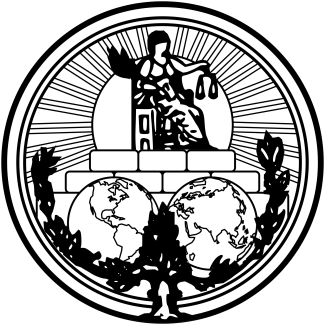
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**THE 2024 PHILIP C. JESSUP INTERNATIONAL LAW  
MOOT COURT COMPETITION**

**The Case Concerning The Sterren Forty**

****

**The Republic of Antrano**

**Applicant**

**v.**

**The Kingdom of Remisia**

**Respondent**

**In the International Court of Justice**

**At the Peace Palace**

**The Hague, The Netherlands**

**MEMORIAL FOR THE RESPONDENT**

**2024**

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# STATEMENT OF JURISDICTION

The Republic of Antrano (“Antrano”) and the Kingdom of Remisia (“Remisia”) have consented to submit the dispute to this Court, in accordance with Article 40(1) of this Court’s statute, by way of *compromis* transmitted to the Registrar on the fifteenth day of September in the year two thousand twenty-three. Antrano and Remisia have undertaken to accept this Court’s decision as final and binding on them and commit to comply with it in its entirety and in good faith.

# QUESTIONS PRESENTED

1. *Whether* Antrano lacks standing to bring the matter of the deprivation of nationality of the “Sterren Forty” to this Court.
2. *Whether* Remisia violated international law when it deprived the “Sterren Forty” of their Remisian citizenship in accordance with the DCA.
3. *Whether* Antrano violated international law when it denied Saki Shaw, a Remisian citizen, access to Remisian consular representatives while she was held prisoner in Antrano.
4. *Whether* Remisia violated international law by refusing to allow Dr. Malex to enter Remisia.

# STATEMENT OF FACTS

**BACKGROUND**

Located in the south of the equator in the Emerald Ocean, the Mahali Archipelago, a group of islands gained independence from European colonies after World War II.

The Republic of Antrano consists of one large and 16 smaller islands within the Mahali Archipelago and was established in 1951. Antrano’s first President, Muna Songida, advocated for the rights of stateless persons globally. He was also a vocal proponent of the Convention Relating to the Status of Stateless Persons in 1954, and the Convention on the Reduction of Statelessness in 1961. Antrano, yet continues to advocate for the rights of stateless persons.

The Kingdom of Remisia, a constitutional monarchy, is located 11,000 kilometers from the Mahali Archipelago on the Isidre Plateau. The current head of state, Queen Khasat, traces her ancestry to the first king of Remisia, born in 561 CE. Remisia’s Constitution provides that monarch is entitled to reverence and insulting monarch is criminalized through the 1955 Disrespect to the Crown Act (DCA).

Mining activities, focusing on copper and emerald, have a long history on the Isidre Plateau. However, due to concerns raised by experts about potential environmental impacts on Remisia's atmosphere and waters, extraction was restricted while further investigations into the broader consequences of commercial development were conducted.

**NATURALIZATION BY THE INVESTMENT ACT**

When acceding to the throne in 2006, Queen Khasat declared that Remisia would get among the leading nations in the region. In 2008, Her Majesty signed the Naturalization by Investment Act (NIA) which would grant citizenship to applicants making substantial investment. The Naturalization by Investment Program (NIP) attracted applicants globally, promoting Remisian citizenship benefits and generating over €1.5 billion in revenue by 2021.

Born in 1970 in Molvania, Ms. Saki Shaw, contributed €500,000 to Remisia's National Infrastructure Development Fund, and applied for citizenship under the NIP. Her application was processed and approved and she was naturalized as a Remisian citizen on 1 June 2016.

**STUDENT PROTESTS**

In 1988, Saki Shaw and then-Princess Khasat formed a close friendship during a holiday in St. Moritz, Switzerland. Ms. Shaw became the head of Lithos Limited, a ShawCorp subsidiary, expanding operations on leasing and operating cobalt and other mines globally.

In November 2014, Ms. Shaw contacted Queen Khasat to propose a joint venture between the Lithos Limited and the Remisian Ministry of Mines. The Lithos-Remisia Cooperative (LRC) was established in 2015, commencing mining in 2016. LRC opened and operated three mining sites employing more than 4,000 Remisians and producing significant public revenue.

By 2019, LRC faced rallies by the students at Remisia National University who claimed there were environmental hazards of the LRC cobalt operations. After declaring that the mining facilities were achieving financial success without causing unacceptable risks to health, LRC got four more mining sites approved and continued its operations. After the issuance of the licenses, the “Isidre League of Student Activists” (ILSA) called for a nationwide strike at schools and persisted in protests.

**DISRESPECT TO THE CROWN ACT**

According to the Disrespect to the Crown Act (DCA), anyone defaming, insulting or treating the reigning monarch shall be subject to imprisonment. Additionally, the DCA allows the court to strip a guilty party of Remisian citizenship if deemed disloyal to the Crown. Loss of citizenship, under the DCA, takes immediate effect upon order and the person who is serving any custodial term as a non-citizen gets to be expelled 60 days following his sentence.

The students protesting against the cobalt operations were accusing the personal relationship between the Queen and Saki Shaw as influencing the decision of the Ministry of Mines. Although the strikes paused shortly, two days later the protests resumed. The seven students suspected of coordinating the demonstrations were arrested. Although they were released by the order of the Minister of Mines, demonstrations continued, disrupting mining operations.

The Attorney-General of Remisia announced charges under the DCA, offering dismissal for an apology to the Queen. The formal charges were filed against 230 students who refused to apologize including Sterren Forty. Most were sentenced to 1-3 years of imprisonment. The Sterren Forty were given five-year sentences with citizenship revocation. All 40 of them appealed to the Supreme Court, arguing political offenses and potential statelessness. The Supreme Court rejected the appeals, upholding the convictions and sentences, leading to their detention as non-citizens in the national penitentiary.

**THE EXTRADITION OF SHAKI SHAW**

Ms. Saki Shaw is the granddaughter of Pevera Shaw who is the founder of Shaw Corporation. In 2014, ShawCorp faced money-laundering allegations in Molvania. In 2022, an arrest warrant was issued by Molvania for Ms. Shaw charging her with bank fraud, money laundering, and obstructing the course of justice.

When Shaw landed on March 15 in Duniya, Antrano, she was detained by Antranan police on the authority of an extradition request made by Molvania. Shaw demanded her rights under the Vienna Convention on Consular Relations (VCCR) as a Remisian citizen to communicate with a consul.A ntranan authorities clarified that her Remisian citizenship was unrecognized, and only informed the Molvanian consul. Although, Ms. Shaw also informed the police chief about her request to meet with the Remisian consul; she received no response.

Upon the Remisian Ambassador's contact with the Antrano Foreign Ministry to assert consular meeting rights for Shaw, Antrano responded, reiterating their refusal to recognize the purchased citizenship of Remisia. Two weeks later, Saki Shaw collapsed in one of the communal areas of the jail.

**SECURITY COUNCIL RESOLUTION 99997**

In April 2021, Antrano's President Iyali, during a ceremony commemorating Muna Songida's death anniversary, expressed concern over the increasing global trend of stripping citizenship and proposed a meeting with the Prime Minister of Remisia to address the matter. Remisia’s Foreign Minister protested President Iyali’s comments as unwarranted meddling,  asserting the country's right to prosecute violators of its domestic laws.

In Jan 2022, while Antrano was serving as the President of the United Nations Security Council (UNSC), Antrano raised the issue of stripping citizenship to the UNSC. The debate was scheduled for 28 March when the Security Council unanimously adopted Resolution 99997 establishing the UN Inspection Mission to Remisia (UNIMR).

The prime Minister Sezan resisted the external interference, declaring in his remarks that the DCA was law for generations consistent with international law. The Antranan national, Dr. Malex was selected to lead the UNIMR and Remisia’s UN Ambassador responded to the Secretary-General’s discussion about the Resolution 99997 that it did not impose any legal obligations on Remisia and allowal or denial of entry into the Remisia remains to be their sovereign prerogative. The Prime Minister also emphasized that unless Dr. Malex displays his proper visa, he wouldn’t be allowed to enter. By the time when Dr. Malex arrived at the Kamil International Airport in Remisia, he was denied entry and put back into the next plane to New York.

