprivation of nationality was not provided by law precisely enough.

##### Remisia’s deprivation of nationality did not pursue a legitimate aim.

The rights or reputations of others are legitimate grounds for interference under Article 19(3) of the ICCPR.[[74]](#footnote-74) However, since all public figures are legitimately subject to criticism,[[75]](#footnote-75) the expression considered insulting them cannot justify penalties.[[76]](#footnote-76)

Here, the DCA merely bases the restriction on protecting the monarch’s rights of reverence.[[77]](#footnote-77) It directly penalizes individuals to prohibit criticism. Similar lese-majesty laws in Thailand[[78]](#footnote-78) and the Netherlands[[79]](#footnote-79) that criminalize criticism of royalty have been estimated to be unjustifiable under Article 19(3).[[80]](#footnote-80) Therefore, the deprivation of nationality as a restriction does not pursue a legitimate aim.

##### Remisia’s deprivation of nationality was neither necessary nor proportionate.

The requirement of necessity implies an element of proportionality.[[81]](#footnote-81) The restriction is unproportionate when there is a less restrictive alternative.[[82]](#footnote-82) In particular, to be necessary and proportionate, comments about public figures and untrue statements published in error but without malice may not be penalized.[[83]](#footnote-83)

*First*, the right to freedom of expression protects all kinds of expressions, including those that may be regarded as deeply offensive,[[84]](#footnote-84) irrespective of the truth or falsehood of the content.[[85]](#footnote-85) For expressions deemed as offensive, methods such as promoting more speech are less restrictive and more strategic.[[86]](#footnote-86) *Second*, even assuming that the statements were untrue, they may not be penalized given that the intention was to “speak the truth”[[87]](#footnote-87) rather than to “challenge” or “insult” the Queen.[[88]](#footnote-88) Thus, the deprivation of nationality was not necessary or proportionate.

#### Remisia violated the right of peaceful assembly of the “Sterren Forty” under Article 21 of the ICCPR.

Article 21 of the ICCPR protects the right of peaceful assembly,[[89]](#footnote-89) which plays a facilitating role in advancing the implementation of other human rights.[[90]](#footnote-90) In such cases, the importance of rights it advances implementation justifies protecting the right of peaceful assembly.[[91]](#footnote-91)

Here, the human chain,[[92]](#footnote-92) demonstrations, chanting slogans and carrying signs[[93]](#footnote-93) of the forty protesters were nonviolent.[[94]](#footnote-94) As shown in their signs, such protests aim to defend the right to health[[95]](#footnote-95) threatened by the dust and emission from cobalt mining which cause ailment.[[96]](#footnote-96) Article 12 of the International Covenant on Economic, Social and Cultural Rights obligates States to protect the right to health, including reducing the population’s exposure to such substances harmful to health.[[97]](#footnote-97) Given the importance of the right to health that the assembly advances,[[98]](#footnote-98) such peaceful protests are to be protected as an important form to denounce human rights violations.[[99]](#footnote-99) Hence, Remisia’s criminal sanction of protesters by deprivation of nationality infringed upon the right of peaceful assembly.

### REMISIA’S ARBITRARY DEPRIVATION OF NATIONALITY OF THE “STERREN FORTY” VIOLATED CUSTOMARY INTERNATIONAL LAW.

#### Prohibition of arbitrary deprivation of nationality is a rule of customary international law.

The establishment of a rule of customary international law requires the existence of widespread and consistent State practice and *opinio juris*.[[100]](#footnote-100) State practice can be reflected by municipal court decisions.[[101]](#footnote-101) *Opinio juris* can be deduced from the attitude of States towards General Assembly resolutions.[[102]](#footnote-102)

Concerning the prohibition of arbitrary deprivation of nationality, the State practice is evidenced by municipal court decisions noting such prohibition in various States such as the UK,[[103]](#footnote-103) Australia,[[104]](#footnote-104) and the US.[[105]](#footnote-105) The *opinio juris* manifested in that the General Assembly resolution adopted by consensus also recognized the fundamental nature of the prohibition of arbitrary deprivation of nationality.[[106]](#footnote-106) Further, the customary nature of this norm has also been recognized in multiple international instruments.[[107]](#footnote-107) Thus, the prohibition of arbitrary deprivation of nationality is customary in nature.

#### Remisia’s deprivation of nationality was arbitrary.

Remisia’s deprivation of nationality was arbitrary as it did not serve a legitimate aim and it was not proportionate.[[108]](#footnote-108) *First*, a legitimate purpose of deprivation of nationality must be consistent with international human rights law.[[109]](#footnote-109) Specifically, the exercise of rights to freedom of expression and assembly can never be the grounds of deprivation of nationality.[[110]](#footnote-110) *Second*, to observe the principle of proportionality,[[111]](#footnote-111) it should be the least intrusive means that best serves the aim.[[112]](#footnote-112) In light of its severe impact on the enjoyment of human rights, deprivation of nationality as a punishment is only less intrusive than the death penalty and life imprisonment.[[113]](#footnote-113) For crimes punished with shorter sentences, deprivation of nationality may not be the means that best serves the aim, as nothing clearly shows it is more sufficient than alternative sanctions such as more extended imprisonment.[[114]](#footnote-114)

*First*, as Remisia’s deprivation of nationality was used to punish people for asserting rights, it did not pursue a legitimate aim. *Second*, as the imprisonment is up to five years in the DCA,[[115]](#footnote-115) Remisia may choose less intrusive means such as extending the sentence, and nothing demonstrates that the extension is less sufficient. Therefore, Remisia’s deprivation of nationality was arbitrary.

