

INTERNATIONAL COURT OF JUSTICE

CASE CONCERNING THE NAEGEA SEA

(UNION OF AMBROSIA v. REPUBLIC OF ROVINIA)

ORDER OF 16 SEPTEMBER 2024

2024

COUR INTERNATIONALE DE JUSTICE

AFFAIRE CONCERNANT LA MER DE NAEGEA

(UNION D'AMBROISIE c. RÉPUBLIQUE DE ROVINIE)

ORDONNANCE DU 16 SEPTEMBRE 2024

INTERNATIONAL COURT OF JUSTICE

YEAR 2024

2024
16 September
General List
No. 189

16 September 2024

CASE CONCERNING THE NAEGEA SEA

(UNION OF AMBROSIA v. REPUBLIC OF ROVINIA)

ORDER

The International Court of Justice,

After deliberation,

Having regard to Articles 40 and 48 of the Statute of the Court and to Articles 31, 44, 45, and 48 of the Rules of Court;

Having regard to the Application filed in the Registry of the Court on 11 July 2024, whereby the Union of Ambrosia (“Ambrosia”) instituted proceedings against the Republic of Rovinia (“Rovinia”) with respect to a dispute concerning the Naegea Sea and certain other matters;

Whereas the Registrar immediately communicated the Application to the Government of Rovinia in accordance with Article 40(2) of the Statute of the Court, and notified the Secretary-General of the United Nations of the filing of the Application by Ambrosia;

Whereas Ambrosia and Rovinia have appointed their respective Agents;

Whereas, by an Order of 15 August 2024, the Court decided that all claims would be heard together in a single proceeding;

Whereas, in that same Order, the Court requested the Parties to submit a Statement of Agreed Facts;

Whereas, after negotiations, the Parties jointly communicated the attached Statement of Agreed Facts to the Court on 30 August 2024, indicating in their communication their agreement that Ambrosia would appear as Applicant and Rovinia as Respondent, without prejudice to any question of the burden of proof; and

Taking into account the views of the Parties;

Fixes the dates for the filing of the written and oral pleadings as the dates set forth in the Official Schedule of the 2025 Philip C. Jessup International Law Moot Court Competition;

Adopts the Official Rules of the 2025 Philip C. Jessup International Law Moot Court Competition as governing the proceedings in this matter.

Done in English and French, the English text being authoritative, at the Peace Palace, The Hague, this sixteenth day of September, two thousand and twenty-four, in three copies, one of which will be placed in the Archives of the Court and the others transmitted to the Governments of Ambrosia and Rovinia, respectively.

(Signed)
President

(Signed)
Registrar

STATEMENT OF AGREED FACTS
CASE CONCERNING THE NAEGEA SEA

(Union of Ambrosia v. Republic of Rovinia)

30 AUGUST 2024

1. In the late 17th century, the entirety of the Paine Peninsula was colonized by the Kingdom of Fretzi, a major maritime power located several thousand miles away, and was divided into seven administrative units. The first of these gained independence in 1920, and by 1946 all seven had become independent states with constitutions providing for democratic political systems.
2. The Union of Ambrosia is the northernmost of the seven states on the Paine Peninsula, with a land area of approximately 180,000 square kilometers and a population estimated at four million. Its coastline facing the Naegea Sea extends for 910 kilometers, including its capital city, Arnhill. Only a few locations in Ambrosia are more than 10 meters above sea level.
3. The Republic of Rovinia, the southernmost of the seven states, has a land area of approximately 900,000 square kilometers and a population of some 10 million. Its Naegea Sea coastline is 455 kilometers long. Rovinia is home to the highest mountains in the Peninsula, and most of its territory is several hundred meters above sea level. Permola, its capital, is in the southern part of the country.
4. The Naegea Sea is rich in various tuna species, including bluefin, albacore, and yellowfin. The yellowfin is typically found beyond 200 nautical miles off the coast. Ambrosia's fishing industry accounts for approximately 20% of its GDP, which the World Bank last estimated at USD 120 billion. Rovinia's fishing sector, primarily focused on the export of yellowfin tuna, comprises nearly 40% of its USD 240 billion GDP. The economies of the other five Paine states are similarly reliant on fishing.
5. By 1980, each of the seven states had adopted legislation proclaiming its exclusive right to fish in its exclusive economic zone (EEZ), up to 200 nautical miles from its "baselines." The domestic law of each state defined the baselines as ambulatory, meaning that they would always reflect the low-water line along the coast at any given time. Since the late 1990s, all seven have been parties to the United Nations Convention on the Law of the Sea (UNCLOS).
6. The Naegea Sea has historically been a hotspot for arms smuggling, drug trafficking, and associated crimes. Since the late 20th century, these activities have posed significant challenges to all states of the Paine Peninsula. Approximately 19% of arrests in the region between 1995 and 2012 were linked to trafficking of weapons or drugs.

7. President Prosper Derey was elected in February 2012 to a seven-year term as Ambrosia's head of state and government. He made law-and-order issues the center of his election campaign, pledging to address the dramatic increase in the flow of illegal drugs and weapons into Ambrosia. His campaign also proposed institutionalizing regional collaboration to strengthen cross-border law enforcement.

8. In 2013, he ordered Gertrude Cross, an Ambrosian national and head of the Ministry of the Interior, which oversees the National Police, to take "all necessary and lawful measures to apprehend persons engaged in illicit drug production, distribution, and use." To fulfill this mandate, Minister Cross launched the "Implementing the Law for a Safer Ambrosia" (ILSA) program. Statistics reported by the Ministry over the following years showed a marked increase in arrests, confessions, and convictions for drug-related offenses and a corresponding decrease in public concern.

