

**2025 IBA International Criminal Court Moot Court Competition  
Organized by the Grotius Center**

**Case before the International Criminal Court (ICC):  
*The Prosecutor v. Arrix Vragar*  
Situation in The Republic of Northeros**

**Appeal from the Pre-**

This is a fictional case intended to educate students about the law and practice of the ICC. Participating teams will be divided into three roles: (1) Counsel for the Prosecution which brings this appeal; (2) Common Legal Representative of the Victims, participating under Article 68(3) of the Rome Statute of the International Criminal Court (the ‘Statute’); and (3) Counsel for the Defence (Arrix Vragar). In accordance with the rules of the competition, each team shall write a Memorial for each of these roles, setting forth its legal arguments in the context of the interlocutory appeal by The Prosecutor, challenging the Pre-Trial Chamber’s Denial of Confirmation of Charges concerning Arrix Vragar. Oral arguments shall follow the order set forth above.

**Established Agenda for the Appeal of the Pre-**

Pursuant to Pre-Trial Chamber XV’s decision to grant the Prosecution’s request for leave to appeal

## **Pre-Trial Chamber XV**

### ***Prosecutor v. Arrix Vragar*** **Situation in The Democratic Republic of Northeros**

1. Pre-Trial Chamber XV of the International Criminal Court (ICC) renders this decision denying the application of the Prosecution to confirm the charges relating to Arrix Vragar pursuant to Article 61 of the ICC Statute (the Statute). Mr. Vragar, a purported national of the State of Pentos (a State Party to the Rome Statute), is accused of aiding and abetting the commission of the crime against humanity of “gender apartheid” by the Baleran Regime of Northeros under Articles 7(1)(k) and 25(3)(c) of the Statute.

2. Underlying this case are four decrees issued in November 2021 by the Baleran regime in Northeros that stripped essential rights from the females of Northeros, and Mr. Vragar’s role in creating a deadly autonomous border control system in Southeros that allegedly aided and abetted the criminal policies of the Northeros regime by preventing females from migrating to Southeros. The case also concerns the internet publication by a company owned and controlled by Mr. Vragar of the names and identifying information relating to sensitive witnesses after the information was hacked from the ICC’s database, resulting in the disappearance of those witnesses.

#### **Jurisdiction**

3. Neither Northeros nor Southeros is a Party to the Rome Statute, and the U.N. Security Council has not referred this situation to the Court. Rather, the Prosecution contends that the ICC has jurisdiction in this case based on Article 12(2)(b) of the Statute because the person charged, Arrix Vragar, is a national of the State of Pentos, which ratified the Rome Statute in 2002. Mr. Vragar (age 51), was born in Pentos, whose laws consider all persons born in its territory to be a national of the State, but he has no other ties to Pentos. Rather, since he was seven months old, he has lived in the State of Davos, where his parents were nationals, and where he was educated, owns a home, owns a business, and pays taxes to the Davos government.

#### **Background**

4. On 20 February 2024, the Office of the Prosecutor received a report on the Situation in Northeros prepared by the staff of Human Rights International, an NGO known for its meticulous fact-finding process, balanced and objective documentation, and the reliability of its reporting. The report was based on public records obtained from the States of Northeros, Southeros, Pentos, and Davos as well as interviews with two confidential insiders who provided information on condition of anonymity. That same day, Human Rights International published a redacted version of the report on its website with the insider’s names and other identifying information blacked out for their safety. The unredacted version of the Report was provided to the Prosecutor on condition that the insiders’ names would not be made public until sufficient measures to protect them had been implemented under Articles 54(3) and 68 of the Statute.

5. On 5 April 2024, the Prosecutor reported to the Pre-Trial Chamber that his Office’s computer system had been hacked. A few hours later, the web platform “Cyberleaks” (a division of a

company owned by Mr. Vragar) published the unredacted version of the Human Rights International Report, including the names and identifying information of the two confidential insiders. The published document included the log-in information indicating that it was exfiltrated from the Office of the Prosecutor. The unredacted version of the Report of Human Rights International, dated 20 February 2024 is attached to this decision as **Appendix B**. The Prosecutor subsequently reported on 13 May 2024 that the two insider witnesses in question had disappeared. They have not reported to work, their apartments in Davos were empty, and no one has seen them since 5 April 2024. The Report of the Office of the Prosecutor of the ICC Relating to the Hacking and Publication of Confidential Information and the Resulting Disappearance of Witnesses, dated 13 May 2024 is attached to this decision as **Appendix C**.