## ANTRANO DID NOT VIOLATE INTERNATIONAL LAW WHEN IT REFUSED TO PROVIDE REMISIAN CONSULAR ACCESS TO SAKI SHAW DURING HER TIME AS A PRISONER IN ANTRANO.

### REMISIA LACKS STANDING TO BRING THE CLAIM.

The bond of nationality confers upon the State the right of consular protection[[116]](#footnote-116) and diplomatic protection.[[117]](#footnote-117) Remisia lacks standing to bring this claim as **[1]** the Remisian nationality cannot be validly invoked against Antrano. **[2]** Alternatively, the Remisian nationality of Saki Shaw is not the dominant and effective nationality that can be invoked in the context of consular and diplomatic protection.

#### The Remisian nationality cannot be validly invoked against Antrano.

When examining whether the nationality conferred by one State entitles that State to institute proceedings before the Court, the pivotal question is whether this conferment must be recognized by other States.[[118]](#footnote-118) Although nationality generally falls into a State’s internal matter,[[119]](#footnote-119) nationality granted by each State is not automatically accepted internationally without question.[[120]](#footnote-120) States are obliged to recognize nationality only when it is granted in a manner consistent with international law.[[121]](#footnote-121) Under circumstances where there is an insufficient connection or where it is improperly conferred, nationality can be denied by other States.[[122]](#footnote-122)

Remisia has no duty to recognize Saki Shaw’s purchased Remisian nationality since **[a]** Saki Shaw lacked a genuine link with Remisia and **[b]** solicited Remisian nationality in bad faith.

##### Saki Shaw’s naturalization breached the genuine link doctrine.

Nationality is a “translation” into juridical terms of a strongly factual and genuine link between the individual and a State.[[123]](#footnote-123) To be internationally valid, nationality must be firmly grounded on a genuine link,[[124]](#footnote-124) which is a general requirement and a requisite condition for all claims grounded on nationality.[[125]](#footnote-125) In determining the genuine link, factors such as habitual residence, family ties, and attachment shown by the individual must be considered,[[126]](#footnote-126) and it is unnecessary to attach much importance to the required paid taxes at the time of naturalization.[[127]](#footnote-127)

Here, despite never having been to Remisia after 2006, Saki Shaw acquired Remisian citizenship by merely paying €500,000.[[128]](#footnote-128) Saki Shaw showed no intention of settling in Remisia at the time of application or in the ensuing months or years. Instead, she had lived in Italy since 2012.[[129]](#footnote-129) The whole acquisition of nationality appears more as a purchase rather than a valid naturalization. Furthermore, the present case bears great resemblance to *Nottebohm Case*, where the Court set up the genuine link doctrine. *First*, both Nottebohm and Saki Shaw acquired the nationality of Liechtenstein or Remisia without actual connections while having stronger connections with other States.[[130]](#footnote-130) *Second*, Nottebohm solicited Lichtenstein nationality to obtain protection as a neutral State national during wartime.[[131]](#footnote-131) Likewise, Saki Shaw’s motive was suspicious.[[132]](#footnote-132) Consequently, there existed no genuine connection between Saki Shaw and Remisia.

##### Saki Shaw’s naturalization contravened the principle of good faith.

Under customary international law, nationality acquired by fraud, negligence, or serious error may not be recognized,[[133]](#footnote-133) which is consolidated into a requirement of good faith.[[134]](#footnote-134) Conferment of nationality made in bad faith will not be recognized for the purpose of consular or diplomatic protection.[[135]](#footnote-135) Nationality conferred in the absence of “any link of attachment” is *prima facie* conferred in bad faith.[[136]](#footnote-136)

Here, Saki Shaw applied for Remisian citizenship after being issued subpoenas by Molvania.[[137]](#footnote-137) Together with the absence of a genuine link,[[138]](#footnote-138) her motive to obtain the nationality is suspicious. A reasonable presumption is that Saki Shaw solicited Remisian nationality *mala fides* to evade her Molvanian legal responsibilities. Therefore, the purchased nationality of Saki Shaw could not entitle Remisia to the right of protection.

