



INTERNATIONAL  
NUREMBERG  
PRINCIPLES  
ACADEMY



# Nuremberg Moot Court Case 2017



**Introduction** This is a fictional case before the International Criminal Court (ICC). All participating teams will represent (1) Counsel for the Prosecution and (2) Defence Counsel and must prepare both written submissions and pleadings for the ICC Pre-Trial Chamber hearing on the confirmation of the charges for both parties, addressing all issues concerning jurisdiction of the Court and merits of the case.

- Memoranda must arrive by Sunday, June 25, 2017, 24:00 Nuremberg-Time.
- The oral rounds will take place from Thursday, July 27 to Saturday, July 29, 2017.

**Prosecutor v. Mr. Naberrie** Mr. Naberrie was born in 1963 in the Federal Republic of Naboo. The Federal Republic of Naboo (hereinafter: FRN, population: 6 million) has been a member of the United Nations and a party to the Geneva Conventions of 1949 and their Additional Protocols of 1977 and signed and ratified the ICC Statute in 2002.

The FRN was mostly known as the birthplace of hierarchically well-organized drug cartels. Various human rights organizations expressed serious concern over the growing illicit drug-trafficking trade, together with the omission of the authorities to suppress organized crime and illegal drug export within FRN, which has resulted in starvation and poverty in the state. According to a UN Office on Drugs and Crime report, more than 20 drug cartels were located in the territory of the FRN. Since 2005 due to the growing corruption of the local authorities the FRN authorities lost de facto control over the territories where the cartels were based. On this matter the civil population of those territories, including farmers and countrymen, were mostly involved by coercion or force or threat of force in the manufacturing of drugs, armory and other technical supplies. These difficulties were presented regarding the identification of actual members of the cartels, particularly as they did not wear uniforms and dressed as civilians. In April 2014 the State Agency of Alcohol, Tobacco and Firearms in cooperation with independent researchers identified more than 10,000 unregistered firearm units and 25 self-made armed vehicles imported in FRN. According to the report of the state agency, there is an assumption that the whole unregistered arsenal was divided between cartels.

In September 2014, a newly elected government opted to militarize its policing which resulted in increased violence. In order to design an immediate plan of action against drug cartels, and to destabilize the influence of the local drug barons in the state, Mr. Naberrie was assigned to deputy minister of defense. On 22 May 2015, Mr. Naberrie presented to the new government drafts of a new national security strategy, in particular on the elimination of the drug cartels. These drafts were approved by virtue of a decree which granted Mr. Naberrie freedom of action to implement his new national security strategy. During his preparations on 25 May 2015, Mr. Naberrie, without informing his government, created a secret group of ex police officers and national security agents codenamed “Panth-Era”, tasked with the execution of secret military missions against drug barons. On the same day, adjutant Bandosa was instructed by Mr. Naberrie to destroy all evidence to keep the mission, the group and his connection to this group top secret.

On 1 June 2015, military operations began against the drug cartels. Mr. Naberrie directed military units to attack the bases of the drug cartels, which led to heavy fighting with the paramilitary units of the different drug cartels lasting several days in certain regions, while the agents of the “Panth-Era” in covert operations kidnapped the drug barons of the cartels. In order to prevent the opportunity for corruption and information leaks, as well as to destabilize the cartels’ networking, the whereabouts of the kidnapped drug barons was kept secret. After the first attacks against the drug cartels, soldiers of the regular army FRN frequently posted photos in social networks, posing with the bodies of the cartel members killed in the military clashes. These pictures were also shared on social networks by Mr. Naberrie himself, having more than 50,000 followers on his personal account.

On the backdrop of the photos, a number of relatives of those killed identified the dead bodies and claimed that their relatives had never been members of the cartels and had been forced to work for them.

In December 2015, in his report to the government, Mr. Naberrie stated that from June to November from the existing 20 drug cartels in FRN 15 cartels had been eliminated, 150 metric tons of cocaine was officially incinerated, 6,672 firearm units were officially seized and



16 armed vehicles destroyed. During the conflict, 4,760 members of the cartels were killed, 288 persons were arrested and are being interrogated. In his interview to the government television on 12 December 2015 Mr. Naberrrie stated: “every person who collaborates or was even forced to collaborate with the drug cartels is our enemy”.

Meanwhile on 15 December 2015 a short video was published on social networks by an unknown source, capturing the torture of adjutant Bandosa, who was being asked to reveal the locations of the kidnapped drug barons. After several beatings and parrillas (electrical torture), Bandosa admitted that he was instructed to destroy evidence about “Panth-Era”, which relates directly to Mr. Naberrrie. Several days later Bandosa was found dead outside the capital his body covered with multiple injuries.

As a result of pressure from human rights and victims’ organizations, who claimed that innocent people were also killed during the fights by the government, a commission of inquiry was established for the investigation into the issuance of excessive orders allowing extrajudicial killings, the enforced disappearance of the members of the drug cartels and of civilians. Following this, Mr. Naberrrie was removed from office on 14 January 2016. On 1 February 2016 the Commission came to the conclusion that despite of having the authority to give such orders, Mr. Naberrrie was liable for allowing the unlawful use of force in the fight against perceived criminals. The Commission recommended further investigation leading to the possible prosecution of Mr. Naberrrie. However, as of August 2016 no investigation had been initiated against Mr. Naberrrie.

On the basis of information submitted by human rights and victims’ rights organizations in FRN to the ICC, stating that the FRN is not willing to prosecute crimes committed by Mr. Naberrrie in the territory of Federal Republic of Naboo, the Prosecutor of the ICC initiated investigations. After intensive and successful efforts by the Office of the Prosecutor (OTP), an arrest warrant was issued against Mr. Naberrrie on 22 August 2016 by the competent Pre-Trial Chamber pursuant to article 58(1) ICC-Statute.

On 1 September 2016 Mr. Naberrrie was arrested during his vacation in the Republic of Alzanas and transferred to the ICC’s Detention Center.

The warrant of arrest stated that there are reasonable grounds to believe that Mr. Naberrrie participated in:

- Count 1: Crimes against Humanity, punishable under Articles 7 (1)(i) and 25 (3)(b) of the ICC Statute.
- Count 2: War Crimes, punishable under Articles 8 (2)(e)(i) and 25 (3)(b) of the ICC Statute.
- Count 3: War Crimes, punishable under Articles 8 (2)(c)(ii) and 25 (3)(a) of the ICC Statute.

Defense Counsel argues that the case of Mr. Naberrrie was not admissible and the arrest warrant was unlawful. Reference is made to Article 17 (1) (a), (b), (d) of the Rome Statute. Furthermore, Mr. Naberrrie may not be convicted on the charges of enforced disappearance as the evidence was obtained through torture (Article 69 (7) of the ICC Statute and Rule 63 RPE of ICC). According to the material prerequisites, the Defense argues that the prerequisites of war crimes and crimes against humanity have not been met in this case because Mr. Naberrrie was acting against organized crime, in which matter the actions were proportionate and not excessive to the specific and direct overall military advantage.

Established agenda for the Pre-Trial Chamber’s hearing:

- Whether jurisdiction of the ICC is limited by Art. 17 (1) of the Rome Statute
- Whether the evidence through torture may be admissible in court
- Whether there are reasonable grounds to believe that Mr. Naberrrie is criminally liable for certain war crimes and crimes against humanity