# SUMMARY OF PLEADINGS

Antrano has no standing to bring the matter of deprivation of nationality of the “Sterren Forty” to this Court. There is no legal dispute between the Parties on this matter as Remisia has never positively opposed assertions of Antrano, while the latter has frequently changed the subject matter of its claim. Furthermore, question of nationality, including deprivation of nationality, is within the exclusive domain of municipal law of Remisia. Therefore, even legal dispute is found to exist, it would be non-justiciable. Additionally, Antrano cannot bring claim on behalf of the “Sterren Forty” in vindication of public interest, as it lacks legal interest. Such claim constitutes an *actio popularis* which is not known to ICJ. Legal interest cannot also be grounded on any *erga omnes* and *erga omnes partes* obligation. Moreover, Antrano failed to exhaust available international protection mechanisms before bringing this matter to ICJ.

Remisia did not violate international law when it deprived the “Sterren Forty” of their nationality. Deprivation of nationality was carried out in compliance with the requirements of the Convention on the Reduction of Statelessness. At the time of the ratification of the Convention, Remisia made declaration specifying retention of its right to deprive nationality in accordance with Disrespect to the Crown Act. The reason behind the deprivation of nationality of the “Sterren Forty” is breach of their duty of loyalty by acting in a manner seriously prejudicial to the vital interests of Remisia. Remisia also fulfilled its obligations under customary international law. Deprivation of nationality was exercised in conformity with the law, it had a legitimate purpose of maintaining the security and procedural safeguards were provided. “Sterren Forty” was not subject to any discrimination and gravity of offences committed by them was proportionate to the revocation of nationality. Additionally, Remisia acted consistently with its other obligations under international instruments to which it is a party.

Antrano violated international law by denying a Remisian citizen Ms. Shaw access to Remisian consular officials while she was held prisoner in Antrano. Remisia has the right to exercise diplomatic protection on behalf of Ms. Shaw, as Antrano breached her individual right to consular communication under Article 36(1)(b) of Vienna Convention on Consular Relations (VCCR). Antrano's refusal to recognize Ms. Shaw's Remisian nationality has no legal basis, as Remisia has the authority to determine its nationals. Remisia's right to exercise diplomatic protection does not require “genuine link” between Ms. Shaw and Remisia. Additionally, Antrano's failure to notify Remisia of Ms. Shaw's detention and denial of consular access constitute a breach of Article 36 of the VCCR, preventing Remisia to exercise consular protection. Furthermore, Antrano's non-recognition of Remisian citizenship undermines the consular protection framework.

Remisia did not violate international law by refusing Dr. Malex to enter Remisia, as the UN Security Council resolution (Resolution 99997) imposes no legal obligation on Remisia. The investigation imposed is either invalid, as the conditions of Article 34 of UN Charter were not satisfied, or, if valid, has no binding effect on Remisia. The resolution is invalid, due to Remisia's reserved jurisdiction over internal matters such as nationality, and that the resolution's purpose, framed as investigating conditions of prisoners, diverges from the scope of maintaining international peace and security under Article 34. Additionally, the procedural requirements were not followed. Even if valid, the Resolution is not binding due to its exhortatory language. Furthermore, Remisia did not breach the Convention on the Privileges and Immunities of the UN by refusing Dr. Malex to enter to Remisia, as he does not qualify as an “expert on mission” within the Convention's definition, and even if he is, Dr. Malex does not need to travel to Remisia.

# PLEADINGS

## ANTRANO LACKS STANDING TO BRING THE MATTER OF THE DEPRIVATION OF NATIONALITY OF THE “STERREN FORTY” TO THIS COURT.

### There is no justiciable legal dispute between Antrano and Remisia.

Antrano has no standing to bring the matter of deprivation of nationality to this court since (**1**) Antrano and Remisia have no legal dispute related to deprivation of nationality and (**2**) *arguendo*, this dispute is non-justiciable.

#### No legal dispute exists between Antrano and Remisia.

The jurisdiction of the International Court of Justice (hereinafter “ICJ” or “Court”) is subject to, *inter alia*, the existence of a legal dispute.[[1]](#footnote-2) Determination of the existence of a dispute is a matter for objective analysis by the Court which must turn on an examination of the facts.[[2]](#footnote-3) No dispute exists between Antrano and Remisia, since **(a)** Antranian assertions have not been positively opposed by Remisia and **(b)** the subject matter has not been clearly defined.

##### Remisia did not positively oppose Antranian assertions.

The Permanent Court of International Justice (hereinafter “PCIJ”) defined dispute as “a disagreement on a point of law or fact, a conflict of legal views or of interests between two persons”.[[3]](#footnote-4) In subsequent case law, ICJ refined the concept of dispute by establishing that dispute exists “when the claim of one party is positively opposed by the other”.[[4]](#footnote-5) The mere assertion of existence of a dispute by one of the parties to the proceeding was found to be insufficient to constitute a dispute.[[5]](#footnote-6) Similarly, dispute exists when two sides hold clearly opposite views concerning the question of the performance or non-performance of certain treaty obligations.[[6]](#footnote-7) Most recently, ICJ established that for a dispute to exist the respondent has to be “aware or could not have been unaware that its views were positively opposed by the applicant”.[[7]](#footnote-8)

The exchange between Antrano and Remisia regarding the deprivation of nationality was initiated by President Iyali of Antrano in April 2021, when the latter offered to meet with the Prime Minister of Remisia during his speech at a ceremony.[[8]](#footnote-9) President Iyali’s meddling into domestic matters of Remisia was protested by Foreign Minister of Remisia in a diplomatic note. President Iyali later directed the Secretary of Nationality Rights to contact Remisia’s Home Office concerning the application of the Disrespect to the Crown Act (hereinafter “DCA”) to the ILSA protesters, thereby ending the inter-state exchange on this matter.[[9]](#footnote-10) It was not until more than half a year later that Antrano submitted a memorandum to the United Nations Security Council (hereinafter “UNSC” or “Council”) claiming that a dispute existed between Remisia and Antrano.[[10]](#footnote-11) Consequently, Remisia was unaware and could not have been aware that its application of DCA to ILSA protesters was positively opposed by Antrano, evidencing lack of dispute.

##### Subject matter has not been clearly defined.

Subject matter of a dispute needs to be clearly defined before it can be made the subject of an action of law.[[11]](#footnote-12) Most recently, this Court determined that it could not adjudicate claims of Belgium that were not present prior to the application, as dispute cannot exist regarding those claims absent beforehand.[[12]](#footnote-13) While Antranian President during his speech in April 2021 offered alternatives to rendering people stateless[[13]](#footnote-14), Antrano later chose to contest the application of DCA to ILSA protestors[[14]](#footnote-15). In its application to this court Antrano once again drastically changed its position by now claiming that deprivation of nationality of the “Sterren Forty” violates international law.[[15]](#footnote-16) Thus, no dispute exists, since Antrano has not made this claim known to Remisia prior to application.

#### *Arguendo*, the subject matter of the claim is within the exclusive domain of municipal law of Remisia.

The justiciability of disputes is constrained by principle of state sovereignty, which prohibits interference in matters which are essentially within the domestic jurisdiction of the States.[[16]](#footnote-17) When the subject matter of a dispute is within the exclusive domain of the municipal law of the State, ICJ has no jurisdiction to adjudicate them.[[17]](#footnote-18) Judge Moreno Quintana stated that acts of sovereignty are governed by municipal law and thus ICJ cannot exercise its jurisdiction over such disputes.[[18]](#footnote-19) Similar objections to the jurisdiction of ICJ have been raised by Iran[[19]](#footnote-20) and the USA[[20]](#footnote-21) asserting that the subject matter of the proceedings before the Court fall within the scope of domestic law.

PCIJ established that “questions of nationality are within reserved domain”.[[21]](#footnote-22) Subsequent developments in international law as reflected in both international case law[[22]](#footnote-23) and treaties[[23]](#footnote-24) evidence that nationality matters, including determining the rules on loss of nationality, are still within the reserved domain of the states. Consequently, Antrano cannot bring this matter before this Court, as it is within the exclusive domain of the municipal law of Remisia.

### Antrano has no legal interest to bring claim regarding Remisia’s deprivation of nationality of its citizens before the ICJ in vindication of public interest.

Antrano has no legal interest to bring a claim on behalf of the “Sterren Forty”, as (**1**) such claim constitutes *actio popularis* not recognized by ICJ and *arguendo,* it does not fall in the scope of (**2**) *erga omnes* and (**3**) *erga omnes partes* obligations.

#### Antrano's claim constitutes *actio popularis* precluded before ICJ.

*Actio popularis*, defined as right resident in any member of a community to take legal action in vindication of a public interest, is not recognized before the ICJ.[[24]](#footnote-25) As established by ICJ, “only the parties to whom the international obligation is due can bring a claim in respect of its breach.”[[25]](#footnote-26) ICJ can only adjudicate the case when the parties to the proceeding have legal interest.[[26]](#footnote-27) Antrano’s claim on behalf of the “Sterren Forty” is in vindication of public interest, since it is not an injured state.[[27]](#footnote-28) Thus, it has no *locus standi* due to absence of a legal interest.