9. In 2014, the Intergovernmental Panel on Climate Change (IPCC) issued its "Special Report on Global Warming and Sea-Level Rise." Among other things, it described the actual and projected effects of climate change on the Paine Peninsula. The Report concluded that the Peninsula's coastline had receded an average of 1.5 meters annually since the 1980s, and that the recession was accelerating. It also observed that, because of differences in topography, the effects of sea-level rise in the Peninsula would be disparate, with Ambrosia most affected, and Rovinia least affected, among the seven states.

10. That same year, President Derey proposed that the Peninsula states create a regional body to tackle the increase in drug trafficking and transnational organized crime. His proposal was met with enthusiasm, but some states suggested that the organization also address other topics of mutual interest, such as the sustainable use of the resources of the Naegea Sea and adaptation to and mitigation of climate change. After several rounds of negotiations, they agreed on the following purposes for what became the "Organization for Cooperation and Development in the Paine" (OCDP), which were later incorporated into Article 1 of the OCDP Charter:

- (a) to protect the rule of law and our democratic institutions;
- (b) to enhance collaboration in law enforcement;
- (c) to promote coordination in managing natural resources and ensuring their equitable and sustainable use;
- (d) to respect the maritime rights of all Member States; and
- (e) to protect the inhabitants of the Peninsula from risks arising from natural catastrophes.

11. During the negotiations, there was extensive discussion over whether the Charter should incorporate a compromissory clause referring disputes between Member States to the International Court of Justice. The Ambrosian delegate proposed to exclude disputes relating to the domestic prosecution of

persons accused of illegal fishing, drug trafficking, or smuggling. Other delegations suggested that it would not be efficient to refer disputes currently under negotiation to the Court when they might well be settled between the affected states directly. It was finally agreed that the compromissory clause would come into force after the Charter itself, to give Member States time to resolve any pending matters.

12. On 15 May 2015, the seven heads of state signed the OCDP Charter, which was duly ratified by all the Member States and entered into force for all on 17 March 2016. Article XXI reads:

- (a) Except as provided in paragraph (b), the Member States recognize, in relation to any other Member State, the jurisdiction of the International Court of Justice as compulsory *ipso facto*, without the necessity of any special agreement, in all disputes of a juridical nature that may arise among them.
- (b) The Member States do not recognize the jurisdiction of the Court in connection with disputes: (i) arising out of facts or situations occurring prior to the entry into force of this Article; or (ii) relating to judicial proceedings on matters which, in accordance with international law, are essentially within a Member State's domestic jurisdiction.
- (c) This Article shall become effective five years after the entry into force of the present Charter.

13. In November 2015, President Derey announced a new legislative measure to “respond to the existential threat arising from sea-level rise at the national and international level.” The aim of the proposal, as he explained, was “to protect Ambrosia’s sovereign rights in the Naegea Sea” and “to ensure that global warming does not deprive us of our national heritage and our economic lifeline.” On 23 November, in accordance with the Constitution, the National Assembly of Ambrosia approved, and the President promulgated, the Baseline Freezing Law of 2015 (the “Freezing Law”), which provided:

[T]o preserve the nation’s maritime boundaries in the face of global warming that is wreaking havoc on our planet, and notwithstanding any other provision of law, the baselines from which the breadth of Ambrosia’s territorial sea and exclusive economic zone are measured shall be fixed at the low-water lines existing on 1 November 2015, irrespective of any subsequent or future recession of the coastline.

14. Rovinia did not comment when Ambrosia adopted the Freezing Law. In March 2016, however, when the five other OCDP Member States began considering similar legislation, Rovinia reacted by sending notes verbales to each of them, contending that the proposed statutes, if enacted, “would violate the law of the sea and longstanding regional practice.”

15. At the request of Rovinia, the issue of freezing legislation was included in the agenda for the first session of the OCDP Assembly in May 2016. The Ambrosian delegate emphasized the “trailblazing role” his country played in enacting the “fixed baselines approach” for determining the limits of maritime zones,

noting that all Member States of the OCDP except Rovinia had followed suit or were in the process of doing so. He said:

The states of the region share an unwavering commitment to using all tools at our disposal to address climate change. The freezing of baselines is a necessary response to this growing threat. Regional practice reflects the law as it now stands for our Paine Peninsula. International law, including the law of the sea, must allow states to address the fundamental change of circumstances that global warming presents to the entire planet.

16. Six states supported a resolution endorsing “the fixing of baselines to limit the effects of coastal erosion caused by climate change” as “consistent with existing international law, including UNCLOS.” Rovinia voted against the measure, preventing its passage according to the Charter.

17. Immediately after the OCDP meeting, Rovinia’s Ambassador in Arnhill delivered a note verbale to Ambrosia’s Ministry of Foreign Affairs, which read in relevant part:

The “freezing laws” initiated by Ambrosia and then exported to the rest of the Paine Peninsula would allow states to assert unwarranted control over certain maritime areas in the high seas, thereby infringing Rovinia’s right to engage in fishing and other commercial activities. Certain states in our region have long benefitted from extensive coastlines and correspondingly large exclusive economic zones. Now that times are changing, Ambrosia cannot retain its advantages by unilaterally rewriting the law of the sea. These so-called freezing laws are without effect, and Rovinia retains, as do all states, the right to grant licenses to fish in the high seas. No state is permitted to grab sole control over those universal resources.