#### Alternatively, Remisia is not the State of dominant and effective nationality of the dual national Saki Shaw.

To exercise diplomatic protection over a dual national, the nationality invoked should be the one the third State ought to recognize,[[139]](#footnote-139) which is known as the dominant and effective nationality.[[140]](#footnote-140)

Here, Saki Shaw acquired Molvanian nationality by *jus soli and jus sanguinis* and spent over 30 years there.[[141]](#footnote-141) Her family ties and main business interests were in Molvania.[[142]](#footnote-142) Even if Saki Shaw possessed both Molvanian and Remisian nationality, she obviously had stronger ties with Molvania. Therefore, Molvania is the dominant and effective nationality of Saki Shaw, and Remisia lacks standing to bring this claim.

### ANTRANO’S REFUSAL TO PROVIDE REMISIAN CONSULAR ACCESS DID NOT VIOLATE THE RIGHTS OF REMISIA.

#### As the bond of nationality cannot be established, Antrano bears no obligation to provide Saki Shaw Remisia consular access.

A receiving State’s obligation under Article 36 of the VCCR is premised on a certain connection between the individual and the sending State, namely nationality.[[143]](#footnote-143)

As demonstrated above,[[144]](#footnote-144) Saki Shaw’s purchased Remisian nationality cannot establish a sufficient connection, and thus it cannot be recognized by Antrano under international law. Hence, Antrano bears no obligation to Remisia.

#### Even if Antrano is obliged to recognize Saki Shaw’s Remisian nationality, Antrano should only provide consular access to Molvania.

Within a third State, a dual national should be treated as the national of the State he most closely connects to, which is a general principle of international law.[[145]](#footnote-145)

Here, Saki Shaw’s dominant and effective nationality is Molvania, and thus she should be treated as a Molvanian national.[[146]](#footnote-146) Meanwhile, Antrano notified Molvania of Saki Shaw’s detention without delay and allowed a visit from the Molvanian consular official, which fulfilled its obligations to Molvania.[[147]](#footnote-147) Consequently, Antrano was justified in solely providing consular access to Molvania and bears no obligation to Remisia.

### ANTRANO’S REFUSAL TO PROVIDE REMISIAN CONSULAR ACCESS DID NOT INFRINGE ON THE RIGHT OF SAKI SHAW.

#### Saki Shaw is not entitled to consular access under Article 36 of the VCCR.

**[a]**Interpreted in the given context, **[b]** in the light of its object and purpose,and **[c]** in combination with supplementary means,[[148]](#footnote-148) Article 36 of the VCCR does not incorporate any individual rights.

##### The context of Article 36 creates rights solely for States.

The chapeau of Article 36, “to facilitate the exercise of consular functions relating to nationals of the sending State”,[[149]](#footnote-149) limits the scope of this article to the exercise of consular functions of the sending State. Together with Article 5, which states that “assisting nationals” is only one of those consular functions,[[150]](#footnote-150) it is obvious the right to consular access subordinates to the right of the sending State.[[151]](#footnote-151)

##### The purpose and object of the VCCR is not to create individual rights.

Reliance cannot be placed on interpretation incompatible with the spirit, purpose, and context of the instrument.[[152]](#footnote-152) The object and purpose provided in the Preamble of the VCCR is to “contribute to the development of friendly relations among nations”,[[153]](#footnote-153) instead of creating individuals’ rights.

##### The travaux préparatoires show no intention to create individual rights.

Since the textual interpretation provides only an ambiguous explanation, a resort must be made to thepreparatory work for more information.[[154]](#footnote-154) The draft of Article 36 of the VCCR obliged the receiving State to inform the consulate of the sending State without the national’s request.[[155]](#footnote-155) The insertion was adopted only to lessen the burden on the receiving States rather than to create individual rights.[[156]](#footnote-156)

#### The right to consular access is not protected by human rights law.

The right to consular access is not a human right. Not every individual right under international law qualifies as a human right.[[157]](#footnote-157) In *Avena Case*, the Court found that neither the text nor the object, nor any indication in the *travaux préparatoires*, supports the creation of human rights under the VCCR.[[158]](#footnote-158) Furthermore, human rights are rights inherent to all human beings, regardless of race, sex, nationality, ethnicity, language, religion, or any other status.[[159]](#footnote-159) Whereas, the right to consular access is not derived from the inherent dignity of the human person. *First,* it protects only nationals of State Parties to certain instruments based on reciprocity, nationality, and function.[[160]](#footnote-160) *Second*, it only applies to aliens, which is based on a quality of foreignness rather than the bare humanity.[[161]](#footnote-161)

Accordingly, Antrano could not have violated Saki Shaw’s right without a foundation of the right.

#### Even if Saki Shaw is entitled to consular access, Antrano did not infringe on her right.

Article 36(1) of the VCCR establishes an interrelated regime designed to facilitate the implementation of the system of consular protection.[[162]](#footnote-162) It requires the receiving State to **[a]** inform the individual of his rights, and **[b]** provide consular access and assistance.

##### Antrano informed Saki Shaw of her rights under Article 36(1)(b) of the VCCR.

The receiving State is obliged to inform a foreign national in detention of his rights without delay under Article 36(1)(b) of the VCCR.[[163]](#footnote-163) Here, the Antranan police informed Saki Shaw in a language she understood of the charges against her and her rights without delay.[[164]](#footnote-164) Consequently, Antrano did not violate Article 36(1)(b).