#### *Arguendo*, Antrano cannot rely on *erga omnes* obligations.

Even if *actio popularis* is recognized by this Court, it is “used as means of enforcing obligations *erga omnes* and *erga omnes partes*”.[[28]](#footnote-29) Every state has legal interest in the protection of obligations *erga omnes*, defined as “obligations of a State towards the international community as a whole”.*[[29]](#footnote-30)* In *Barcelona Traction*, the Court provided the list of grounds, namely: outlawing of acts of aggression and genocide, and basic human rights, giving rise to such obligations.[[30]](#footnote-31) In the subsequent case law, the Court expanded the list to include right to self-determination[[31]](#footnote-32) and certain obligations under international humanitarian law[[32]](#footnote-33). In addition to these grounds, *erga omnes* character of obligations relating to the environment of common spaces has been recognized.[[33]](#footnote-34) Prohibition on deprivation of nationality rendering people stateless has never been considered to give rise to *erga omnes* obligation. Furthermore, as there is no universally accepted right to nationality, no *erga omnes* obligation could be derived from basic human rights. Therefore, Antrano could not ground its legal interest on any obligation *erga omnes*.

#### *Arguendo*, Antrano cannot rely on *erga omnes partes* obligations.

Each State party to international conventions has interest in fulfillment of obligations *erga omnes partes*.[[34]](#footnote-35) In certain conventions, “the contracting States do not have any interests of their own; they merely have, one and all, a common interest, namely, the accomplishment of the *raison d’être* of the convention.”[[35]](#footnote-36) Common interest implies that “the obligations in question are owed by any State party to all the other States parties to the Convention”.[[36]](#footnote-37) Currently, ICJ has recognized only two conventions giving rise to *erga omnes partes* obligations, namely: Convention on the Prevention and Punishment of the Crime of Genocide[[37]](#footnote-38) and Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment[[38]](#footnote-39). Both Remisia and Antrano are parties to the Convention on the Reduction of Statelessness (hereinafter “1961 Convention”).[[39]](#footnote-40) This convention does not confer a legal interest to State parties to bring the matter of breach of the convention by other State parties irrespective of being affected.[[40]](#footnote-41) Furthermore, common interest of State parties to prevent deprivation of nationality rendering persons statelessness cannot be inferred from the Preamble, object and purpose of the 1961 Convention, as it is aimed at reduction, not elimination of statelessness.[[41]](#footnote-42) Consequently, Antrano cannot rely on any collective interest shared with Remisia in fulfillment of 1961 Convention, since such obligation *erga omnes partes* is not recognized by international law and it cannot be inferred from the 1961 Convention.

### Antrano has not exhausted other means

Only disputes which cannot be settled by negotiation may be brought to the court.[[42]](#footnote-43) PCIJ later established that States must at first endeavor to overcome the disagreement between them.[[43]](#footnote-44) Moreover, States cannot resort to ICJ without exhausting available international human rights mechanisms.[[44]](#footnote-45) Both Antrano and Remisia are parties to the 1961 Convention and International Covenant on Civil and Political Rights (hereinafter “ICCPR”). Both 1961 Convention[[45]](#footnote-46) and ICCPR[[46]](#footnote-47) establish protection mechanisms. Furthermore, the 1961 Convention requires only disputes which cannot be settled by other means to be submitted to ICJ.[[47]](#footnote-48) Accordingly, Antrano must have resorted to these available protection mechanisms prior to applying to ICJ.[[48]](#footnote-49)

## REMISIA DID NOT VIOLATE INTERNATIONAL LAW WHEN IT DEPRIVED THE “STERREN FORTY” OF THEIR REMISIAN CITIZENSHIP IN ACCORDANCE WITH THE DCA.

Nationality is not a mere social fact of attachment, a genuine connection of existence, interests and sentiments, together with the existence of reciprocal rights and duties.[[49]](#footnote-50) It also involves a bond of allegiance with the state of nationality.[[50]](#footnote-51) When nationals “breach the duty of loyalty, states have power to sever the formal link between itself and the citizen and deny him membership as punishment for his acts”.[[51]](#footnote-52) Remisia did not violate international law, when depriving “Sterren Forty” of their nationality, since (**A**) it was consistent with 1961 Convention, (**B**) customary international law and (**C**) its other international human rights obligations.

### Deprivation of nationality of the “Sterren Forty” is consistent with the Convention on the Reduction of Statelessness.

Under the 1961 Convention, persons can be deprived of nationality even if they would be rendered stateless.[[52]](#footnote-53) Deprivation of Nationality of the “Sterren Forty” is consistent with the 1961 Convention, since (**1**) Remisia specified retention of its right to deprive nationality at the time of ratification, (**2**) the “Sterren Forty” has breached their duty of loyalty by acting in a manner seriously prejudicial to the vital interests of the State and (**3**) Remisia fulfilled other requirements of the 1961 Convention.

#### Remisia retained its right to deprive nationality in accordance with DCA by declaration.

1961 Convention stipulates that deprivation of nationality based on breach of duty of loyalty can be exercised by States if it is provided in national law at the time of ratification accompanied with a declaration specifying it.[[53]](#footnote-54) DCA was adopted in 1955[[54]](#footnote-55), while the 1961 Convention was ratified by Remisia in 1967[[55]](#footnote-56). Simultaneously with the ratification, Remisia made a declaration stating that it retains the right to deprive a person of his nationality based on DCA.[[56]](#footnote-57) Similar declarations have been made by a number of States parties to the 1961 Convention.[[57]](#footnote-58) Accordingly, application of DCA is consistent with the 1961 Convention.

#### The “Sterren Forty” acted in a manner seriously prejudicial to the vital interests of Remisia.

1961 Convention provides that individuals can be deprived of nationality if their conduct in breach of their duty of loyalty is seriously prejudicial to the vital interests of the state of nationality.[[58]](#footnote-59) This provision has been interpreted to include conducts that are threat to “the foundations and organization of the State whose nationality is at issue”.[[59]](#footnote-60) State’s integrity and constitutional foundations have also been considered of vital interest.[[60]](#footnote-61)

Monarchy is embedded in the foundation of Remisia, where the roots of the ruling family can be traced back more than a millennium.[[61]](#footnote-62) The fact that some protestors were in tears when they were rebelling against the Queen evidences veneration of Remisians towards the Monarchy.[[62]](#footnote-63) On the other hand, ILSA and its supporters by explicitly advocating for the overthrow of the Monarchy and establishment of democracy acted contrary to historical and constitutional foundations of the Kingdom of Remisia. They have expressed in a number of occasions their distrust towards the Queen[[63]](#footnote-64), insulted her by accusations of betrayal of the nation[[64]](#footnote-65) and calling for abolition of the Monarchy[[65]](#footnote-66). Their animus towards the Queen reached its climax when they physically blocked entrances and exits of the Sterren Palace. “Sterren Forty” did not only threaten the constitutional order of Remisia, but also endangered economic security of the country by blocking the access roads to the mining facilities[[66]](#footnote-67), which employs 4000 Remisians and produces significant public revenue[[67]](#footnote-68). Hence, “Sterren Forty” committed acts of treason by endangering the Kingdom’s foundations and attempting to overthrow the Queen per ILSA’s directions. Consequently, deprivation of nationality of the “Sterren Forty” is in conformity with Art. 8(3)(a)(ii) of 1961 Convention, since acts of treason are “seriously prejudicial against the vital interest of the state”.[[68]](#footnote-69)

#### Remisia fulfilled all other requirements of the Convention on the Reduction of Statelessness.

The 1961 Convention requires that deprivation of nationality rendering persons stateless must be exercised in accordance with the law and right to fair hearing must be provided.[[69]](#footnote-70) DCA explicitly provides for deprivation of nationality when act or speech is disloyal to the Crown. “Sterren Forty” were arrested on 27 February 2020 and they were convicted in accordance with DCA in March 2021.[[70]](#footnote-71) They appealed to the Supreme Court, which after reviewing the evidence confirmed the sentence.[[71]](#footnote-72) Accordingly, deprivation was not only carried out in accordance with longstanding law, but also the right to fair hearing and due process was ensured.

### Deprivation of nationality of the “Sterren Forty” is consistent with customary international law.

Deprivation of nationality of the “Sterren Forty” is not arbitrary. It (**1**) was prescribed by law, (**2**) had a legitimate purpose, (**3**) was proportionate, (**4**) non-discriminatory and (**5**) procedural safeguards were provided.

