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Nuremberg Moot Court Case 2018



Introduction This is a fictional case before the International Criminal Court (ICC). All participating teams will represent both Counsel for (1) the Office of the Prosecutor (OTP) and (2) the Defense. Parties must prepare written submissions and pleadings before the ICC Pre-Trial Chamber on confirmation of the charges. These claims should address all issues that are relevant to the case below.

- Memoranda must arrive by **Sunday, 24 June 2018**, 24:00 Nuremberg time.
- The oral rounds will take place from Thursday, 25 July to Saturday, 28 July 2018.

Prosecutor v. Mr. Balboa Mr. Balboa was born in 1975 in the Republic of Neckar (Neckar).

1. Mr. Balboa is Chairman of the Executive Committee of the Democratic Neckar Party (DNP). The DNP is a new political party created before the 2015 elections. Balboa is also the sole owner, Chairman of the Board and CEO of “High-Tek-Mines” LLC, which operates four different mines in Neckar, mines for coal, cobalt, graphite and iron. He is also the majority shareholder (with 52%) and CEO of “High-Tek” IT Corporation.
2. Neckar is a member of the United Nations and a party to the Geneva Conventions of 1949 and their Additional Protocols of 1977. Neckar signed and ratified the Rome Statute in 2002.
3. Neckar’s population of four million includes 200,000 people from various ethnic minorities who speak the official language of the Mosel Federation (Mosel). Neckar is a state surrounded by Mosel. Since 2014 Neckar and Mosel have been engaged in an on-going armed conflict over the exact line of the border in a region which is rich in mineral resources. “High-Tek-Mines” LLC’s mining properties are located in this region.
4. In 2015 the DNP came to power in Neckar. During the election campaign, the DNP promised to overcome the starvation and economic instability caused by the Mosel blockade of goods and to rebuild the regional infrastructure destroyed by Mosel forces during the war. The DNP declared that investment in information technologies and industry would be part of the solution to overcoming these problems. The DNP suggested that this investment would help to stabilize Neckar’s economy and develop new mechanisms to defend Neckar from outside enemies.
5. The DNP’s political opponents criticized this platform as an unachievable Utopian ideology. They also criticized the DNP and its newly formed government for claiming its political opponents and ethnic minorities were traitors and Mosel secret agents. They also challenged the DNP statement that the unwillingness of the DNP’s political opponents and ethnic minorities to support the DNP platform was the reason for the current economic crisis in Neckar.
6. In January 2016, after a closed meeting of the DNP Executive Committee chaired by Mr. Balboa, a policy for the stabilization of the economy was approved for immediate publication. The policy set out the steps to involve highly qualified people to the information technology sector, qualified people to the manufacturing sector and non-qualified people to the mining sector. These three sectors should work together in order to stabilize and strengthen the economy and to make Neckar prosperous again. In order to maximize effectiveness in implementing the policy, all perpetrators of minor offenses would not be incarcerated but would be diverted to work in the mining sector.
7. Shortly after the publication of the economic stabilization policy, the Neckar Parliament passed a Temporary Law on the Limitation of Freedom of Expression (Temporary Law).
 - Art. 3 (1) stated that “a person, who publicly criticizes or opposes the governmental institutions or the governmental order shall be punishable by a term of imprisonment from 2 to 4 years”.
 - Art. 4 (1) provided that “any communication with the enemy, including raising a suspicion about potential communication, contravenes this law. The person liable for such a breach shall be rehabilitated”.

In practice, imprisonment and rehabilitation meant working in the mines.