##### Antrano fulfilled the obligation to provide consular access and assistance under Article 36(1)(a) and (c) of the VCCR.

Article 36(1)(a) provides for a mutual right to communication and access between consuls and sending State nationals.[[165]](#footnote-165) Also, Article 36(1)(c) grants consular officers the right to visit, converse, and correspond with the detained national and to arrange for his legal representation.[[166]](#footnote-166)

Here, Antrano has already provided Saki Shaw Molvania consular access and arranged a visit from the Molvania consular official.[[167]](#footnote-167) Consequently, Antrano did not violate Article 36 (1)(a) or (c).

1. **REMISIA VIOLATED INTERNATIONAL LAW BY DENYING ANTRANAN DR. TULOUS MALEX ENTRY TO REMISIA AS REQUIRED BY UNSC RESOLUTION 99997.**
   1. **ANTRANO’S CLAIM IS ADMISSIBLE.**

Both the Court and the UNSC can perform their separate but complementary functions to settle disputes by peaceful means.[[168]](#footnote-168) The judicial function of the Court would not be prevented even if the UNSC is seized of the same affair.[[169]](#footnote-169) In the present case, the dispute concerning Dr. Malex’s entry is related to another dispute politically dealt with by the UNSC. [[170]](#footnote-170) Also, the matter of denial entry has been discussed before the UNSC without adopting any resolutions.[[171]](#footnote-171) Such facts would not preclude the admissibility since the involvement of the UNSC cannot constitute limitations on the judicial function of the Court.[[172]](#footnote-172)

* 1. **REMISIA’S DENIAL OF ENTRY VIOLATED RESOLUTION 99997, AMOUNTING TO A VIOLATION OF ARTICLE 25 OF THE UN CHARTER.**
     1. **Resolution 99997 is valid.**
        1. *The Court possesses no authority to invalidate Resolution 99997.*

The Court has no power to review UNSC resolutions. *First*, the UN Charter does not grant the Court the power of judicial review. *Second*, the Court and the UNSC are two independent organs of equal standing.[[173]](#footnote-173) *Third*, the Court has recognized that it does not possess the power to review the actions of the UNSC.[[174]](#footnote-174) Assuming such power is conferred, the Court is not competent to “overrule and undercut”[[175]](#footnote-175) UNSC resolutions concerning maintaining international peace and security.[[176]](#footnote-176) Not only is there no judicial yardstick for a resolution of a highly political nature,[[177]](#footnote-177) but in performing such review the Court would usurp the primary function of the UNSC.[[178]](#footnote-178)

Here, Resolution 99997 is a decision adopted under Article 34 of the UN Charter,[[179]](#footnote-179) which is a political evaluation[[180]](#footnote-180) and represents the exercise of the primary responsibility of the UNSC.[[181]](#footnote-181) Therefore, the Court should recognize that the validity of Resolution 99997 can only be determined by the UNSC.[[182]](#footnote-182)

* + - 1. *Assuming the Court has the authority of judicial review, Resolution 99997 remains valid.*

UNSC resolutions enjoy a presumption of validity,[[183]](#footnote-183) namely, a resolution passed following the rules of procedure must be presumed to have been validly adopted.[[184]](#footnote-184) The validity of a UNSC resolution can be rebutted only when it violates international law manifestly and concerns an international rule of fundamental importance.[[185]](#footnote-185)

In the present case, Resolution 99997 enjoys a presumption of validity as it was adopted unanimously and Remisia was invited to participate.[[186]](#footnote-186) Further, Resolution 99997 was adopted within the mandate of the UNSC under Article 34 of the UN Charter[[187]](#footnote-187) and is appropriate to fulfill the purpose of the UN.[[188]](#footnote-188) Remisia’s argument that Resolution 99997 intervenes Remisia’s internal matter[[189]](#footnote-189) cannot be accepted for three reasons. *First*, the application of the DCA resulted in statelessness.[[190]](#footnote-190) Since Remisia has undertaken an international obligation to reduce statelessness under the CRS,[[191]](#footnote-191) Remisia’s deprivation of nationality is beyond its domestic jurisdiction.[[192]](#footnote-192) *Second*, the continuance of the dispute concerning the application of the DCA was likely to endanger international peace,[[193]](#footnote-193) which removes it from domestic jurisdiction.[[194]](#footnote-194) *Third*, the deprivation of nationality of the “Sterren Forty” has become an international concern,[[195]](#footnote-195) thereby serving as the basis for the jurisdiction of the UNSC.[[196]](#footnote-196) Hence, Resolution 99997 is valid.

