



INTERNATIONAL
NUREMBERG
PRINCIPLES
ACADEMY



Nuremberg Moot Court 2020 Case



Introduction

This is a fictional case before the International Criminal Court (ICC). Pursuant to the Rules of the Nuremberg Moot Court 2020, participating teams will represent both (1) the Office of the Prosecutor and (2) the Defense.

Participating teams shall prepare two written submissions and pleadings before the ICC Pre-Trial Chamber. The written submissions and respective pleadings shall address all the issues relevant to the case below.

Written submissions must be submitted by Sunday, 19 April 2020, 23:59:59 CET. The oral rounds will be held between Wednesday, 29 July and Saturday, 1 August 2020 in Nuremberg, Germany.

- The Prosecutor v. Ms. Fiona Calanta**
1. Ms. Fiona Calanta is the President of Cintria, a position she has held since 30 July 2018.
 2. Cintria is a republic with a presidential system and stable institutions regulated by a constitution. Cintrians speak Lingua Cintria and follow the Nordling religion. Cintria has a land area of nine million km² and 80 million inhabitants. Cintria is a prosperous country and one of the world's largest economies. Cintria is a member of the United Nations (UN) and has ratified all UN human rights treaties and protocols, but has not ratified the Rome Statute.
 3. In recent years, slow economic growth has led to an increase in anti-immigration sentiment. The most recent election resulted in Ms. Calanta and her far-right anti-immigration party forming a majority government.
 4. Spellige is an archipelago located in the Great Sea. The archipelago's six islands are less than three metres above sea level. Spellige has 45,000 inhabitants who speak the Spelligia language and practice the Spelligian religion. Spellige ratified the Rome Statute on 6 September 2019. The President, Jarl of Spellige, has held office for over 20 years by ordering violent repression of any opposition and critics.
 5. In the last five years, Spellige's islands have been under water 80% of the year. The cause is the unprecedented intensity of the spring tide events ("king tides"). Each recent king tide has destroyed hundreds of homes and businesses and resulted in the deaths of at least 15 inhabitants. Due to this recurring dire high sea level situation, jobs have become scarce and the economy has collapsed. This catastrophe has been aggravated by a severe shortage of fresh water.
 6. Past open immigration policies in Cintria led to approximately 4,000 Spellige Islanders immigrating to Cintria. Many have lived in Cintria for over 50 years. In the last five years, Islanders have fled the harsh climatic and economic conditions in Spellige and sought refuge in Cintria. At the end of March 2018, following one of the deadliest king tides on Spellige, 2,500 Islanders tried to reach Cintria to claim asylum.
 7. The Islander asylum seekers left Spellige by sea and arrived at the nearest port of entry on the continental mainland in the Republic of Verden. The Republic of Verden is inhabited by five million Verdenians and has been a State Party to the Rome Statute since 2004. In 2018, Verden experienced a serious economic crisis. Access to basic needs and jobs became very difficult. Islander asylum seekers did not remain in the Republic of Verden, choosing to travel south to the border of its neighbouring country, Cintria, where they claimed asylum.