Ambrosia did not respond.

18. By August 2016, all OCDP members except Rovinia had adopted legislation intended to ensure the stability of their respective maritime boundaries. In each instance, Rovinia’s ambassador delivered a diplomatic note to the host state’s foreign ministry protesting “this unwarranted and illegal measure.”

19. At a December 2016 meeting of the OCDP Assembly, Ambrosia and Caron, another Member State, proposed a resolution to “mark one year since the adoption of the region’s first freezing legislation.” The draft resolution noted in part that:

National laws concerning the measurement of baselines adopted by six Member States are consistent with and reflect our understanding of current international law, including UNCLOS. The practice enshrines a regional rule applicable to all states of the Paine Peninsula, which has also been adopted by states elsewhere in the world, especially those particularly impacted by sea-level rise.

20. Six states voted in favor, but Rovinia's opposition again meant that the resolution was not adopted. Since 2016, Ambrosia has submitted a similar resolution at each annual meeting of the OCDP Assembly, and each time it has drawn six votes in favor and Rovinia's vote against.

21. In 2018, oceanographers from the Ambrosian Institute of Science (AIS) published a peer-reviewed article in the International Journal of Maritime Studies, showing that changes to water currents caused by global warming were altering the movements of fish in the Naegea Sea. They noted significant concentrations of tuna on the Triton Shoal, a steep, flat-topped, and fully immersed seamount whose summit rises 3,500 meters above the sea floor. When the AIS researchers began their work in 2013, the Shoal, parts of which were located within 200 nautical miles of the Ambrosian coast, was of no commercial significance.

22. By 2018, Ambrosia's coastlines had receded to such an extent that, if the baselines were established at the actual low-water line, all of the Triton Shoal would be outside its EEZ. On 2 July 2018, Rovinia began granting fishing permits for yellowfin tuna covering the entire Shoal, which it considered to be entirely in the high seas. In response, Ambrosia sent a series of four notes verbales, each protesting the licenses, claiming that, pursuant to the Freezing Law, portions of the Triton Shoal were located within Ambrosia's EEZ, and insisting that any licenses must exclude those areas. Rovinia did not reply to any of those communications.

23. Prosper Derey was elected to a second seven-year term in February 2019, alongside a new Vice-President, Mary Zavala, a retired diplomat with no previous involvement in domestic politics. President Derey assigned to her substantial responsibility for Ambrosia's foreign policy. With the President's approval, and believing that a dedicated airplane was necessary to fulfill the role she envisioned for herself in the international arena, she commissioned the Air Force to repurpose a military aircraft as her official airplane, to be dubbed "The Falcon." The project, completed by 1 November 2019, was estimated to have cost approximately USD 72 million. Between November 2019 and April 2022, Vice-President Zavala spent more than 350 days abroad, conducting diplomatic missions and attending conferences on issues ranging from nuclear disarmament to fauna protection.

24. On 25 April 2022, President Derey suffered a hemorrhagic stroke, resulting in a coma. His doctors decided that the optimal path to recovery was to transfer him immediately to a specialized facility in the Philippines. Under the Ambrosian Constitution, when the President is temporarily unable to perform his duties, the powers of the office devolve upon the Vice-President. Accordingly, on the day that President Derey was taken out of the country, Vice-President Zavala took the oath as Acting President. In her first address to the nation, she said that she would remain in office "until our President returns to good health or, if his condition does not improve, until the next election."

25. In August 2022, Human Rights International (HRI), a prominent non-governmental organization based in Montreal, published the results of a study entitled “ILSA: Abuse under Cover of Law.” The report alleged that, between June 2017 and July 2020, under the ILSA program, the National Police had abducted from their homes more than 150 Ambrosian citizens suspected of drug trafficking. These individuals were said to have been held in an undisclosed location without formal charges, some for as long as a year before the last of them were released in December 2020.

26. The Office of Acting President Zavala denied any prior knowledge of the allegations, but announced that an investigation into the treatment of the alleged abductees would commence at once.

27. The Ambrosian Prosecutor General launched a criminal investigation on 7 September 2022. Six weeks later, he published an interim report disclosing that between June 2017 and December 2020, many family members of the missing persons had inquired with the National Police and other agencies about the whereabouts of their loved ones and were assured that their concerns would be addressed. The report included interviews with the former detainees themselves, one of whom was quoted as saying, “I’m still having nightmares about the ordeal. Someone needs to pay for this.” In November 2022, Gertrude Cross resigned as Interior Minister and moved with her family to Rovinia, where her husband’s parents had a homestead, and where she was admitted on a long-term visitor visa.

28. The Prosecutor General concluded his investigation in January 2023, filing charges against five police officers for kidnapping, defined in the Ambrosian Criminal Code as “any seizure, transportation, or detention of a person, without legal justification or excuse, with the intent to deprive such person of his or her liberty.” The charges alleged that the officers rounded up the alleged victims and held them in an abandoned prison compound deep within the remote Blackwood Forest. The officers were tried and convicted, and they are currently serving prison sentences ranging between 10 and 15 years. The Prosecutor General concluded that there was insufficient evidence to support criminal charges against former Minister Cross.

