



INTERNATIONAL
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ICLU
Erlangen-Nuremberg
International Criminal Law
Research Unit of the FAU

Nuremberg Moot Court 2022

Case



Introduction

This is a fictional case before the International Criminal Court (ICC). Pursuant to the Rules of the Nuremberg Moot Court 2022, participating teams will represent both (1) the Office of the Prosecutor (OTP), and (2) the Defence.

Participating teams shall prepare two written Memoranda and plead before the ICC Pre-Trial Chamber I (PTC). The written submissions and respective pleadings shall follow the agenda for the PTC's hearing and address all the issues relevant to the case below.

Written Memoranda must be submitted by 31 March 2022, 23:59:00 CET. The oral rounds will be held online between 1 and 15 July 2022.

The Prosecutor v. Mr. Gravus

Procedural History

1. On 15 October 2019, by resolution (hereinafter: "Resolution 2022"), the UN Security Council referred to the Prosecutor the *Situation in the Republic of Hanatun*, as of 1 March 2019, pursuant to article 13 (b) of the Rome Statute.
2. On 15 September 2021, Pre-Trial Chamber I issued a warrant of arrest and subsequent surrender against Mr. Gravus for the crime of genocide allegedly committed in the Republic of Hanatun between March 2019 and September 2021.
3. On 14 February 2022, Mr. Gravus was transferred to the Court and appeared before Pre-Trial Chamber I on 20 February 2022.
4. On 16 June 2022, the Defence submitted its application challenging the jurisdiction of the Court and the admissibility of the case, pursuant to article 19 of the Rome Statute.

Facts

1. Mr. Gravus is the former President and Commander-in-Chief of the armed forces and security apparatuses of the Republic of Hanatun, a non-state party to the ICC.
2. The Republic of Hanatun is a mountainous country with a population of 43 million. It has shared border of 15,000 km² with the Republic of Husavik in the South and a small border-line with the Kingdom of Halsar in the Northeast. The majority of the population is of Hanu ethnicity. Hanus speak Avesh and consider themselves the aboriginal people of the country. Avesh is the official language of the Republic and the main language spoken by Hanus and other ethnic and religious groups.
3. The Republic of Hanatun has an emerging economy based on agriculture and the extraction of natural resources, including valuable minerals found in the Province of Castiria. It has tropical weather where access to clean water has often been a concern for the population.
4. Hanatun is also home to Castirians, an ethnic minority who live predominantly in Castiria, a province in the middle of Hanatun, together with other ethnic and religious groups. They speak a distinct language called Otati and worship a god called Otsari, whom they believe had saved them during drought and lack of water. Oral history reveals that the Castirians migrated to the Republic of Hanatun during the 10th century, and thereafter lived alongside other ethnicities in different parts of Hanatun. Most of the Castirian migrants opened businesses in the agricultural industry. No information on their origin is known.
5. In the year 1889, King Lothran of Hanatun, due to the cultural differences with the Otati-speaking peoples, forcefully removed them from other parts of Hanatun and resettled them in Castiria, then one of Hanatun's poorest provinces. These resettlements led to bloodshed and turmoil



among the population and became a turning point in history for highlighting the socio-political differences between Hanus and Castirians, who for nearly a century had considered themselves part of Hanatun. Following the forced resettlements, the Otati-speaking peoples were the majority population in Castriria. In the early 1900s, Castiria became economically prosperous and politically empowered following the discovery of natural resources in Castiria. The Castirians established their own local parliament and had representatives in the Hanatun federal parliament. Castirian history books describe this period as the “Golden era”.