8. During the election campaign and after becoming President of Cintria, President Calanta regularly made negative statements against immigrants on TV and print media, blaming them for the country's difficult economic situation. She often used Islanders to illustrate her points. For example, she stated on 28 August 2018:
“Cintrians have been affected by illegal immigration for too long. We have welcomed more than 4,000 Islanders so far, and what did we get in return? Poor economic performance, high crime rates, and dissatisfied Cintrians. There is a limit to how many victims of climate change one can welcome. We need to react strongly against illegal immigrants and criminals. Measures are being taken to ensure that we no longer suffer from those who break the law. Law-abiding immigrants need not be blamed for the criminal actions of others.”
9. Following the Islanders arrival at the Cintria border during the spring of 2018, President Calanta and her government officials increased their use of anti-immigrant hate speech, including blaming the Islanders for Cintria's declining economy. As a result, the Cintrian population grew hostile towards Islanders living in Cintria and systematically discriminated against them.
10. On 1 September 2018, President Calanta announced on Channel 59 that she planned to take concrete and extensive measures to tackle illegal immigration and protect Cintria's citizens against unwanted criminals. She mentioned that she entrusted her new Minister of Immigration, Mr. Cahir Marshal, to achieve her goals.
11. Minister Marshal proposed a new Immigration Act, which was adopted by Parliament in August 2018. The Act provided that any immigrant or refugee living in Cintria who commits a criminal offence shall be stripped of his/her status and removed to the Republic of Verden. Police controls of Islanders increased significantly and 697 Islanders, who had been living in Cintria lawfully for many years, were stripped of their status and removed for misdemeanours including traffic offences. Also, during a climate change protest in September 2019 organized by local NGOs, violent clashes between Islanders and Cintrian climate change deniers erupted. Of the 178 Islanders arrested, 102 of them were stripped of their permanent resident status under the new Immigration Act, and removed to the Republic of Verden.
12. In February 2019, Channel 59 reported that since September 2018 immigration authorities had launched special operations in which immigration officers regularly visited Islanders' homes, workplaces, and schools to control their papers. Employers interviewed by Channel 59 explained that they were reluctant to hire or employ Islanders because they were afraid to get into trouble with the government. In September 2019, Human Rights Eye, an international NGO operating in camps in the Republic of Verden, reported that 569 Islanders (then in the refugee camps in Verden) had been fired from their jobs in Cintria since October 2018. In addition, 136 Islanders had had their work visas revoked.
13. For the thousands of Islanders arriving in Cintria after March 2018, their asylum claims were automatically rejected without due process. The Cintria immigration authorities' basis for automatic rejection for all the asylum claims was that the 1951 Convention relating to the Status of Refugees did not cover “climate refugees”.¹ Rejection letters all contained the following sentence: *“The 1951 Convention relating to the Status of Refugees only extends to people who have a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion.”*

¹ Cintria ratified the 1951 Convention relating to the Status of Refugees in 1951.



14. The process undertaken by Cintria to remove the Islanders to the Republic of Verden was as follows:
 - Islanders who were denied asylum or had their permanent resident status or work visa revoked were first taken to detention centres in Cintria where they were kept under terrible conditions with no access to means of communication or medical treatment.
 - Before their transport from the detention centre to the Republic of Verden,
 - Islanders were not given access to lawyers and interpreters.
 - Islanders were not taken before a judge for a hearing.
 - Some Islander asylum seekers signed “voluntary departure” forms under coercion, threats of detention, and deportation from Cintrian immigration officers. The form included an acknowledgement of forfeiting their asylum claim. Local NGOs based in the Republic of Verden reported that some of the Islanders who signed these forms should have been granted asylum based on political persecution by Jarl of Spellige and his regime because of their political opinions.
15. Several Cintrian immigration and police officers – members of the opposition party – disagreed with the new immigration policies. They appeared on TV and reported that the Ministry of Immigration had ordered the specific targeting of Islanders. They reported that the Minister of Immigration had issued a confidential memo, explaining that the new policies were aimed only at Islanders and that no exceptions should be granted. The memo suggested that increase of criminality and the economic decline coincided with the growing number of Islanders in Cintria. It concluded that it was essential to put an end to their massive arrival. *“We are not responsible for the disappearance of their state and should not bear the responsibility of such unfortunate events alone.”*
16. According to Human Rights Eye, more than 3,000 Islanders have been removed to the Republic of Verden since July 2018, including thousands of asylum seekers, the 697 Islanders stripped of their permanent resident status and the 136 Islanders whose work visas had been revoked. More than 30 Islanders died and 159 were injured en route from the Cintria detention centres to the Republic of Verden. Three police officers were found guilty for the murder of three Islanders during their transport to the Verden border. The other deaths were not officially investigated.
17. Human Rights Eye reported on 12 Islander killings while in Cintria custody. The report alleges that the 12 Islanders were killed during their transfer from a detention centre in Cintria to the Republic of Verden. Human Rights Eye also reported that two Islanders were shot during their transport by Cintrian police for resisting expulsion and died ten days later in a camp in the Republic of Verden due to the lack of medical assistance.
18. Approximately 3,100 Islanders are currently living in camps in the Republic of Verden. The large influx of Islanders from Cintria has overwhelmed the Republic of Verden. The Verden authorities have provided as much support as possible by opening camps but conditions remain dire. Human Rights Eye found that in the camps, 52 Islanders have died of malnutrition, 38 women have been victims of sexual violence, and several persons have been trafficked or disappeared.