* + 1. **Resolution 99997** **requires Dr. Malex to conduct on-the-spot investigations.**

Although Resolution 99997 does not oblige Remisia to allow entry expressly, such a requirement is included in the obligation to “cooperate fully”. Rules on treaty interpretation in VCLT can provide guidance when interpreting UNSC resolutions.[[197]](#footnote-197) Therefore, the obligation to cooperate fully must be understood in the context of the whole resolution and its object and purpose.[[198]](#footnote-198) Moreover, the requirement to “cooperate fully” in UNSC resolutions concerning investigation normally comprises responding positively to requests from the access from the fact-finding mission.[[199]](#footnote-199)

Resolution 99997 requires Remisia to “cooperate fully with the Mission”.[[200]](#footnote-200) The mandate undertaken by the UNIMR includes by modality of in-person interviews with the prisoners in Remisia,[[201]](#footnote-201) indicating that on-the-spot assessments are requisite.Only when Remisia allows Dr. Malex, as the UNIMR chief,[[202]](#footnote-202) to enter Remisia, can the UNIMR accomplish such a mandate. Therefore, Remisia bears the obligation to allow Dr. Malex entry under Resolution 99997.

* + 1. **Remisia’s refusal to carry out Resolution 99997 violated Article 25 of the UN Charter.**

Article 25 of the UN Charter obliges Member States to carry out UNSC decisions.[[203]](#footnote-203) Remisia’s non-compliance violated Article 25 of the UN Charter because **[a]** the obligation imposed by Resolution 99997 is binding. **[b]** Remisia cannot justify its non-compliance by claiming Resolution 99997 is illegal.

* + - 1. *Resolution 99997 imposes a binding obligation on Remisia.*

When interpreting UNSC resolutions, all circumstances that might assist in determining their legal consequences should be considered.[[204]](#footnote-204) Resolution 99997 is a decision under Article 25 as it **[*i*]** invoked Article 34, and **[*ii*]** it is both sufficient and intended to create a binding obligation.

* + - * 1. *Resolution 99997 invoked Article 34 of the UN Charter.*

A resolution adopted under Article 34 is a decision with binding effect. The UNSC can notably take binding decisions under Chapter Ⅵ,[[205]](#footnote-205) especially under Article 34.[[206]](#footnote-206) *First*, both the provisions of the UN Charter and the *travaux préparatoires* indicate that Article 25 is not only applicable to Chapter Ⅶ.[[207]](#footnote-207) *Second*, the investigation may constitute the premise for the UNSC to maintain international peace and security under Chapter Ⅶ.[[208]](#footnote-208) If a resolution under Article 34 is non-binding and the States can refuse to cooperate, the primary responsibility of the UNSC under Article 24 would fail.[[209]](#footnote-209)

Here, Resolution 99997 adopted under Article 34 “decides” to establish the UNIMR to investigate the deprivation of nationality.[[210]](#footnote-210) The information expected to be acquired by the UNIMR serves to determine the factual prerequisites for the fulfillment of the primary function of the UNSC. Thus, Resolution 99997 is binding.

* + - * 1. *Resolution 99997 was sufficient and intended to create a legal obligation.*

To determine the legal consequences of UNSC resolutions, circumstances such as the terms and the subsequent practice of the UNSC should be considered.[[211]](#footnote-211) Exhortatory language such as “call upon” can create a legal obligation binding on the States concerned.[[212]](#footnote-212)

Here, Resolution 99997 “calls upon” Remisia to “cooperate fully”,[[213]](#footnote-213) which is sufficient to create a binding obligation. Moreover, the President of the UNSC concluded the discussion concerning Remisia’s non-compliance response that Remisia’s denial of entry would be a violation of obligations under the UN Charter and Resolution 99997.[[214]](#footnote-214) Besides, the Secretary-General and members of the UNSC all condemned Remisia’s non-compliance.[[215]](#footnote-215) Therefore, the UNSC intended to impose a binding obligation on Remisia by Resolution 99997.

* + - 1. *Remisia cannot justify its non-compliance by claiming Resolution 99997 is illegal.*

UN Member States are not entitled to refuse to carry out UNSC decisions that they consider illegal as it would undermine the collective security mechanism under the UN Charter.[[216]](#footnote-216) Hence, Remisia cannot justify its non-compliance by claiming Resolution 99997 is illegal.

* 1. **REMISIA’S DENIAL OF ENTRY VIOLATED ARTICLES 2(2) AND 2(5) OF THE UN CHARTER.**
     1. **Remisia’s denial of entry failed to conform to the obligation of good faith under Article 2(2) of the UN Charter.**

According to Article 2(2), States must carry out their obligations under the UN Charter in good faith and cannot invoke its sovereignty to evade these obligations.[[217]](#footnote-217) Although States are not obliged to carry out recommendations under Article 25 and retain discretion on whether or not to act, they must exercise the discretion and consider the recommendation in good faith.[[218]](#footnote-218) The extent of the obligation of consideration depends on the solidarities expressed in a certain matter.[[219]](#footnote-219) Particularly strong international solidarities strengthening the duties under consideration can be found in the matter of peace and security.[[220]](#footnote-220)

Here, Remisia violated Article 2(2) by invoking sovereignty to evade its obligation under Resolution 99997 and the UN Charter.[[221]](#footnote-221) Assuming Resolution 99997 is a recommendation, Remisia also bears an obligation to consider Resolution 99997 concerning international peace and security in good faith. However, Remisia had never intended to consider carrying out Resolution 99997.[[222]](#footnote-222) Therefore, Remisia’s denial of entry failed to comply with Article 2(2).