6. On 3 November 2015, as a result of a military coup, Mr. Gravus, a Hanu Air Force Officer, toppled the newly emerged democracy and took control of all three branches of the government with the nationalist ideas of a Pan-Hanu. He declared himself President. On 15 December 2015, he drastically reduced the federal transfer payments for Castiria, citing as an objective the equal distribution of resources among different federal states. In Castiria, the people showed their displeasure by taking to the streets in protest.
7. In August 2016, Mr. Gravus introduced the government’s new cabinet ministers and administrative staff. He declared himself as President and Commander-in-Chief of the armed forces and security apparatuses. No Castirians were named to any government positions. The international community criticised Mr. Gravus’s new government for not being inclusive; the government’s response was that this was an internal matter of the Republic of Hanatun. On 20 September 2016, the local parliaments in Castiria convened a special meeting and announced the creation of the Castirian National Front (CNF), including a military branch to fight for the rights of Castirians. The CNF included Castirians, but also called upon all other national minorities to start a resistance movement against Mr. Gravus and fight for their fundamental rights.
8. Mr. Gravus called the creation of the CNF “an act of terrorism” and ordered that the Castirian local parliaments cease all activities, including all ordinary and special meetings until a further notice by the central government. The federal police blocked the entrance of the parliament building and did not allow the representatives of Castiria to enter. Large demonstrations followed. On 23 September 2016, the demonstrations turned violent. Clashes between the police and demonstrators, including members of CNF, resulted in dozens of demonstrators and police being killed with many more seriously injured. During the melee, the parliament building collapsed due to a huge fire. It is suspected that the federal police caused the fire. However, the head of the police department, Mr. Brian, rejected the allegations and stated that the police were investigating the matter.
9. In the morning of 15 March 2019, a military cargo carrying F-16 fighter aircraft for the National Defense Division of Hanatun was ambushed near Maldita and Arasia villages, mostly populated by Hanu people, some 4 km in the north of Castiria. Thirty-five soldiers died burnt alive in their armored vehicles. One Hanu nationalist leader, who had been to the villages for a public gathering, as well as two Castirian farmers, also lost their lives.
10. On 16 March 2019, Mr. Gravus appeared on national TV in military uniform. He said that the military ambush had been planned and executed by the CNF and their supporters. He called Castirians and their supporters “lying rats” and vowed to revenge the dead military personnel and to eradicate this “Castirian cancer” from the map of the country. After international human rights NGOs criticized his speech as discriminatory, Mr. Gravus’s spokesperson issued a press release claiming that the media distorted his statements and that he was referring to the CNF terrorists.



11. In May 2019, Mr. Gravus introduced a counter-terrorism campaign. The campaign included the following orders:
 - a. *the security forces shall take any and all necessary measures to destroy CNF terrorists and their Castirian supporters who are a threat to national security and the public order of Hanatun;*
 - b. *the National Directorate of Security (NDS) in coordination with the Special Presidential Guards (SPG) operating under the direct command of the President shall have the duty to eliminate any destructive social factions;*
 - c. *the security forces shall take all necessary measures they consider appropriate to identify any terrorist suspects in Castiria;*
 - d. *the police department shall provide logistical support to all security forces on the ground; and*
 - e. *the campaign has long term purposes and heads of all three security divisions shall report personally to the President on regular basis.*

Luz and Luzari 12. Between 1 July and 30 September 2019, the NDS started searching houses for suspects in Luz and Luzari, two of the densely populated cities in Castiria. According to International Human Rights Defenders (IHRD), in the night of 15 July 2019, the NDS in coordination with SPG entered multiple houses to arrest Castirians for affiliations with the CNF. Two hundred Castirian men, including two CNF members, were shot dead when they resisted arrest. Mr. Brian in an interview rejected the IHRD claims and said that the NDS and SPG were only following Mr. Gravus's orders to prevent potential threats to the security of the Hanu people and the Hanatun Republic.