8. After the passage of the Temporary Law, anyone suspected of breaching the Temporary Law was immediately arrested, charged and then transferred to work in the mines. At the mines, they were kept in detention centers, in overcrowded, unsanitary and inhumane conditions.
9. Starting in April 2016 a human rights organization (HRO) reported on the large-scale human rights violations at the detention centers in Neckar.
10. At the end of 2016 the International Labor Organization (ILO) published a report on inhumane conditions for workers at 14 out of the 21 existing mines in Neckar. After evaluating inspection reports and open-source data on these mines, the ILO observed that the ethnic minorities of Neckar constituted the majority of workers in the mines. Satellite pictures of the 14 specific mine sites obtained from the Republic of Oder confirm the existence of guard posts and towers.
11. In April 2017 the World Health Organization (WHO) reported on increased mortality rates in the mining regions of Neckar, these being caused by disease, excessive working hours, inadequate housing and sanitation facilities and lack of food and nutrition.
12. On 7 July 2017 ten detainee workers escaped from the mines operated by “High-Tek-Mines” LLC and fled to Mosel, where they were taken into custody by Mosel border authorities. These escapee workers claimed to be from the Neckar ethnic minorities, who had been detained under the Temporary Law and forced to work in the mines. In interviews given to the local Mosel media and Mosel police, the workers described the circumstances leading to their arrest and subsequent detention and forced labor at the mines. They also stated that the forced labor appeared to be part of a plan to eliminate the ethnic minorities in Neckar.
13. In their police statements two of the escapee workers also stated that they had overheard guards working at the mines discussing the nationalism and mono-ethnicity plan in Neckar. One of them mentioned that a guard had heard that the so-called “mono-ethnicity” plan had been adopted in the last closed meeting of the DNP Executive Committee.
14. Following their media and police interviews, the ten exhausted, sick and traumatized detainee workers were transferred to the nearest Mosel hospital for medical assessment and treatment.
On 10 July 2017 the Neckar government issued an official statement, claiming it has no mono-ethnicity plan and does not discriminate against its ethnic minorities.
15. On 11 July Mr. Balboa ordered his team from “High-Tek” IT Corporation to hack into the computers at the hospital, where the ten escapee workers were being treated, and to shut down all medical equipment at the hospital and turn off its electricity supply. As a result of this cyber attack, 45 patients in the hospital, including the ten workers, died.
16. Mosel, a member of the ICC, referred this situation to the ICC Prosecutor under Article 14 of the Rome Statute, seeking an investigation into the alleged attack on the hospital and alleged crimes of genocide against the ethnic minorities of Neckar. The arrest warrant was issued against Mr. Balboa on 15 September 2017 by the competent Pre-Trial Chamber pursuant to Article 58 (1) of the Rome Statute.
17. In October 2017 Mr. Balboa was arrested during his flight to the Republic of Oder by the Oder authorities and transferred to the ICC’s Detention Center on the same day.



18. The arrest warrant stated that there are reasonable grounds for believing that Mr. Balboa participated as:
- (i): a facilitator, according to Article 25(3)(c) in:
 - Count 1: Genocide, punishable under Articles 6(c) of the Rome Statute.
 - Count 2: Crimes against humanity, punishable under Articles 7(1)(c) of the Rome Statute.
 - (ii): a perpetrator-by-means, according to Article 25(3)(a) and (b):
 - Count 3: War crime punishable under Articles 8(2)(b)(i), 8(2)(b)(ii) of the Rome Statute.
19. The OTP relied on the three non-governmental organization reports (HRO, ILO and WHO) and on the testimony of the Mosel police officer who had questioned the escapee workers. The police officer also testified that these escapee workers spoke of overhearing the “mono-ethnicity” plan, which was adopted in the last closed meeting of the DNP Executive Committee.
20. **Defense Counsel argues that the case against Mr. Balboa is not admissible and that the arrest warrant is unlawful.** On Count 1 the Defense argues that prerequisites of genocide are not met and the evidence does not prove the intent. The Defense mainly notes that the testimony of the police officer is based on hearsay evidence, which is not admissible. Even if the Court does find it admissible, the evidence is not sufficient to prove the required intent. Reference is made to Article 69 (2) of the Rome Statute. On counts 2 and 3 the defense argues that the prerequisites of crimes are also not met.
21. Established agenda for the Pre-Trial Chamber’s hearing:
- Whether the evidence is admissible before the Court.
 - Whether there are substantial grounds for believing that Mr. Balboa is criminally liable for genocide through forced labor.
 - Whether there are substantial grounds for believing that Mr. Balboa is criminally liable for enslavement as crimes against humanity.
 - Whether there are substantial grounds for believing that Mr. Balboa is criminally liable for the cyber attack on hospital as a war crime.