* + 1. **Remisia’s denial of entry failed to conform to the obligation of assistance under Article 2(5) of the UN Charter.**

According to Article 2(5) of the UN Charter, States are obliged to render every assistance to the UN to enable the accomplishment of its task and the work of its agents.[[223]](#footnote-223) This provision covers decisions on investigation under Article 34.[[224]](#footnote-224)

Here, the UNIMR is established by the UNSC under Article 34.[[225]](#footnote-225) As the UNIMR chief, [[226]](#footnote-226) Dr. Malex’s entry is requisite for the investigations. Therefore, Remisia’s denial of entry violated its obligation of assistance under Article 2(5) of the UN Charter.

* 1. **REMISIA’S DENIAL OF ENTRY VIOLATED SECTION 26 OF** **THE CPI.**
     1. **Remisia is obliged to grant Dr. Malex facilities for speedy travel under Section 26 of the CPI.**

Parties to the CPI are obliged to grant facilities for speedy travel and speedy issuance of visas to experts having a Certificate that they are traveling on the business of the UN.[[227]](#footnote-227) Although the Certificates under Section 26 are not travel documents, States are obligated to enable the experts holding such Certificates to enter that State.[[228]](#footnote-228) The issuance of a visa should be a mere formality and not restrict the ability of an expert to enter a State on official business.[[229]](#footnote-229)

Here, Remisia, as a party to the CPI,[[230]](#footnote-230) bears an obligation to enable Dr. Malex to enter the State as he is performing his mission as an expert and holding a Section 26 Certification under CPI.[[231]](#footnote-231) Remisia cannot deny Dr. Malex entry for lack of a visa because Remisia refused to grant him an entry visa.[[232]](#footnote-232) Therefore, Remisia’s denial of entry violated Section 26 of the CPI.

* + 1. **Remisia cannot** **deny Dr. Malex entry by declaring him *persona non grata*.**

The doctrine of *persona non grata* does not apply to experts on mission under the CPI. Under the VCDR, the receiving State can deny diplomats entry by declaring them *persona non grata*.[[233]](#footnote-233) However, such doctrine does not apply to UN staff, including experts on mission, [[234]](#footnote-234) as UN staff are not diplomats accredited to a government but independent international officers.[[235]](#footnote-235)

Here, the doctrine of *persona non grata* does not apply to Dr. Malex as he is an expert on mission for the UN. Therefore, Remisia’s claim that the UNIMR was unwelcome[[236]](#footnote-236) would not relieve Remisia of its obligation to allow entry.

# PRAYER FOR RELIEF

For the foregoing reasons, the Applicant respectfully requests the Court to adjudge and declare that:

1. Antrano has standing to bring the dispute concerning Remisia’s deprivation of nationality of its citizens before the Court;
2. Remisia’s deprivation of nationality of the “Sterren Forty”, rendering them stateless, is a violation of international law;
3. Remisia lacks standing on the basis of nationality to bring this claim, in the alternative, Antrano did not violate international law by denying Saki Shaw Remisian consular access.
4. Remisia violated international law by denying Antranan national Dr. Tulous Malex entry to Remisia as required by Resolution 99997.