13. A local resident, Mr. X, who escaped during the 15 July searches, told IHRD that the NDS soldiers first pressured him to say that he supported the CNF but once they found out that he was of Hanu ethnicity they released him but warned to keep his mouth shut. He stated that the NDS officer, who released him, looked like Ms. Jolie, head of the NDS, and that he recognized her voice from the radio. He also on multiple occasions observed SPG officers kicking pregnant women in the stomach as they cried and begged for the lives of their husbands. He heard SPG men chanting "Castirians are cancer".
14. The IHRD reported that between July and October 2019, families trying to flee Castiria province were blocked at the border by checkpoint police. One hundred fifty female Castirians, among them girls aged 13-24, were arrested. Eighty-six male companions were shot in the head. The girls were taken by the SPG to different stations where they were forced to cook and provide sexual services so that the SPG officers would not kill them.

Luz and Cisil 15. Between 11 July and 30 August 2019, the police department forced all local businesses to close and warned them not to reopen. All routes to Castiria were blocked based on the claim of a danger of CNF attacks. By September, this blockade resulted in severe famine throughout Castiria. Social media images from the period showed dead bodies of women and children on the streets of Luz and Cisil.

16. The international community, including many ICC States Parties and the European Union, strongly condemned the situations in Luz and Cisil and urged the government to take humanitarian actions to feed the people and stop the extermination of Castirians. On 15 October 2019, the UN Security Council adopted Resolution 2022 and invited the OTP to start investigations of international crimes in the situation of Hanatun.



The following day, when international reporters asked Mr. Gravus about the humanitarian catastrophe in Luz and Cisil, he mentioned that the economic situation had deteriorated in the whole country and his government was trying its best to control the situation. He blamed the leaders of Castiria for corruption and called the decision of the Security Council a conspiracy against the national security of the Republic of Hanatun.

17. On 1 September 2021, the situation destabilized in the capital of Hanatun due to clashes between Mr. Gravus and his deputy, General Hitch. On 13 September 2021, a military coup, led by General Hitch, toppled the government and he declared himself as Commander-in-Chief of the central government. Mr. Gravus was placed under house arrest and later held in prison in Hanatun. Mr. Gravus remained in prison until his transfer to the Court.
18. Following pressure from national and international human rights organisations like Human Rights Watch and Trial International, on 10 December 2021, a military court was established to investigate the crimes committed in the conflict regions as of 3 November 2015, including Castiria. A number of high-ranking military officers have recommended Mr. Gravus's release. The Military Court will complete its investigation in August 2022.

- Agenda for the Pre-Trial Chamber I**
19. As a result of the current challenge, the established agenda for Pre-Trial Chamber I's hearing on the Defence motion challenging the Court's jurisdiction to hear the case against Mr. Gravus, is the following:
 - i. Whether the case against Mr. Gravus concerning genocide by killing Castirian men and deliberately inflicting conditions of life on Castirirans calculated to bring about their physical destruction is admissible pursuant to article 17 of the Rome Statute?
 - ii. Whether there are reasonable grounds to believe that the case against Mr. Gravus concerning genocide by killing Castirian men and deliberately inflicting conditions of life on Castirirans calculated to bring about their physical destruction falls within the jurisdiction of the Court pursuant to article 19 of the Rome Statute?
 - iii. Whether there are reasonable grounds to believe that Mr. Gravus is criminally responsible for genocide by killing Castirian men and deliberately inflicting conditions of life on Castirians calculated to bring about their physical destruction under article 28 (a) (b) of the Rome Statute?

Exhibit I

Text Message Exchange between Mr. Gravus and Ms. Jolie from 16 July 2019

20:01 **Mr. Gravus:** Hello!

20:02 **Ms. Jolie:** Hello Mr. President!

20:02 **Mr. Gravus:** How is the situation in Castiria?

20:02 **Ms. Jolie:** Sir, it is under control, and I am personally observing the situations.

21:12 **Mr. Gravus:** What about the civilians?

21:13 **Ms. Jolie:** Under control, when my soldiers arrest civilians by mistake, we release them.

21:14 **Mr. Gravus:** Thank you! Please report to me any security related threats and coordinate the issue with SPG.

21:14 **Ms. Jolie:** Sure, Sir!

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