29. On 23 February 2023, Acting President Zavala was attending a multilateral summit in Geneva when Hurricane Luna unexpectedly struck Dovelina, an Ambrosian fishing village. It was the worst natural disaster in decades in the north of the Paine Peninsula. At least 520 people lost their lives, and many homes, two schools, and other buildings were destroyed. The next day, the National Assembly adopted a resolution calling for three days of national mourning. It also passed, and sent to the Acting President for her signature, a Reconstruction Bill authorizing a grant of approximately USD 60 million to the local government of Dovelina to rebuild the affected areas. Acting President Zavala’s office issued the following statement:

Her Excellency the Acting President is deeply saddened by the ill-fortune that has struck some of our citizens, and expresses her condolences to them

and to their families. It is her intention to visit the affected region in the near future, and to discuss with the residents the best ways to plan for recovery. In the meantime, she will complete her current important international mission in Geneva as planned.

30. The reactions in the Ambrosian media and among the public were highly critical of the Acting President. The *Arnhill Daily Advance*, a leading newspaper, published a front-page editorial entitled “Why Isn’t Our Acting President Acting?” It decried her response to Hurricane Luna as “inadequate in the extreme,” “tone-deaf,” and “lacking even the most basic elements of leadership, not to say human decency.”

31. On 3 March 2023, Ms. Zavala returned to Ambrosia and met with National Assembly leaders concerning the Reconstruction Bill. Afterward, she addressed the media and explained that she was withholding her signature to the Bill, blocking its enactment. She explained:

I share the Assembly’s sense of urgency about the situation in Dovelina. But the bill they have sent to me grants local authorities *carte blanche* to spend a tremendous sum of taxpayers’ money as they alone see fit. It would be irresponsible to approve such a measure without any accountability or oversight. I have accordingly instructed the parliamentary leadership that I will sign the Reconstruction Bill only if it is amended to provide appropriate control over the use of our citizens’ hard-earned money.

32. Two days later, Acting President Zavala departed for Doha to deliver a keynote speech at the Fifth UN Conference on the Least Developed Countries.

33. On 6 March, the OCPD Assembly adopted a resolution expressing solidarity with Ambrosia in light of the Dovelina catastrophe. In addition to pledging humanitarian aid, the resolution referred to the importance of fixed baselines for fishing-dependent areas. The Rovinian delegate abstained, which she explained was motivated by “the urgent need to address the suffering of Dovelina and the desire to continue the positive relations between Ambrosia and Rovinia.”

34. Over the next three days, protests erupted in Dovelina, where residents demanded swift government action to rebuild their community and revive the local economy. At the forefront of the protests was Ms. Rooney Piretis, a Member of the National Assembly representing the Dovelina District. Two of her sisters, and their four young children, were killed by Hurricane Luna. Ms. Piretis had previously been known as an advocate of the national fishing industry, and was a leading voice promoting the 2015 Freezing Law. Her speeches denouncing Ms. Zavala’s failure to provide aid to Dovelina went viral on social media. In the Assembly and in her District, Ms. Piretis said:

The abandonment of our country and our people by someone occupying the highest office in the land is simply unacceptable. We will not be ruled by an absentee overlord. We overthrew that form of government nearly a

century ago. Mary Zavala must stop her gallivanting and come home now, or she should stay away forever.

35. By 9 March 2023, there had been at least 12 major demonstrations in various cities across Ambrosia, with tens of thousands of people taking to the streets chanting slogans like “Our ship of state is sinking, and no one is at the helm!” Many of the protestors carried signs calling for a new government, to be headed by Rooney Piretis, until the return of President Derey.

36. Later that day, three members of the President’s 15-person cabinet – the Ministers of Defense, Transportation, and Education – presented a joint letter of resignation, which read, in relevant part:

It has been the greatest honor of our lives to serve our country as Ministers. Yet we cannot continue in our positions in the absence of a national executive who pays more than lip service to the well-being of our people. We reluctantly take our leave, and we invite our National Assembly urgently to address this situation before our homeland descends into full-blown chaos.

37. An emergency session of the National Assembly was called on 10 March. The legislature was unable to adopt a response to the deteriorating political situation. That evening, four more Ministers – of Foreign Affairs, Health, the Treasury, and the Environment – resigned, writing, “Ambrosia is in need of a new leader, since we currently have none.”

38. On 11 March, Ms. Piretis met in Arnhill with senior members of the National Assembly, the seven recently resigned ministers, and flag officers of the armed forces, seeking support for what she called an “interim government” for Ambrosia. Two days later, she declared the establishment of a Transitional Council, including five of the former ministers, three military officers, 10 parliamentarians, and herself as its head. Speaking to the nation in a televised address, Ms. Piretis said:

It is quite clear to everyone that this country cannot continue on the course that began when President Derey fell ill. The Transitional Council is here to ensure that our nation is governed peacefully and stably, while we reconstruct Dovelina, continue to implement ILSA, and revitalize our economy. As Head of the Council, I will exercise the executive functions that Mary Zavala has shamefully forsaken. From this moment forward, she will have no role in our country’s governance. The Council will ensure that I act properly and in the best interests of the citizens of Ambrosia, and that we are accessible and accountable to you all. As my first official act, I have signed into law the Reconstruction Bill that will bring immediate relief to the suffering people of Dovelina. And I also give you my solemn word that the Council and I will stand down the very moment that a healthy President Derey returns to Ambrosia.

39. During her return flight from Doha on The Falcon, Acting President Zavala received an encrypted message from her chief of staff, Alex Voigt, which read, “Given the extremely volatile situation in

Ambrosia, I recommend that you divert to Rovinia to meet with a team of advisors whom I have assembled to plan your next steps. We are awaiting you at the Hyatt Regency Permola Hotel.” Ms. Zavala landed at Permola International Airport on 13 March and met with her team that day and the next.