Respectfully submitted,

Agents of Applicant

1. *Questions relating to the Obligation to Prosecute or Extradite (Belgium v Senegal)* (Judgment) [2012] ICJ Rep 422, ¶68 **[“*Belgium v Senegal*”]**; *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (The Gambia v Myanmar)* (Preliminary Objections, Judgment) [2022] ICJ Rep 477, ¶107 **[“*****The Gambia v Myanmar*”]**; *Application of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Canada and the Netherlands v Syrian Arab Republic)* (Order) [2023] ICJ, ¶50 **[“*****Canada and the Netherlands v Syrian Arab Republic*”]**. [↑](#footnote-ref-1)
2. *Reservations to the Convention on the Prevention and Punishment of the Crime of Genocide* (Advisory Opinion) [1951] ICJ Rep 15, 23; *Belgium v Senegal*, ¶¶106-107. [↑](#footnote-ref-2)
3. United Nations High Commissioner for Refugees **[“****UNHCR”]**, ‘Interpreting the 1961 Statelessness Convention and Avoiding Statelessness resulting from Loss and Deprivation of Nationality’ (March 2014), ¶1 **[“****Tunis Conclusions”]**; UNHCR, ‘Guideline on Statelessness NO 5: Loss and Deprivation of Nationality under Articles 5-9 of the 1961 Convention on the Reduction of Statelessness’ (2020) HCR/GS/20/05, ¶1 **[“****Guideline NO 5”]**. [↑](#footnote-ref-3)
4. Michelle Foster, ‘1961 Convention on the Reduction of Statelessness: History, Evolution and Relevance’ (2022) 4(1) Statelessness & Citizenship Review 188, 189. [↑](#footnote-ref-4)
5. *Barcelona Traction, Light and Power Company, Limited (Belgium v Spain)* (Judgment) [1970] ICJ Rep 3, ¶¶33-34 **[“*****Barcelona Traction*”]**. [↑](#footnote-ref-5)
6. Bruno Simma, ‘From Bilateralism to Community Interest in International Law’ (1994) 250 *Recueil des Cours* 221, 297. [↑](#footnote-ref-6)
7. United Nations General Assembly **[“UNGA”]**, ‘United Nations Conference on the Elimination or Reduction of Future Statelessness’ (1961) UN Doc A/CONF 9/SR 17, 8. [↑](#footnote-ref-7)
8. *The Gambia v Myanmar*, ¶16 (Declaration of Judge *ad hoc* Kress). [↑](#footnote-ref-8)
9. Pok Yin Stephenson Chow, ‘On Obligations *Erga Omnes Partes*’ (2020) 52 Georgetown Journal of International Law 469, 496 **[“****Chow”]**. [↑](#footnote-ref-9)
10. Vienna Convention on the Law of Treaties (adopted 23 May 1969, entered into force 27 January 1980) 1155 UNTS 331, art 19(c) **[“****VCLT”]**; Chow, 497. [↑](#footnote-ref-10)
11. Tunis Conclusions, ¶1. [↑](#footnote-ref-11)
12. Convention on the Reduction of Statelessness (adopted 30 August 1961, entered into force 13 December 1975) 989 UNTS 175, art 8 **[“****CRS”]**; Tunis Conclusions, ¶53. [↑](#footnote-ref-12)
13. CRS, art 17. [↑](#footnote-ref-13)
14. *Belgium v Senegal*, ¶69; *The Gambia v Myanmar*, ¶108. [↑](#footnote-ref-14)
15. *The Gambia v Myanmar*, ¶15(Declaration of Judge *ad hoc* Kress). [↑](#footnote-ref-15)
16. *Compromis*, ¶62. [↑](#footnote-ref-16)
17. International Law Commission **[“ILC”]**, ‘Draft Articles on Responsibility of States for Internationally Wrongful Act with Commentaries’ (2001) UN Doc A/56/10, 118. [↑](#footnote-ref-17)
18. *Belgium v Senegal*, ¶21 (Separate Opinion of Judge Skotnikov); *The Gambia v Myanmar*, ¶23 (Dissenting Opinion of Judge Xue). [↑](#footnote-ref-18)
19. *The Gambia v Myanmar*, ¶¶111-112. [↑](#footnote-ref-19)
20. CRS, art 14. [↑](#footnote-ref-20)
21. Christian J Tams, *Enforcing Obligations* Erga Omnes *in International Law* (CUP, Cambridge 2005) 71-75 **[“****Tams”]**. [↑](#footnote-ref-21)
22. *Barcelona Traction*, ¶¶33-34. [↑](#footnote-ref-22)
23. *Barcelona Traction*, ¶¶33-34; Yoshifumi Tanaka, ‘The Legal Consequences of Obligations *Erga Omnes* in International Law’ (2021) 68 Netherlands International Law Review 1, 8. [↑](#footnote-ref-23)
24. Isabel Feichtner, ‘Community Interest’ Max Planck Encyclopedia of Public International Law (2007), ¶¶43-46. [↑](#footnote-ref-24)
25. *Barcelona Traction*, ¶34; Tams, 138. [↑](#footnote-ref-25)
26. UNGA Res 61/137 (19 December 1974) UN Doc A/RES/61/137, ¶7; UNGA Res 67/149 (20 December 2012) UN Doc A/RES/67/149, ¶7; UNGA Res 68/141 (18 December 2013) UN Doc A/RES/68/141, ¶9; UNGA Res 70/135 (17 December 2015) UN Doc A/RES/70/135, ¶12. [↑](#footnote-ref-26)
27. UNGA Res 50/152 (9 February 1996) UN Doc A/RES/50/152, ¶16. [↑](#footnote-ref-27)
28. Tams, 133. [↑](#footnote-ref-28)