#### Deprivation of nationality was prescribed by law.

The fundamental factor which excludes the arbitrariness of deprivation is lawfulness.[[72]](#footnote-73) This also requires the legal basis of deprivation to be accessible and foreseeable to its effects.[[73]](#footnote-74) The requirement of lawfulness has also been promoted by High Commissioner for Refugees (hereinafter “UNHCR”)[[74]](#footnote-75), agency mandated with statelessness matters[[75]](#footnote-76) and 1961 Convention[[76]](#footnote-77). Deprivation of nationality of the “Sterren Forty” has its normative basis in the Constitution since 1923[[77]](#footnote-78) and in DCA since 1955[[78]](#footnote-79). Hence, deprivation is not only in conformity with the legislative act, namely DCA, but also with Remisian constitution.

#### Deprivation of nationality had a legitimate purpose.

Deprivation of nationality must serve a legitimate purpose consistent with international law and in particular with the objectives of international human rights law.[[79]](#footnote-80) It is legitimate for a state “to wish to protect the special relationship of solidarity and good faith between it and its nationals and also the reciprocity of rights and duties”.[[80]](#footnote-81) Non-existence of legitimate reason is an essential factor for determining arbitrariness of the deprivation of nationality. The “Sterren Forty” has not only breached their duty of loyalty towards Remisia, but also committed an act of treason by threatening the Kingdom’s foundations. Accordingly, the reasons behind the deprivation of nationality were legitimate.

#### Deprivation of nationality was proportionate to offenses committed by the “Sterren Forty”.

Restrictive measures must conform to the principle of proportionality.[[81]](#footnote-82) Consequences of the deprivation of nationality should be proportionate to the gravity of offenses committed.[[82]](#footnote-83) This includes the consistency of loss of nationality with the fundamental rights.[[83]](#footnote-84) Indispensability of proportionality in deprivation of nationality has also been recognized by UNHCR[[84]](#footnote-85) and Human Rights council[[85]](#footnote-86). The “Sterren Forty” have not only insulted the Queen, but also participated in protests aimed at change of the Government. Thus, Remisia was left with no choice but to deprive them of nationality, as they undermined the foundations of the Kingdom and breached their duty of loyalty.

#### Deprivation of nationality was not discriminatory.

All human beings are equal and they enjoy their rights without any distinction based on, *inter alia*, political grounds.[[86]](#footnote-87) The prohibition of discrimination is enshrined in a number of international instruments.[[87]](#footnote-88) The 1961 Convention provides this principle in the context of deprivation of nationality.[[88]](#footnote-89) States must abstain “from producing regulations that are discriminatory or have discriminatory effects”[[89]](#footnote-90), otherwise such deprivation of nationality would be arbitrary[[90]](#footnote-91). “Sterren Forty” were among more than 1000 detained student demonstrators.[[91]](#footnote-92) However, they were the only ones blocking entrances and exits of the Queen’s Palace.[[92]](#footnote-93) The trial court imposed the same sentence on each of the Sterren Forty considering the gravity of their offense without any discrimination.[[93]](#footnote-94)

#### Deprivation of nationality was carried out with procedural safeguards.

Everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law.[[94]](#footnote-95) Observance of this principle is also required in the cases of deprivation of nationality.[[95]](#footnote-96) Accompaniment of deprivation of nationality with procedural safeguards, in particular access to appropriate judicial review, is essential for determining non-arbitrariness.[[96]](#footnote-97) The “Sterren Forty” were ensured procedural safeguards, as adequate and effective remedies were made available to them, to which they resorted when they appealed to the Supreme Court.[[97]](#footnote-98) Moreover, their trial lasted for over a year[[98]](#footnote-99), proving that a reasonable amount of time was allocated for the investigations.

### Deprivation of nationality of the “Sterren Forty” is consistent with Remisia's human rights obligations.

Remisia respected the rights of the “Sterren Forty” under (**1**) Convention Relating to the Status of Stateless Persons (hereinafter “1954 Convention”) and (**2**) other international instruments.

#### Remisia complied with 1954 Convention Relating to the Status of Stateless Persons.

Stateless persons shall be issued identity cards[[99]](#footnote-100) and they shall not be subject to expulsion.[[100]](#footnote-101) The “Sterren Forty” were issued non-citizen identity cards and they still remain in Remisia to this day.[[101]](#footnote-102) Accordingly, Remisia has complied with its obligations under the 1954 Convention.

#### Remisia complied with its international human rights obligations under other international instruments.

In addition to the 1954 Convention, Remisia is a party to ICCPR and International Covenant on Economic, Social and Cultural Rights.[[102]](#footnote-103) There was no discrimination against the “Sterren Forty” and they had access to justice. Their imprisonment is not a violation of the right to liberty, as it is lawful. Consequently, Remisia has ensured all the human rights of the “Sterren Forty”.

## ANTRANO VIOLATED INTERNATIONAL LAW WHEN IT DENIED SAKI SHAW, A REMISIAN CITIZEN, ACCESS TO REMISIAN CONSULAR REPRESENTATIVES WHILE SHE WAS HELD PRISONER IN ANTRANO.

Antrano’s actions led **(A)** to the breach of the individual rights of Ms. Shaw to consular access providing a basis for Remisia to exercise diplomatic protection on Ms. Shaw’s behalf; and **(B)** prevented Remisia to provide consular protection to Ms. Shaw who explicitly requested it.

### By Antrano violating Ms. Shaw’s individual right under international law, Remisia does have a right to exercise diplomatic protection.

Remisia’s right to protect its nationals abroad provides its nationals to be treated to enforce the obligation of other states to treat foreigners on their territory in accordance with legal rules and principles.[[103]](#footnote-104) By doing so, the State is exercising its rights.[[104]](#footnote-105) In order to exercise diplomatic protection, there must exist a violation of the individual right. In this case **(1)** there is also a violation of consular communication provided by international law. Secondly, **(2)** the bond of nationality is sufficient basis for the exercise of diplomatic protection.[[105]](#footnote-106)

#### Antrano breached Ms. Shaw’s individual right provided in Art. 36(1)(b) of VCCR.

Ms. Shaw exercised her individual right provided in Art. 36(1) of 1963 Vienna Convention on Consular Relations (hereinafter “VCCR”) when she explicitly requested to speak to the Remisian consul.[[106]](#footnote-107) Per international law, Antrano does not have an unlimited “measure of discretion” in its treatment of Ms. Shaw.[[107]](#footnote-108) By refusing to acknowledge and act upon Ms. Shaw’s request, Antrano further violated the correlative right to receive assistance from her consular office.[[108]](#footnote-109) Ms. Shaw should have had access to Remisia’s consular officials at any time.[[109]](#footnote-110)

Art. 36(1)(b) provides individual right of the person detained.[[110]](#footnote-111) By non-recognizing her Remisian citizenship, Antrano denied consular access to Ms. Shaw, and simultaneously breached Art. 36(1)(b). This confirms Antrano has no discretion to refuse individual’s request per Art. 36(1)(b).[[111]](#footnote-112) This is affirmed by Art. 36(1)(c) of VCCR, where Ms. Shaw has exercised her right to “expressly oppose” any action on her behalf which Molvanian officers could have taken on the behest of Antrano after Antrano breached VCCR.

Ms. Shaw demanded to speak to the Remisian consul, and Antrano refused her request adducing Antrano does not recognize her Remisian citizenship.[[112]](#footnote-113)

#### Ms. Shaw is a Remisian national.

##### Only Remisia can define who are its nationals.

Remisia exercises diplomatic protection to its nationals, as defined by Remisia, including naturalized citizens.[[113]](#footnote-114) It falls under the strict purview of Remisia to determine who are its nationals. This is overwhelmingly avowed with general principles and treaties.[[114]](#footnote-115) Additionally, Remisia possesses authority to create naturalization laws as it is a fundamental concept of sovereignty.[[115]](#footnote-116) As wrongly adduced by Antrano, Ms. Shaw did not “buy” her Remisian citizenship; but she “earned” it.[[116]](#footnote-117) Her Remisian citizenship is legal and legitimate, her application was duly processed and approved, and she met all applicable requirements for naturalization. Furthermore, Remisia holds “margin of appreciation” to grant citizenship with presumption of validity under international law, as stated by the International Law Commission (hereinafter “ILC”).[[117]](#footnote-118) Since 2008 approximately 950 foreign nationals have applied for naturalization in Remisia with no world’s questioning known opposition.[[118]](#footnote-119)

##### Antrano is obligated to recognize the Remisian nationality of Ms. Shaw.

Remisia’s laws determining its nationals must be recognized by Antrano in so far as they are “consistent with international conventions, international custom, and the principles of law generally recognized with regard to nationality”.[[119]](#footnote-120) Ms. Shaw applied of her own free will to become a Remisian national and as Remisia’s laws on nationality are not based on fraud and abuse of right; no international venue can limit Remisia's authority on the matter.[[120]](#footnote-121) *In arguendo*, should the Applicant refer to “genuine link”, this Court indicated it is “a supplementary and mandatory prerequisite”[[121]](#footnote-122) validating that it is something to be not justified within international law’s framework.[[122]](#footnote-123) International law does not provide any basis for “limiting state’s authority to determine rules of nationality, apart from fraud and abuse of right”.[[123]](#footnote-124) Neither of these circumstances exist in Ms. Shaw’s case. Further, Ms. Shaw satisfied all applicable requirements.[[124]](#footnote-125)

##### “Genuine link”’ is not and never was a requirement for international recognition of the attribution of nationality.