40. After the meetings on 14 March, Ms. Zavala addressed the media, declaring, “The constitutional government of Ambrosia remains fully functional, and I remain your Acting President.” She condemned the Transitional Council as “an illegitimate group of insurrectionists who have no status under our Constitution, [and who] have shown a blatant disregard for the rule of law.” She added, “My government will coordinate the necessary response to this unprecedented and illegal attempted coup. To avoid provoking additional disruption, however, I will travel to Caron and operate from there for the time being.” She also stated that she would soon begin a series of official visits to each of the OCDP Member States and other allies beyond the Paine Peninsula, to ensure that the region and the world were united against “the traitor Rooney Piretis and her cabal.”

41. When she returned to the airport later that day, Ms. Zavala was met by Rovinian police officers who informed her that The Falcon had been impounded. They displayed an official order prohibiting any movement of the airplane, pending further proceedings in a lawsuit before the court of first instance in Permola, captioned *O’Mander Corp. v. Union of Ambrosia*. Ms. Zavala proceeded to take a commercial flight to Caron.

42. The *O’Mander Corp.* case was filed in July 2016. The plaintiff, a Rovinian company, alleged that Ambrosia had breached a contract for the supply of 5G technology to be used by its Ministry of Telecommunications. Ambrosia’s motion to have the complaint dismissed on sovereign immunity grounds was denied, and the case was tried on the merits. In July 2017, the trial court found for the plaintiff and awarded damages in an amount equivalent to USD 85 million. The judgment was affirmed on appeal.

43. Over the next five years, O’Mander Corp. repeatedly attempted to attach Ambrosian assets in Rovinia to satisfy the judgment. Until the impoundment of The Falcon, Ambrosia’s lawyers had successfully opposed the seizure of any government-owned property, on the grounds that it was immune from enforcement. Arguing *ex parte* that Ms. Zavala was no longer a government official, however, counsel for O’Mander Corp. claimed that the airplane was not entitled to immunity. The judge of the Permola court, Charlie Timbre, scheduled a hearing for 28 March 2023 to determine the legal status of The Falcon.

44. On 17 March, Ms. Piretis issued the following statement:

I have been informed of the impoundment of The Falcon by the Rovinian police. I am advised that the underlying lawsuit was without merit, and that Ambrosia should never have been found liable for breach of contract. Yet more importantly, the plane is a sovereign asset, and under

international law, I, as head of state, have the right to demand its release. However, I believe that our country never needed the luxury of a vice-presidential aircraft while our people are underserved. Prolonging this case would be a misuse of our resources. Having consulted the Transitional Council, I have signed a waiver of the plane's immunity. I am confident that authorizing Rovinia to dispose of the aircraft will not only resolve a long-standing legal dispute, but will also reduce the former Acting President's ability to interfere further in our governance. I have engaged the law firm of Klein & Schaefer to represent Ambrosia in the *O'Mander Corp.* case, and have instructed them to communicate to the court our consent to the seizure and sale of The Falcon.

45. The next day, Ms. Zavala issued a statement of her own, which read in relevant part:

The Falcon remains a government airplane and as such is a sovereign asset of our nation. As the only lawful Acting President of Ambrosia, I have instructed our lawyers, the firm of Leo & Matta, to take every lawful measure to ensure that the immunity of the plane is respected. Rooney Piretis has no authority to dispose of property that belongs to our people.

46. Both legal teams claiming to represent Ambrosia, along with counsel for O'Mander Corp., appeared in court on 28 March. They reported to Judge Timbre the positions of their clients with respect to the aircraft. The transcript shows the Judge's response:

Counsel, I have now heard from all three of you. It is clear that The Falcon, an aircraft owned and operated by the Ambrosian Air Force, is entitled to immunity. But two lawyers claim to be acting on behalf of Ambrosia, with one asserting that the immunity of the plane has been waived and the other saying it has not. You are presenting me with a dilemma that I, as a judicial officer, cannot resolve. Therefore, I will not rule on the current matter without taking advice from the Foreign Minister of Rovinia, whom I invite to express his opinion on the question: which of you has the authority to speak for Ambrosia? When I receive the Ministry's reply, I will read it in open court and proceed accordingly.

47. The Transitional Council enjoyed substantial support among the general population of Ambrosia and key members of the executive and legislative branches, along with the police, the intelligence community, and the armed forces. Nevertheless, some opposition emerged, including among former government officials, legal scholars, and activists. They expressed concern about the lack of constitutional foundation for the Council and the potential for authoritarian rule, and insisted that the Vice-President, despite her shortcomings, remained the lawful chief executive.

48. Groups supporting Ms. Zavala held demonstrations which escalated into violent clashes with the police, resulting in injuries and arrests. Several speakers were detained for questioning, provoking widespread condemnation from human rights organizations. Nonetheless, the Transitional Council soon controlled all parts of Ambrosia. The Council ensured that all funds authorized by the Reconstruction Bill were disbursed, though by all accounts the situation in Dovilina remained dire.

49. By June 2023, 15 states had declared that they still recognized Ms. Zavala as Acting President of Ambrosia, while 25 had announced that they recognized the Transitional Council. None of the other OCDP countries took a position. At the United Nations, the Ambrosian Permanent Representative, who had served in that role since 2015, remained seated as Ambrosia's delegate at the General Assembly without objection from either Ms. Zavala or the Transitional Council.