29. *Proposed Amendments to the Naturalisation Provision of the Constitution of Costa Rica*, Advisory Opinion OC-4/84, Inter-American Court of Human Rights **[“IACtHR”]** Series A No 4 (19 January 1984), ¶32; Kristin Henrard, ‘The Shifting Parameters of Nationality’ (2018) 65 Netherlands International Law Review 269, 288. [↑](#footnote-ref-29)
30. *The Girls Yean and Bosico v Dominican Republic* (Preliminary Objections, Merits, Reparations and Costs) IACtHR Series C No 130 (8 September 2005), ¶142. [↑](#footnote-ref-30)
31. Human Rights Council **[“HRC”]**, ‘Human Rights and Arbitrary Deprivation of Nationality, Report of the Secretary-General’ (2013) A/HRC/19/43, ¶¶46-47. [↑](#footnote-ref-31)
32. Laura Van Waas, *Nationality Matters: Statelessness under International Law* (Intersentia, Antwerp 2008) 102. [↑](#footnote-ref-32)
33. ILC, ‘Draft Articles on Responsibility of States for Internationally Wrongful Acts’ (2010) UN Doc A/56/83, art 48(1)(b) **[“****ARSIWA”]**; Institut de Droit International, ‘Resolution on Obligations *erga omnes* in International Law’ (2005), arts 1, 3. [↑](#footnote-ref-33)
34. James Crawford, ‘Chance, Order, Change: The Course of International Law, General Course on Public International Law’ (2013) 365 *Recueil des Cours* 13, 271. [↑](#footnote-ref-34)
35. Bruno Simma, ‘From Bilateralism to Community Interest in International Law’ (1994) 250 *Recueil des Cours* 221, 297. [↑](#footnote-ref-35)
36. *Belgium v Senegal*, ¶¶68-69; *The Gambia v Myanmar*, ¶¶106-108; *Canada and the Netherlands v Syrian Arab Republic*, ¶51. [↑](#footnote-ref-36)
37. Tom Ruys, ‘Legal Standing and Public Interest Litigation—Are All *Erga Omnes* Breaches Equal?’ (2021) 20 Chinese Journal of International Law 457, 463. [↑](#footnote-ref-37)
38. Priya Urs, ‘Obligations *Erga Omnes* and the Question of Standing before the International Court of Justice’ (2021) 34 Leiden Journal of International Law 505, 518; Juliette McIntyre, ‘Crawford’s Multilateralism and the International Court of Justice’ (2022) 40 The Australian Year Book of International Law Online 271, 283. [↑](#footnote-ref-38)
39. *Belgium v Senegal*, ¶66; ARSIWA, art 42. [↑](#footnote-ref-39)
40. Vincent-Joël Proulx, ‘The *Marshall Islands* Judgments and Multilateral Disputes at the World Court: Whither Access to International Justice?’ (2017) 111 American Journal of International Law Unbound 96, 99. [↑](#footnote-ref-40)
41. *Obligations concerning Negotiations relating to Cessation of the Nuclear Arms Race and to Nuclear Disarmament (Marshall Islands v United Kingdom)* (Preliminary Objections, Judgment) [2016] ICJ Rep 833, ¶1 (Separate Opinion of Judge Owada). [↑](#footnote-ref-41)
42. *Compromis*, ¶¶3-4. [↑](#footnote-ref-42)
43. *Compromis*, ¶¶36, 38-39. [↑](#footnote-ref-43)
44. *Compromis*, Annex A, UNSC Resolution 99997 (2022) **[“Resolution 99997”]**. [↑](#footnote-ref-44)
45. CRS, art 8(1). [↑](#footnote-ref-45)
46. Convention relating to the Status of Stateless Persons (adopted 28 September 1954, entered into force 6 June 1960) 360 UNTS 117, art 1. [↑](#footnote-ref-46)
47. *Compromis*, ¶34. [↑](#footnote-ref-47)
48. *Compromis*, ¶62. [↑](#footnote-ref-48)
49. Christian Prener, *Denationalisation and Its Discontents: Citizenship Revocation in the 21st Century: Legal, Political and Moral Implications*, (Brill, Leiden & Boston 2023) 90. [↑](#footnote-ref-49)
50. Olivier Corten (ed), *The Vienna Conventions on the Law of Treaties: A Commentary* (OUP, Oxford 2011) 436 **[“VCLT Commentary”]**. [↑](#footnote-ref-50)
51. CRS, art 8(3)(a). [↑](#footnote-ref-51)
52. *Compromis*, ¶7. [↑](#footnote-ref-52)
53. *Petropavlovskis v Latvia* (App no 44230/06) European Court of Human Rights **[“ECHR”]** 1 June 2015, ¶84; *Tănase v Moldova* (App no 7/08) ECHR 27 April 2010, ¶166. [↑](#footnote-ref-53)
54. UNGA, ‘United Nations Conference on the Elimination or Reduction of Future Statelessness’ (1961) UN Doc A/CONF 9/SR 21, 13. [↑](#footnote-ref-54)
55. *Compromis*, ¶¶7, 62. [↑](#footnote-ref-55)
56. Shai Lavi, ‘Citizenship Revocation as Punishment: on the Modern Duties of Citizens and Their Criminal Breach’ (2011) 61 University of Toronto Law Journal 783, 794–795. [↑](#footnote-ref-56)
57. VCLT Commentary, 442, 476; ILC, ‘Guide to Practice on Reservations to Treaties’ (2011) The General Assembly Official Records **[“GAOR”]** 66th Session Supp 10, UN Doc A/66/10/Add 1, 511. [↑](#footnote-ref-57)
58. VCLT Commentary, 533-534. [↑](#footnote-ref-58)
59. CRS, art 17. [↑](#footnote-ref-59)
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