Antrano cannot rely on the concept of “genuine link” for recognition of nationality since it is neither a basis for granting nationality, nor does its absence invalidate nationality.[[125]](#footnote-126)

“Genuine link” is dead letter.[[126]](#footnote-127) International practice has changed since ICJ’s judgment in *Nottebohm* was adopted in 1955. *Nottebohm* has been limited to the *Nottebohm*’s facts and its application has been limited.[[127]](#footnote-128) Advocate General in the European Court of Justice reserved the application of the *Nottebohm* in *Micheletti* case.[[128]](#footnote-129) ILC rejected *Nottebohm* as a general rule and strictly limited to its facts.[[129]](#footnote-130) There is no “Nottebohm rule” as a part of customary international law, as there was no intent to determine “a general rule” applicable to all states. [[130]](#footnote-131) The non-recognition of “Nottebohm rule” is accepted in international private law.[[131]](#footnote-132)

Endorsing a matter open to interpretation such as “genuine link” may lead to arbitrariness and abuse of discretion in the application of law.[[132]](#footnote-133) Moreover, implementing the “Nottebohm rule” would exclude millions of individuals from benefiting of diplomatic protection.[[133]](#footnote-134)

##### Even if “genuine link” test is applied, Ms. Shaw does have a genuine link with Remisia.

Multiple nationality is a fact of globalization.[[134]](#footnote-135) In contemporary life, States no longer have “unitary traditions, interests or ways of living to which citizens hew”.[[135]](#footnote-136) The ‘genuine link’ test could also theoretically be applied to individuals who are citizens by birth but have never resided in their country of nationality.[[136]](#footnote-137) Ms. Shaw left Molvania in 2012 and has never returned there since then.[[137]](#footnote-138)

The implications of this debatable test would confirm the genuine link between Ms. Shaw and Remisia. Application of “genuine link” is elastic in a world where it is possible to establish various connections with states.[[138]](#footnote-139) In addition to contributing €500,000 to the National Infrastructure Development Fund, Ms. Shaw facilitated Remisia’s goals to increase employment opportunities and economic development by beginning operations in mining sites.[[139]](#footnote-140) It may constitute the fact that Ms. Shaw is in fact “more closely connected with the population of the State (Remisia) conferring nationality than with that of any other State”,[[140]](#footnote-141) evinced as Ms. Shaw sought Remisian nationality and Remisia conferred it in accordance to the law.

#### Genuine or effective link between the national and the State are not required for exercising diplomatic protection.

Remisia retains its right to exercise diplomatic protection in any case of Remisian nationality, including protecting Ms. Shaw in Antrano.[[141]](#footnote-142) There is no requirement of genuine link between Ms. Shaw and Remisia.[[142]](#footnote-143) Furthermore, Antrano lacks the authority to refuse Ms. Shaw’s individual right and to contest Remisia’s right and duty regarding Ms. Shaw by referring to Molvanian nationality.[[143]](#footnote-144) This is confirmed in similar cases.[[144]](#footnote-145)

Consequently, by not notifying Remisia following Ms. Shaw’s arrest of her detention upon her request and by providing her with Molvanian consul, although she expressly opposed such action, she was denied in the exercise of her individual right under the VCCR by Antrano, which entails the right of Remisia to the exercise of diplomatic protection on behalf of its national.

### Antrano has violated Remisia’s right of consular protection of its nationals.

The VCCR provides certain standards to be followed by all States parties, which are important in international law “in promoting the development of friendly relations among nations, and ensuring protection and assistance for aliens resident in the territories of other States”.[[145]](#footnote-146) Remisia was deprived of a right to perform consular functions because of the failure of Antrano to apply standards provided in Art. 36 of VCCR. Namely, **(1)** Antrano breached Art. 36(1) of VCCR by not notifying Remisia of the detention of Ms. Shaw and **(2)** application of domestic law by Antrano resulted in breach of Art. 36(2) of VCCR.

#### Antrano breached Art. 36(1) of VCCR.

Protection of nationals is a consul’s most basic function.[[146]](#footnote-147) Communication between consular officers and nationals must always be possible.[[147]](#footnote-148) Antrano failed to inform the consular post of Remisia and prevented this communication.

##### Omission of notification to Remisia of the detention of Ms. Shaw.

The right to notification of one’s consulate has been considered as a part of customary international law.[[148]](#footnote-149) When Antrano informed Ms. Shaw of her rights upon the arrest, they fulfilled the initial step outlined in Art. 36(1)(b) of VCCR. However, in accordance with this article, Antrano was obligated to notify Remisia about Ms. Shaw’s detention “without delay”. Yet, by failing to communicate to Remisia upon Ms. Shaw's request,[[149]](#footnote-150) Antrano breached the two-step procedure required by the provision.[[150]](#footnote-151)

On 18th of March 2022, even when Remisia learned about its citizen's arrest and requested a consular meeting, Antrano responded by stating that they did not acknowledge Ms. Shaw’s Remisian citizenship and only notified Molvania.[[151]](#footnote-152)

##### Resulting breaches of Art. 36(1)(a) and Art. 36(1)(c) of VCCR.

By not fulfilling its obligation to inform Remisia, Antrano also violated the right to consular access provided for in Art. 36(1)(a) and Art. 36(1)(c), as the notification required by Art. 36(1)(b) did not occur. This violation was continued even after Remisia was aware of detention, as Antrano refused to provide consular access to Remisia.

#### Application of domestic law by Antrano resulted in breach of Art. 36(2) of VCCR.

The requirement of notification stipulated in Art. 36(1)(b) of VCCR “constitutes the cornerstone of the system of protection of foreign nationals”.[[152]](#footnote-153) The refusal to notify Remisia of the arrest and detention of Ms. Shaw due to its own regulations and non-recognition of purchased citizenship precludes full effect to be given to the purposes for which Art. 36 is intended.[[153]](#footnote-154)

The term “full effect” is stronger than the term “not nullify”, which was proposed by the ILC.[[154]](#footnote-155) Furthermore, Antrano had to consider that Art. 36 prevails over domestic procedure. In accordance with the purposes of the VCCR, the municipal law of Antrano had to allow the actual exercise of the rights provided for in the Convention. [[155]](#footnote-156)

Refusing to notify Remisia of the arrest and detention of its citizen because of “non-recognition of purchased citizenship” by Antrano precludes full effect to be given to the rights provided in Art. 36 of the Convention.

## REMISIA DID NOT VIOLATE INTERNATIONAL LAW BY REFUSING TO ALLOW DR. MALEX TO ENTER REMISIA.

UN Member States are not required to accept and carry out UNSC decisions as per the UN Charter if the resolution is adopted under Chapter VI.[[156]](#footnote-157) Consequently, unless experts for a specific mission have been appointed in accordance with the binding Resolution, countries maintain the right to refuse entry to these experts. Therefore, Remisia has violated neither **(A)** its obligations under the UN Charter, as the Resolution 99997 (hereinafter “Resolution”) does not impose legal obligations on Remisia, nor **(B)** its obligations under the 1946 Convention on the Privileges and Immunities of the UN (hereinafter “1946 Convention”) by refusing to allow Dr. Malex to enter Remisia.

### Resolution 99997 imposes no legal obligations on Remisia.

The Resolution does not establish any binding legal obligations for Remisia as **(1)** it is invalid. Even if the Court considers the Resolution to be valid **(2)** the Resolution is not binding.

#### Resolution is not valid.

The Court should find the Resolution invalid based on **(a)** its judicial review powers. Because **(b)** the Resolution did not satisfy the conditions set out in Art. 34 of UN Charter and **(c)** procedural requirements were not observed.