50. On 12 June, HRI published an update to its 2022 report on ILSA, adding a chapter called "The One Who Got Away." The addendum provided new evidence suggesting the direct involvement of former Minister Cross in "the abduction of Ambrosian nationals under the ILSA program." It cited previously undisclosed statements from police officers, images, and audio recordings that implicated Ms. Cross in overseeing the abductions. The new material included copies of orders, personally signed by the Minister between June 2017 and December 2018, authorizing warrantless arrests, and logs documenting her multiple visits to the Blackwood detention compound. The report also contained interviews with witnesses who claimed that they had seen her at the facility. According to the report, the Prosecutor General of Ambrosia had access to some of this evidence when he closed the investigation in January 2023.

51. Immediately after the updated report was published, Ms. Zavala issued a written statement from Caron:

I am appalled by the new revelations from Human Rights International. The report indicating that Gertrude Cross, a former Minister of our government, directly authorized and supervised abductions under the ILSA program is deeply troubling. I take these accusations very seriously. In light of the new evidence, I call upon the Prosecutor General to reopen his criminal investigation. There must be no impunity. If anyone violated the law – especially a former Minister while in office – they will be held accountable.

52. Ms. Piretis, answering a question from a reporter during a press conference at the Presidential Palace on 12 June said:

The Transitional Council regards these accusations as significant. But do not forget that ILSA was an essential program for the stability of our country and the security of our region. ILSA accomplished a lot in our successful war against crime. We will follow the facts as they emerge; now is not the time to jump to conclusions.

53. On 14 July 2023, the Permola court reconvened, and Judge Timbre read the following excerpt from the Foreign Minister's response:

The Ambrosian Transitional Council has demonstrated that it currently exercises effective control over the country's territory and appears to be performing all essential governmental functions. While we acknowledge questions about the process by which the Council came into power,

undeniable reality compels us to recognize the Council as the government of Ambrosia, as we work with its officials to advance our common interests. The Council also appears to have the support of the people, who have a right to choose their own political destiny. Given all of this, it is the opinion of this Ministry that the Court should consider the Council's legal representative as speaking for the Union of Ambrosia.

54. The court then held that any immunity to which the airplane was entitled had been properly waived and ordered its seizure and sale. An auction took place on 25 August 2023. The successful bidder was Badilla Airlines, and the sale price, equivalent to USD 55 million after deduction of court fees, was paid to O'Mander Corp. shortly thereafter.

55. On 6 September 2023, a spokesperson of President Prosper Derey announced that he had awakened from his coma and would be able to resume his executive functions after completing additional treatment. Following three months of rehabilitation and therapy and extensive meetings with his advisors, he returned to Ambrosia on 19 December. He was greeted by tens of thousands of Ambrosians who came to witness his descent from the aircraft. Ms. Piretis and the rest of the Transitional Council met him on the tarmac, which was bedecked with flags. Ms. Piretis said:

Mr. President, it is a great pleasure for me to stand beside you to mark this long-awaited occasion! We are thrilled to see you in good health, and your fellow citizens are so glad to have you back with us. The Transitional Council has dissolved itself, effective the moment you set foot on Ambrosian soil. You are our leader, and I am honored to have had the chance to serve our country while we awaited your return. Welcome home!

56. In his first press conference after his return, on 22 December, President Derey announced that he had received and accepted Ms. Zavala's resignation as Vice-President. He did not immediately name a replacement. He also read a statement:

The assumption of power by the Transitional Council was unquestionably unconstitutional, but nothing is accomplished by rehashing the past. The fact is that peace was preserved, and our country survived what could have been a far more serious crisis. Now we must look forward and concentrate on accomplishing great things. Under our Constitution, I, as President, have full discretion to grant pardons to people accused or convicted of crimes. And to show my commitment to focus on the future, I have decided to grant full pardons to former Vice-President and Acting President Zavala, and to all of the members of the Transitional Council, clearing them of any liability for actions they took in the exercise of their official functions.

57. When asked about the ongoing investigation concerning Ms. Cross and the alleged abductions, he replied that he "knew nothing of the former Minister's alleged involvement in wrongdoing." He went on to add,

Our national legal system has all the tools we need to carry out an independent assessment of what happened, including allegations against the former Minister. That said, I remind everyone that, as my Minister, Ms. Cross was a loyal servant of the people, and our ILSA Program that she administered saved many lives. I do not want to confuse justice with retribution.

58. During his televised New Year's Message, President Derey addressed relations with Rovinia. He pointed out that "contrary to Ambrosian and international law," Rovinia was continuing to issue fishing licenses in "an area of the Triton Shoal within our exclusive economic zone." He also criticized Rovinia's recognition of the Transitional Council as "illegal," and protested the judicial seizure and sale of The Falcon, which he said "was entitled to immunity."

59. The President of Rovinia, Natasha Slimm, in her own annual message to her people, took note of President Derey's statements, but added, "I am quite confident in the correctness of our positions regarding the law of the sea, our relations with the Transitional Council, and our acceptance of the Council's waiver of immunity for the aircraft."

60. On 5 January 2024, a group of former Blackwood detainees posted a statement on X:

Is Derey really going to turn a blind eye? Cross was his Minister, so she gets a pass? ILSA was his program, so all is forgiven? Our trust in due process in this country is rapidly disappearing. Derey will ensure that Cross is never held accountable for her crimes. The fix is in. This is not the justice that we need and deserve.

But Cross is now hiding out in Rovinia, so she can be held accountable there. We call on not only Rovinia but the international community to help us get justice for the crimes committed against us and our families.