19. Some Islanders removed from Cintria agreed to leave the Verden camps and return to Spellige believing they had no better option under the circumstances. Since August 2018, 13 returnees have died during the king tides in Spellige. Spellige authorities jailed 125 returnees for denouncing Jarl of Spellige's inaction.
20. During her 2020 New Year's speech, President Calanta congratulated her government for its successful program to decrease the number of immigrants arriving in the country and the removal of criminals. She explained that the authorities' actions were legal and strictly followed the new Cintria Immigration Law. She highlighted that there was no international obligation forcing Cintria to welcome climate refugees, as no such category of refugees existed under the 1951 Convention. She expressed regret for the deaths that occurred during the refugee removal but highlighted that those responsible had been held accountable. She further explained that the police suggested that all other deaths were not the result of Cintrian authorities' actions as most occurred in the Republic of Verden, proving that the victims were killed there by unknown individuals. She considered the matter closed and announced that no investigations into the deaths would be conducted. She finished her speech by calling on the international community to assist Spellige to take measures to protect and relocate its population and by announcing that she will address this issue during the next session of the UN General Assembly.
21. On 16 September 2019, the Government of the Republic of Verden referred the situation in the Republic of Verden/Cintria since July 2018 to the ICC. The ICC Prosecutor also received information from thousands of alleged victims.
22. On 21 November 2019, the ICC Prosecutor announced the opening of a preliminary investigation into the situation concerning the Republic of Verden/Cintria for alleged crimes against humanity of:
 - deportation of more than 3,000 Islanders across the Republic of Verden/Cintria border (article 7(1)(d) of the Rome Statute); and
 - murder of 14 Islanders during their deportation (article 7(1)(a) of the Rome Statute).
23. On 3 January 2020, the ICC Prosecutor requested Pre-Trial Chamber II (PTC II) to issue a summons to appear for Ms. Fiona Calanta on the basis that there existed reasonable grounds to believe that she was responsible for crimes against humanity.
24. On 21 January 2020, PTC II issued its decision on the application submitted by the Prosecutor and summoned Ms. Fiona Calanta to appear before the Court.
25. On 15 February 2020, the Defense Counsel of Ms. Fiona Calanta filed an application requesting the Chamber to declare the case inadmissible and challenging the jurisdiction of the Court to hear the case against Ms. Fiona Calanta.
26. PTC II requested the Prosecutor and the Defense to submit written observations on the request presented no later than Sunday, 19 April 2020. PTC II decided to hold a separate hearing on the question of admissibility and jurisdiction pursuant to Rule 58 (2) RPE ICC before proceeding to the confirmation stage.



27. As a result of the current challenge, the established agenda for the PTC's hearing is the following:
- a) whether the case against Ms. Fiona Calanta concerning crimes against humanity of deportation and murder falls within the jurisdiction of the Court pursuant to article 19 of the Statute;
 - b) whether the case against Ms. Fiona Calanta concerning crimes against humanity of murder is admissible pursuant to article 17(1)(a) and (d) of the Statute; and
 - c) whether there are reasonable grounds to believe that Ms. Fiona Calanta is criminally responsible for crimes against humanity of deportation under article 25(3)(a) of the Rome Statute (indirect co-perpetration) and crimes against humanity of murder under article 25(3)(b) of the Rome Statute (ordering).