##### The Court has a judicial review power to examine the validity of the Resolution.

The ICJ has a jurisdiction to determine whether the Council's actions were validly conducted.[[157]](#footnote-158) As long as the UNSC resolution determines rights and responsibilities of the States, the Court should determine the validity of the resolution, as it is the Court’s function to “decide the legal rights and responsibilities of States.”[[158]](#footnote-159) The ICJ and the Council address complementary aspects of the same event with respect to the judicial and political functions.[[159]](#footnote-160) There is no explicit prohibition on judicial review in the UN Charter. The ICJ, in the *Namibia Advisory Opinion* and *Certain Expenses Advisory Opinion*, has examined whether the decisions of the Council were taken validly. When the ICJ is called upon to determine the legal consequences of a resolution, it must determine the resolution's validity in the first place.[[160]](#footnote-161) Responsibility of the Council for the maintenance of international peace and security by virtue of Article 24(1) of the UN Charter allows the Court “to disregard decisions of the Council which are not substantively in accordance with the aims of the Charter.”[[161]](#footnote-162) The ICJ, in *Certain Expenses Advisory Opinion*, reserved for itself a right of judicial review when the Council failed to act in accordance with the purposes and principles of the UN.[[162]](#footnote-163)

The presumption of validity of the Council's decisions does not exclude the judicial review power of ICJ to examine the validity of such resolutions. It only implies that the burden of proof lies with Remisia.[[163]](#footnote-164)

##### The conditions of Art. 34 of the UN Charter are not satisfied.

###### The matter is internal.

Given that the issue of nationality falls within Remisia's internal matters, the adoption of the Resolution opposes one of the fundamental principles of UN Charter which restricts the intervention in “matters which are essentially within the domestic jurisdiction of any state”.[[164]](#footnote-165)

Each State can determine its own nationals according to its own laws[[165]](#footnote-166) and “the questions of nationality are in principle within the reserved domain”[[166]](#footnote-167) as affirmed by 1930 Convention on Certain Questions Relating to the Conflict of Nationality Laws and PCIJ. Additionally, the reassertion of these provisions in treaties[[167]](#footnote-168) and legal precedents[[168]](#footnote-169) highlight that the jurisdiction over determining matters of nationality and regulations concerning the loss of nationality remains within the reserved domain of the States.

###### The purpose of resolution is not maintaining international peace and security.

The investigation under Art. 34 of UN Charter is limited to a definite purpose – “to determine whether the continuance of the dispute or situation is likely to endanger the maintenance of international peace and security”. If the Council establishes an organ for the investigation for other purposes, its actions could be derived from Article 29 of UN Charter.[[169]](#footnote-170) In this case, reasonable doubts of “other purposes” arise with regard to the Council conducting investigation “into the conditions of the prisoners”. Based on both discussions and the Resolution text, it is evident that the UNSC, when passing this resolution, was not operating with the objective of maintaining peace and security.[[170]](#footnote-171)

##### Even if the conditions of Article 34 are satisfied, the procedural requirements were not followed.

Action under Art. 34 of UN Charter requires a non-procedural voting majority in the Council.[[171]](#footnote-172) The adoption of the Resolution was a substantive decision as the investigation was conducted under Article 34.[[172]](#footnote-173) Substantive decisions require an affirmative vote of nine members, including the concurring votes of all permanent UNSC members.[[173]](#footnote-174) Additionally, as the Resolution was adopted under Chapter VI provision, a party to a dispute should have abstained from voting.[[174]](#footnote-175)

After Antrano, as a member of the Council[[175]](#footnote-176), and Remisia had been heard, on 11 April, the Council unanimously adopted the Resolution and the UN Inspection Mission to Remisia was established.[[176]](#footnote-177) Antrano has failed to follow the procedural requirements for the adoption of substantive decisions by voting on the adoption of the Resolution. The procedural voting majority system, which includes Antrano's vote, would have been applicable only if the UNIMR could have been established as a subsidiary organ for the UNSC to carry out its functions.[[177]](#footnote-178) Additionally, if the Council intended to employ its general competence to conduct investigations by sending a UN fact-finding mission, Remisia should have been sought for consent in such a scenario.[[178]](#footnote-179) Remisia was not asked for and did not give such a consent.

#### Even if Resolution 99997 is valid, it is not binding.

Investigations under Art. 34 are one of the possible actions for the prevention of conflicts to be undertaken under Chapter VI of UN Charter.[[179]](#footnote-180) Art. 34 does not specify the responsibilities of states involved in the investigation, aligning with the fundamental concept of Chapter VI, which would allow Remisia and Antrano to freely choose how to settle disputes.[[180]](#footnote-181) From the wording of Art. 34, the phrase “may investigate” suggests having the ability or authority to investigate, rather than being mandated or obligated to do so. This grants the Council the authority to conduct such an investigation solely to assess the situation without imposing obligations on the involved parties.[[181]](#footnote-182)

Therefore, Resolution 99997 is not binding since **(a)** it was not adopted under Chapter VII of UN Charter. Also **(b)** the interpretation of the Resolution leads to its non-bindingness.

##### Resolution 99997 was not adopted under Chapter VII of UN Charter, therefore, Art. 25 is not applied.

The application of Art. 25 depends solely on the nature of the resolution in question, which excludes its relevance in the current case as the present Resolution was adopted under Art. 34.[[182]](#footnote-183) Hence, Art. 25 cannot compel Remisia to accept and execute the present decision of the Council because the Resolution was adopted under Chapter VI of Charter. [[183]](#footnote-184)

##### The interpretation of the Resolution 99997 leads to non-bindingness of it.

The comprehensive assessment of the binding nature of the Resolution involves factors such as its language, the discussions preceding it, the relevant provisions of the UN Charter, and other circumstances aiding in understanding its legal consequences.[[184]](#footnote-185) The crucial factor in discerning these legal consequences lies in the specific language used by the Council, which signifies whether the resolution stands as a unilateral act[[185]](#footnote-186) and reflects the will of the UNSC, thereby unveiling its intent.[[186]](#footnote-187)

Operative clauses 2 and 3 of Resolution contain phrases like “calls upon” and “reaffirms”, typically not associated with binding decisions.[[187]](#footnote-188) When comparing this Resolution with others adopted under Art. 34,[[188]](#footnote-189) the Resolution seems to convey a stronger sense of urging[[189]](#footnote-190) rather than strict obligation, as the phrases used differ from others that might include terms like “resolves” and “shall”. The flexibility in how the investigation may be conducted provided in paragraph 1(b) of Resolution together with other words used in Resolution lean towards a non-binding nature.

Furthermore, the ICJ in *Certain Expenses Advisory Opinion* finds the UNSC resolution which was adopted “purportedly for the maintenance of international peace and security” to have a binding effect.[[190]](#footnote-191) No such purpose was indicated in the present Resolution. The Resolution was not adopted in line with the purposes and principles of the UN Charter, and with the goal of maintaining international peace and security, therefore, not falling under the scope of Art. 24 and Art. 25 of UN Charter.[[191]](#footnote-192) The exhortatory nature of the Resolution, rather than imposing a mandate, does not establish any legal obligation for Remisia to allow Dr. Malex's entry.

### Remisia did not violate any obligations under the Convention on the Privileges and Immunities of the United Nations.

The 1946 Convention establishes minimum privileges and immunities, particularly enumerated in Section 22, to be enjoyed by the officials and experts on missions for the United Nations.[[192]](#footnote-193) Nevertheless, Remisia did not violate the 1946 Convention, when it did not allow Mr. Malex to enter Remisia, because **(1)** he cannot be considered as “an expert on mission”. **(2)** Even if he is “an expert on mission”, he may not travel to Remisia, because he retains the right to independently exercise his functions.

#### The Convention is not applicable, as Dr. Malex is not “an expert on mission” within the meaning of the Convention.

The definition of “experts on missions for the United Nations” has been provided neither by the UN Secretary-General, nor by other organs of the UN.[[193]](#footnote-194) In a UN Secretariat Study it has been established that “Experts on mission include military observers, officers serving under the UN Command, and members of the UN Administrative Tribunal, the Advisory Committee on Administrative and Budgetary Questions, the International Civil Service Advisory Board, the International Law Commission, and the Permanent Central Narcotics Board”.[[194]](#footnote-195) Additionally, the UN applies this notion to the members of bodies established by international treaties.[[195]](#footnote-196) Consequently, no inspection missions established by the UNSC Resolutions are indicated in any authoritative source. Therefore, Dr. Malex cannot be considered as “an expert on mission” within the meaning of the 1946 Convention, and Remisia has no obligation to provide privileges and immunities given in Section 22 of the relevant Convention.