61. On 1 May 2024, the Office of Rovinia's General Prosecutor filed a complaint against Ms. Cross for the crime of "enforced disappearance," incorporated into the Rovinian Criminal Code in 2007. The Code provides for the prosecution of persons found in Rovinia who are accused of, *inter alia*, "enforced disappearance," defined as: "the deprivation of liberty by agents acting with official authority, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law," wherever those acts may have occurred. The complaint cited some of the evidence set out in the updated HRI report of June 2023, purporting to show that Ms. Cross gave explicit instructions and approval for abductions, as well as her communications discussing implementation of her orders. One day later, the Permola Criminal Court found the complaint admissible and issued an arrest warrant. Ms. Cross was taken into custody at her in-laws' residence in Rovinia and remains in detention to this date.

62. On 3 May 2024, President Derey wrote to President Slimm demanding Ms. Cross's immediate release:

Madam President, as a former Minister accused of committing a crime in her official capacity, Ms. Gertrude Cross is entitled to immunity from prosecution in courts outside of Ambrosia. Justice must be pursued here in our country, where the evidence and the alleged victims are located. Our officials continue to look into Ms. Cross's possible involvement in criminal acts, but the investigation is not complete. In any prosecution, Ambrosian laws and procedures will protect the sensitivity and confidentiality of information that emerges during trial. There is no reason for Rovinia to be involved in this: your purported exercise of universal jurisdiction is unwarranted. It is an affront to the sovereignty of Ambrosia and an insult to our legal processes. I ask that Ms. Cross be returned to her homeland forthwith.

63. President Slimm responded on 6 May:

Mr. President, we have given careful consideration to your request, and without intending to undermine the good relations between our governments, we respectfully decline to release Ms. Cross. We take this position for several reasons.

First, she stands accused of conduct that is criminal under the laws of our country, regardless of where it may have occurred, and her physical presence in Rovinia justifies our courts' personal jurisdiction over her. Second, you have already demonstrated the breadth of your pardon power, which could well be used to shield your former minister from prosecution or punishment. And even were there to be a trial in Ambrosia, you have stated that the facts revealed in connection with it could be kept from the public eye. It is vital that someone accused of human rights violations of this magnitude be held publicly accountable. Finally, we do not accept that Ms. Cross, a former Minister of the Interior, is entitled to immunity of any kind, nor does international law suggest that she is.

64. At a press conference on 24 May 2024, President Derey said:

It appears to me that there are a number of unresolved matters that threaten to disturb our neighborly relations with Rovinia. I regret to acknowledge that controversies between us regarding Rovinia's continued issuance of fishing licenses for areas that are within our EEZ, the illegal seizure and sale of our aircraft, and the shameful mistreatment of our former Minister jeopardize our historically cordial relationship. I expect that Rovinia will reassess its legal positions in due course, so that we can achieve an amicable resolution of these misunderstandings.

65. When asked the following week for a reaction, a spokesperson of the Rovinian Foreign Ministry replied:

Rovinia is fully aware of the allegations made by President Derey. We will soon communicate our official position. However, there will not be any surprises. We are pleased to see that the President appears to be in good health. But we will not renounce our rights to fish in the high seas, and we remain entitled to enforce our country's laws and judicial decisions without interference from foreign powers.

66. On 11 July 2024, Ambrosia filed an Application with the Registry of the International Court of Justice instituting proceedings against Rovinia, invoking Article XXI of the OCDP Charter. A few hours later, President Derey explained that Ambrosia was asking the Court to resolve “disagreements between our countries with respect to Rovinia’s recognition of the Transitional Council, its seizure and sale of our vice-presidential aircraft, its prosecution of our former Minister, and its failure to respect our exclusive rights to resources in the Triton Shoal.” He added, “These are disagreements of law and fact, which, according to the OCDP Charter and common sense, should be addressed and decided by a court of law.”

67. Four days later, the Rovinian government issued the following statement to the media:

The Rovinian government takes note of Ambrosia’s institution of proceedings against us at the International Court of Justice. We accept that the Court has jurisdiction with respect to the fishing licenses and the seizure and sale of the aircraft. These matters are admissible, and we will vigorously defend our position on the merits in due course.

However, the Court lacks jurisdiction over questions concerning the arrest and prosecution of Gertrude Cross. This dispute arises out of a situation that occurred prior to the entry into force of Article XXI of the OCDP Charter on 15 May 2021. Moreover, as it relates to criminal proceedings in Rovinia, it is excluded from the jurisdiction granted to the Court under the Charter.

68. Ambrosia and Rovinia have at all relevant times been members of the United Nations and parties to the Statute of the International Court of Justice, the Vienna Convention on the Law of Treaties, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the United Nations Convention on the Law of the Sea, the United Nations Convention on Jurisdictional Immunities of States and Their Property, and the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED). Neither is a party to any other treaty of relevance to this case.