#### Even if Dr. Malex is “an expert of mission”, he does not need to travel to Remisia.

Even if Dr. Malex is considered to be “an expert on mission” within the meaning of the 1946 Convention, Remisia still did not violate any obligation under the 1946 Convention. The ICJ has stated that experts on mission do not need to travel in order to be accorded privileges and immunities under Art. VI of 1946 Convention.[[196]](#footnote-197) The purpose of Art. VI Section 22 of 1946 Convention is to guarantee experts privileges and immunities, which are necessary for “the independent exercise of their functions”.[[197]](#footnote-198) Thus, it is possible for the experts to perform their tasks without traveling.[[198]](#footnote-199)

Therefore, not allowing Dr. Malex entry to Remisia does not constitute a breach of the 1946 Convention.

# PRAYER FOR RELIEF

For the aforementioned reasons, the Kingdom of Remisia, the Respondent, respectfully prays that this Honourable Court adjudge and declare that:

1. Antrano lacks standing to bring the matter of the deprivation of nationality of the “Sterren Forty” to this Court; and
2. Remisia did not violate international law when it deprived the “Sterren Forty” of their Remisian citizenship in accordance with the DCA; and
3. Antrano violated international law when it denied Saki Shaw, a Remisian citizen, access to Remisian consular representatives while she was held prisoner in Antrano; and
4. Remisia did not violate international law by refusing to allow Dr. Malex to enter Remisia.