69. Ambrosia, as Applicant, respectfully requests the Court to adjudge and declare that:

- a. The Court has jurisdiction to entertain Ambrosia’s submission (b);
- b. Rovinia violated the international legal rules on jurisdiction and immunity by arresting and prosecuting Ms. Gertrude Cross;

- c. Rovinia's issuance of licenses to fish in those parts of the Triton Shoal within 200 nautical miles of Ambrosia's fixed baseline violates international law and must cease, with existing licenses revoked; and
 - d. Rovinia's seizure and sale of Ambrosia's aircraft pursuant to the Permola court's decision on 14 July 2023 on the basis of the Transitional Council's purported waiver of immunity violated international law.
- 70. Rovinia, as Respondent, respectfully requests the Court to adjudge and declare that:
 - a. The Court lacks jurisdiction to entertain Ambrosia's submission (b) because it is outside the scope of the compromissory clause of the OCDP Charter;
 - b. Rovinia's assertion of criminal jurisdiction over Ms. Cross, and her arrest and prosecution, are fully consistent with international law;
 - c. Rovinia's issuance of licenses to fish in the entirety of the Triton Shoal, which is located in the high seas, is in conformity with international law; and
 - d. Rovinia's judicial seizure and sale of "The Falcon" on the basis of the Transitional Council's waiver of immunity were in accordance with international law.

2025 PHILIP C. JESSUP INTERNATIONAL LAW MOOT COURT COMPETITION

CORRECTIONS AND CLARIFICATIONS TO THE STATEMENT OF AGREED FACTS

The following corrections and clarifications to Statement of Agreed Facts have been stipulated to by the Parties, and the Statement of Agreed Facts jointly communicated to the Court on 30 August 2024 should be considered amended accordingly. The Registrar of the Court reminds all participants of the following:

- a. The wording of the Statement of Agreed Facts has been carefully chosen and is the result of extensive negotiation. The Parties decline to “clarify” matters about which they are unlikely to agree. The Parties will not stipulate as to which legal principles are relevant, or which arguments are acceptable or unacceptable.
- b. Any request for correction or clarification not addressed in the following paragraphs has been considered by the Parties to be redundant, inappropriate, or immaterial, or the Parties were unable to reach a mutually acceptable answer.
- c. Except to the extent that corrections and clarifications are set out below, participants are to assume that the Statement of Agreed Facts is accurate and complete in all respects. In particular, both Parties stipulate as to the authenticity of all documents and of the signatures on all documents referenced in the Statement.
- d. With respect to the pronunciation of the various proper names used in the Statement of Agreed Facts, the Parties and the Court have agreed that they will not take formal or informal offense at any reasonable effort to pronounce proper names correctly.
- e. The Union of Ambrosia and the Republic of Rovinia are not parties or signatories to any relevant bilateral or multilateral treaties, conventions, or accords except as indicated in the Statement of Agreed Facts.

CORRECTIONS

1. In paragraph 10, “Article 1” is corrected to read “Article I”.
2. In paragraph 61, the phrase “wherever those acts may have occurred” is moved within the quotation marks forming the definition of the crime of “enforced disappearance” under Rovinian law.
3. In paragraph 63, the word “personal” is deleted from the statement of President Slimm.
4. In paragraph 67, the date “15 May 2021” is corrected to read “17 March 2021.”
5. In paragraph 68, the phrase “the United Nations Convention on Jurisdictional Immunities of States and Their Property” is deleted, and a new sentence is added that reads: “Ambrosia and Rovinia have also been, at all relevant times, contracting states to the United Nations Convention on Jurisdictional Immunities of States and Their Property (UNCJISP).”

CLARIFICATIONS

1. The OCDP Charter was duly registered with the United Nations Secretariat in conformity with Article 102 of the Charter of the United Nations.

2. Following the adoption of domestic legislation in 1980 and 1982, respectively, Ambrosia and Rovinia measured the breadth of their maritime zones from normal baselines, asserting the exclusive right to fish up to 200 nautical miles from those lines. The two states have no overlapping maritime claims.
3. Upon its ratification of UNCLOS in 1999, Ambrosia deposited with the Secretary-General of the United Nations large-scale nautical charts depicting its ambulatory baselines in effect at the time. Those were not updated until March 2016 when Ambrosia submitted new coordinates reflecting its Freezing Law. The Rovinian Permanent Representative to the United Nations objected to those coordinates shortly after they were tendered, calling them “a violation of the law of the sea and longstanding regional practice.”
4. At its first session in May 2016, the OCDP Assembly unanimously adopted a resolution declaring that “The OCDP is the appropriate regional organization to cooperate in the conservation and promotion of the optimum utilization of all tuna species in the Naegia Sea, in accordance with Article 64 of the United Nations Convention on the Law of the Sea.”
5. Ambrosia and Rovinia are parties to a bilateral extradition treaty that entered into force in 2002, under which they undertook “to extradite to each other persons sought by the authorities in the Requesting State for investigation, trial, or punishment” for certain specified offenses. The crimes of which Ms. Cross is being investigated in Ambrosia are among such offenses. On 10 May 2024, the Ambrosian Prosecutor General submitted a request for Ms. Cross’s extradition in connection with his office’s investigation of her, which had been re-opened on 20 June 2023. As of the date of submission of the Statement of Agreed Facts, Rovinia had not responded to the request.
6. Upon Ms. Cross’s arrest on 2 May 2024, the Ambassador of Ambrosia in Rovinia notified the competent Rovinian authorities that she was an Ambrosian state official at the time of the alleged crimes and is therefore entitled to immunity in Rovinian courts. Ms. Cross’s attorneys asserted her immunity before the Permola Criminal Court, but the court rejected these arguments. The conditions and duration of her detention are consistent with all due process guarantees required under both Rovinian and international law.
7. Every person arrested under the ILSA program is solely of Ambrosian nationality. Their alleged crimes, and their detentions, all took place on Ambrosian soil.
8. Between 1 November 2019 and the date of its sale, “The Falcon” was intended for use and was in fact used exclusively for government non-commercial purposes.