*Respectfully submitted,*

*Agents for the Kingdom of Remisia*

1. Statute of the ICJ, 1946, 33 UNTS 993, Art. 36. [↑](#footnote-ref-2)
2. *Alleged Violations of Sovereign Rights and Maritime Spaces in the Caribbean Sea* (*Nicaragua v. Colombia*)[2016] ICJ Rep 3, ¶50 [“*Nicaragua v. Colombia”*]. [↑](#footnote-ref-3)
3. *Mavrommatis Palestine Concessions* (*Greece v United Kingdom*) [1924] PCIJ Series A no 2, 11 [“*Mavrommatis*”]. [↑](#footnote-ref-4)
4. *South-West Africa Cases (Ethiopia v. South Africa; Liberia v. South Africa)* (Judgment) [1962] ICJ Rep 319, 328 [“*South-West Africa*”]. [↑](#footnote-ref-5)
5. Ibid. [↑](#footnote-ref-6)
6. *Interpretation of Peace Treaties with Bulgaria, Hungary and Romania* (Advisory Opinion) [1950] ICJ Rep 221, 74. [↑](#footnote-ref-7)
7. *Obligations Concerning Negotiations Relating to Cessation of the Nuclear Arms Race and to Nuclear Disarmament* (*Marshall Islands v. United Kingdom*) (Judgment) [2016] ICJ Rep 833, ¶41. [↑](#footnote-ref-8)
8. *Compromis*, ¶36. [↑](#footnote-ref-9)
9. *Compromis*, ¶38. [↑](#footnote-ref-10)
10. *Compromis*, ¶39. [↑](#footnote-ref-11)
11. *Mavrommatis,* 15. [↑](#footnote-ref-12)
12. *Questions relating to the Obligation to Prosecute or Extradite* (*Belgium v Senegal*) (Judgment) [2012] ICJ GL No 144, ¶55 [“*Prosecute or Extradite*”]. [↑](#footnote-ref-13)
13. *Compromis*, ¶36. [↑](#footnote-ref-14)
14. *Compromis*, ¶38, 39. [↑](#footnote-ref-15)
15. *Compromis*, ¶63(a). [↑](#footnote-ref-16)
16. Charter of the United Nations, 1945, 1 UNTS XVI, Art. 2(7) [“*UN Charter*”]. [↑](#footnote-ref-17)
17. *Certain Norwegian Loans* (*France v Norway)* (Judgment) [1957] ICJ Rep 9, 22 [“*Certain Norwegian Loans*”] [↑](#footnote-ref-18)
18. Declaration by Judge Moreno Quintana, in: *Certain Norwegian Loans*, p. 28. [↑](#footnote-ref-19)
19. *Anglo-Iranian Oil Co* (*United Kingdom v Iran*) (Judgment) [1952] ICJ Rep 93, 9. [↑](#footnote-ref-20)
20. *Interhandel* (*Switzerland v United States*) (Judgment) [1959] ICJ Rep 6, 9. [↑](#footnote-ref-21)
21. *Nationality Decrees Issued in Tunis and Morocco (French Zone) on November 8th, 1921* (*Great Britain v France*) (Advisory Opinion) [1923] PCIJ Series B no 4, 24 [“*Nationality Decrees*”]. [↑](#footnote-ref-22)
22. Case C-369/90 *Micheletti v Delegación del Gobierno de Cantabria* [1992] ECR I-4239, ¶10 [“*Micheletti Case*”]; Case C-135/08 *Janko Rottmann v Freistaat Bayern* [2010] ECR I-01449, ¶39 [“*Rottmann Cas*e”]; Case C-221/17 *M.G. Tjebbes and Others* [2019], ¶30 [“*Tjebbes Case*”]. [↑](#footnote-ref-23)
23. Convention on Certain Questions Relating to the Conflict of Nationality Laws, 1930, 179 LNTS 89, Art. 1 [“*Conflict of Nationality Laws*”]; Council of Europe, European Convention on Nationality, 1997, ETS 166, Art. 3 [“*European Convention*”]. [↑](#footnote-ref-24)
24. *South-West Africa* (*Ethiopia v South Africa*) (Judgment) [1966] ICJ Rep 6, ¶88. [↑](#footnote-ref-25)
25. *Reparation for injuries suffered in the service of the United Nations* (Advisory Opinion) [1949] ICJ Rep 174, 11-12. [↑](#footnote-ref-26)
26. *Northern Cameroons* (*Cameroon v United Kingdom*) [1963] ICJ Rep 15, 23-24. [↑](#footnote-ref-27)
27. International Law Commission, Articles on Responsibility of States for Internationally Wrongful Acts, November 2001, Art. 42. [↑](#footnote-ref-28)
28. Farid Ahmadov, “*The Right of Actio Popularis before International Courts and Tribunals*”, 2018, 27. [↑](#footnote-ref-29)
29. *Barcelona Traction, Light and Power Company, Limited* (*Belgium v. Spain*) (Judgment) [1970] ICJ Rep 3, ¶33 [“*Barcelona Traction*”]. [↑](#footnote-ref-30)
30. Ibid, ¶34. [↑](#footnote-ref-31)
31. *Case Concerning East Timor* (*Portugal v. Australia*) (Judgment) [1995] ICJ Rep 90, ¶29. [↑](#footnote-ref-32)
32. *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory* (Advisory Opinion) [2004] ICJ Rep 136, ¶157. [↑](#footnote-ref-33)
33. Institut de Droit International, Fifth Commission, Resolution on Obligations and Rights *erga omnes* in International Law, Krakow Session, 2005, Preamble, ¶2. [↑](#footnote-ref-34)
34. *Prosecute or Extradite*, ¶68. [↑](#footnote-ref-35)
35. *Reservations to the Convention on the Prevention and Punishment of the Crime of Genocide* (Advisory Opinion) [1951] ICJ Rep 15, 23. [↑](#footnote-ref-36)
36. *Application of the Convention on the Prevention and Punishment of the Crime of Genocide* (*The Gambia v. Myanmar*) (Order) [2020] ICJ GL No 178, ¶41. [↑](#footnote-ref-37)
37. Ibid. [↑](#footnote-ref-38)
38. *Prosecute or Extradite*, ¶69. [↑](#footnote-ref-39)
39. *Compromis*, ¶62. [↑](#footnote-ref-40)
40. Convention on the Reduction of Statelessness, 1961, 989 UNTS 175, Art.14 [“*1961 Convention*”]. [↑](#footnote-ref-41)
41. Ibid, Preamble. [↑](#footnote-ref-42)
42. *Mavrommatis*, p. 15. [↑](#footnote-ref-43)
43. *Factory at Chorzów* (*Germany v Poland*) (Order) [1927] PCIJ Series A no 12, 10-11. [↑](#footnote-ref-44)
44. *Military and Paramilitary Activities in and against Nicaragua* (*Nicaragua v. United States of America*) (Judgment) [1986] ICJ, ¶267. [↑](#footnote-ref-45)
45. *1961 Convention*, Art. 11. [↑](#footnote-ref-46)
46. International Covenant on Civil and Political Rights, 1966, 999 UNTS 171, Art.28 [“*ICCPR*”]. [↑](#footnote-ref-47)
47. *1961 Convention*, Art.14. [↑](#footnote-ref-48)
48. *Barcelona Traction*, ¶91. [↑](#footnote-ref-49)
49. *Nottebohm Case* (*Liechtenstein v. Guatemala*) (Judgment) [1955] ICJ Rep 4, p. 23 [“*Nottebohm*”]. [↑](#footnote-ref-50)
50. *Proposed Amendments to the Naturalization Provision of the Constitution of Costa Rica*, Advisory Opinion, OC-4/84, Inter-American Court of Human Rights (“*IACrtHR*”) Series A no 4 (19 January 1984), ¶35. [↑](#footnote-ref-51)
51. Tamas Molnar, “The Prohibition of Arbitrary Deprivation of Nationality under International Law and EU Law: New Perspectives” 2014 Hungarian YB Int'l L & Eur L 67, 82. [↑](#footnote-ref-52)
52. *1961 Convention*, Art. 8(3). [↑](#footnote-ref-53)
53. Ibid. [↑](#footnote-ref-54)
54. *Compromis*, ¶7. [↑](#footnote-ref-55)
55. *Compromis*, ¶62. [↑](#footnote-ref-56)
56. Ibid. [↑](#footnote-ref-57)
57. Declarations by Austria, Belgium, Brazil, France, Georgia, Italy, Lithuania, New Zealand, Tunisia and others to the 1961 Convention on the Reduction of Statelessness, available at: [UN Treaties](https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=V-4&chapter=5) (last visited: 12.01.2024). [↑](#footnote-ref-58)
58. *1961 Convention*, Art. 8(3)(a)(ii). [↑](#footnote-ref-59)
59. UN High Commissioner for Refugees (UNHCR), *Expert Meeting* - Interpreting the 1961 Statelessness Convention and Avoiding Statelessness resulting from Loss and Deprivation of Nationality (“Tunis Conclusions”), 2014, ¶68 [“*Tunis Conclusions*”]. [↑](#footnote-ref-60)
60. U.N. Human Rights Office of the High Commissioner, Position of the United Nations Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism on the human rights consequences of citizenship stripping in the context of counter-terrorism with a particular application to North-East Syria, U.N. Human Rights Special Procedures, February 2022, 4. [↑](#footnote-ref-61)
61. *Compromis*, ¶5. [↑](#footnote-ref-62)
62. *Compromis*, ¶29. [↑](#footnote-ref-63)
63. *Compromis*, ¶26, 28, 29. [↑](#footnote-ref-64)
64. *Compromis*, ¶27. [↑](#footnote-ref-65)
65. *Compromis*, ¶32. [↑](#footnote-ref-66)
66. *Compromis*, ¶29. [↑](#footnote-ref-67)
67. *Compromis*, ¶21. [↑](#footnote-ref-68)
68. *Tunis Conclusions*, ¶68; Council of Europe, Explanatory Report to the European Convention on Nationality, European Treaty Series - No. 166, (1997), ¶67. [↑](#footnote-ref-69)
69. *1961 Convention*, Art. 8(4). [↑](#footnote-ref-70)
70. *Compromis*, ¶30, ¶33. [↑](#footnote-ref-71)
71. *Compromis*, ¶34. [↑](#footnote-ref-72)
72. U.N., *Reports of International Arbitral Awards*, Vol XXVI, 245-247, Partial Award, Civilian Claims—Eritrea’s Claims 15, 16, 23 & 27-32, decision of 17 December 2004, ¶60. [↑](#footnote-ref-73)
73. European Court of Human Rights (ECtHR) Judgment on the merits delivered by a Chamber, *Ahmadov v. Azerbaijan* (dec.) 32538/10, ECHR 1999-II, ¶44 [“*Ahmadov v. Azerbaijan*”]. [↑](#footnote-ref-74)
74. UNHCR, Guidelines on Statelessness No. 5: Loss and Deprivation of Nationality under Articles 5-9 of the *1961 Convention*, 2020, HCR/GS/20/05, ¶72-75 [“*Guidelines on Statelessness*”]. [↑](#footnote-ref-75)
75. UN General Assembly (*UNGA*), 1996, UN Doc A/RES/50/152. [↑](#footnote-ref-76)
76. *1961 Convention*, Art.8(4). [↑](#footnote-ref-77)
77. *Compromis*, ¶6. [↑](#footnote-ref-78)
78. *Compromis*, ¶7. [↑](#footnote-ref-79)
79. UN Human Rights Council (*UNHRC*), 2009, *Human rights and arbitrary deprivation of nationality: Report of the Secretary-General*, A/HRC/13/34, ¶25 [“*Report of the Secretary-General*”]. [↑](#footnote-ref-80)
80. *Rottmann Case*, ¶51. [↑](#footnote-ref-81)
81. UN Human Rights Committee (*HRC*), *CCPR General Comment No. 27: Article 12 (Freedom of Movement)*, 2 November 1999, CCPR/C/21/Rev.1/Add.9, ¶14. [↑](#footnote-ref-82)
82. *Rottmann Case*, ¶56. [↑](#footnote-ref-83)
83. *Tjebbes Case*, ¶45. [↑](#footnote-ref-84)
84. *Guidelines on Statelessness*, ¶94. [↑](#footnote-ref-85)
85. *UNHRC, 2013, Human rights and arbitrary deprivation of nationality: Report of the Secretary-General,* A/HRC/25/28, ¶39, ¶40. [↑](#footnote-ref-86)
86. Universal Declaration of Human Rights, 1948, 217 A (III) (UNGA), Arts.1, 2 [“*UDHR*”]. [↑](#footnote-ref-87)
87. *ICCPR*, Art. 26; Council of Europe, Convention for the Protection of Human Rights and Fundamental Freedoms, 1950, Art.14; American Convention on Human Rights “Pact of San José, Costa Rica”, 1969, 1144 UNTS 23, Art.24 [“*American Convention*”]. [↑](#footnote-ref-88)
88. *1961 Convention*, Art.9. [↑](#footnote-ref-89)
89. *Case of the Girls Yean and Bosico v Dominican Republic* (*Oliven Yean and Bosico Cofi v Dominican Republic*)*,* IACrtHR Series C no 156 (23 November 2006), *¶*141. [↑](#footnote-ref-90)
90. *Ramadan v. Malta*, ECtHR, Application no. 76136/12, 21 June 2016, Dissenting Opinion of Judge Pinto De Albuquerque, ¶24; Institute on Statelessness and Inclusion, 2020, “Commentary to the Principles on Deprivation of Nationality as National Security Measure”, 44, ¶47. [↑](#footnote-ref-91)
91. *Compromis*, ¶30. [↑](#footnote-ref-92)
92. Ibid. [↑](#footnote-ref-93)
93. *Compromis*, ¶34. [↑](#footnote-ref-94)
94. *ICCPR*, Art.14; American Convention, Art. 8; Council of Europe, European Convention on Human Rights, 1950, Art. 6; Organization of African Unity, African Charter on Human and Peoples' Rights, 1981, Art.7; UDHR, Art.10. [↑](#footnote-ref-95)
95. 1961 Convention, Art.8(4); *European Convention*, Art.12. [↑](#footnote-ref-96)
96. *Ahmadov v. Azerbaijan*, ¶44; ECtHR Judgment on the merits delivered by a Chamber, *Ghoumid and others v. France*, (dec.) 52273/16, ECHR 1999-II, ¶44. [↑](#footnote-ref-97)
97. *Compromis*, ¶34. [↑](#footnote-ref-98)
98. *Compromis*, ¶30, ¶34. [↑](#footnote-ref-99)
99. Convention Relating to the Status of Stateless Persons, 1954, 360 UNTS 117, Art.27. [↑](#footnote-ref-100)
100. Ibid, Art. 31. [↑](#footnote-ref-101)
101. *Compromis*, ¶34. [↑](#footnote-ref-102)
102. *Compromis*, ¶62. [↑](#footnote-ref-103)
103. R. Jennings and A. Watts (eds), Oppenheim's International Law, 1992, vol. I, (9th ed.), p. 934. [↑](#footnote-ref-104)
104. *Mavrommatis*, p. 11, 12. [↑](#footnote-ref-105)
105. *Panevezys-Saldutiskis Railway* (*Estonia v Lithuania*) (Judgment) [1939] PCIJ Series A/B No 76, 16 [“*Panevezys-Saldutiskis*”]; *Barcelona Traction*, ¶36. [↑](#footnote-ref-106)
106. *LaGrand (Germany v. United States of America)* (Judgment) [2001] ICJ Rep 466, ¶77. [↑](#footnote-ref-107)
107. *Supra* note 103, p. 905. [↑](#footnote-ref-108)
108. *The Right to Information on Consular Assistance in the Framework of the Guarantees of the Due Process of Law*, Advisory Opinion, OC-16/99, IACrtHR Series A No 16 (1999), ¶80 [“*IACrtHR* *Right to Information*”]. [↑](#footnote-ref-109)
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