### **Proceedings at the Court**

6. Based on the 20 February 2024 Human Rights International Report, on 10 March 2024, the Prosecutor filed a request for authorization to commence an investigation of the Situation in the Republic of Northeros pursuant to Articles 15 and 53 of the Statute, which a differently composed bench of the Pre-Trial Chamber authorized on 20 March 2024.

7. On 20 May 2024, at the request of the Office of the Prosecutor, a differently composed bench of the Pre-Trial Chamber issued an arrest warrant for Arrix Vragar, finding on the basis of the 20 February 2024 Human Rights International Report and the 13 May 2024 Report of the Office of the Prosecutor that there were reasonable grounds to believe that Mr. Vragar was criminally liable for aiding and abetting the crime against humanity of gender apartheid under Articles 7(1)(k) and 25(3)(c) of the Statute, as well as committing an offense against the administration of justice under Article 70 of the Statute. That bench of the Pre-Trial Chamber also found, pursuant to Article 58(1)(b) of the Statute, that Mr. Vragar's arrest appeared necessary to ensure he did not further obstruct or endanger the investigation or the court's proceedings, as well as to prevent him from continuing with his alleged criminal activity.

8. Having received a copy of the Court's warrant of arrest, the States of Northeros, Southeros, and Davos (where Mr. Vragar resides), each informed the Registrar of the Court that they would not pursue criminal charges against Mr. Vragar nor cooperate in the ICC's proceedings against him because they were not a Party to the Rome Statute. Pentos, which is a State Party to the Rome Statute, indicated that it was willing to assist the Court in the prosecution of its national, but that Mr. Vragar was not present in its territory.

9. Since the relevant States were unwilling and/or unable to criminally pursue the matter, on 1 June 2024 the Office of the Prosecutor filed its Documents Containing the Charges ("DCC") pursuant to Article 61(3) of the Statute, charging Arrix Vragar with "aiding and abetting the other inhumane act of gender apartheid" under Articles 7(1)(k) and 23(3)(c) of the Statute and committing an offense against the administration of justice under Article 70 of the Statute.

10. On 7 June 2024, Mr. Vragar informed the Court's Registrar that he had appointed counsel from the ICC's List of Counsel to represent him. That same day, the Court appointed a Common Legal Representative of the Victims to represent the interests of the victims of alleged gender apartheid in Northeros.

11. On 10 June 2024 the ICC Prosecutor requested a hearing on the confirmation of charges pursuant to Article 61 of the Statute.

12. On 12 June 2024, upon instructions of the Pre-Trial Chamber, the Defence informed the Chamber that Mr. Vragar, who was residing in Davos at that time, had waived his right to be present at the confirmation of charges hearing.

13. On 17 June 2024, the Pre-Trial Chamber issued an order scheduling a hearing on the confirmation of charges under Article 61(2) of the Statute for 10 August 2024, and set the deadline of 10 July 2024 for the Defence to file any written submissions in relation to Article 61(6) of the Statute. The Chamber further stated that it would hear oral submissions and responses to the issues raised by the Defence at the hearing on 10 August 2024.

14. On 10 July 2024, the Defence filed a motion in opposition to Confirmation of Charges on the following grounds:

- a. That the ICC lacked jurisdiction over Mr. Vragar under Article 12(2)(b) of the Statute because he lacked a genuine link to Pentos and any purported nationality was “illusory”.
- b. That “gender apartheid” does not qualify as an inhumane act under Article 7(1)(k) of the Statute and in any event that the allegations and evidence, based on a single NGO report, are insufficient to establish substantial grounds to believe that Mr. Vragar aided and abetted the commission of such crime under Article 25(3)(c) of the Statute.
- c. That Mr. Vragar cannot be tried for committing an offense against the administration of justice under Article 70(1)(c) of the Statute merely because his company posted a confidential ICC document that it had lawfully received, especially as there was no allegation or evidence that he or Cyberleaks were involved in hacking into the ICC database.

15. On 10 August 2024, the Chamber heard oral submissions and responses from the Prosecution, the Common Legal Representative of the Victims, and Counsel for Arrix Vragar on the issues raised by the Defence.

16. The Pre-Trial Chamber’s decision in this case is based on three attached documents, which are considered part of this decision:

- (1) Map of the Region, attached as **Appendix A**;
- (2) Unredacted version of the Report of Human Rights International, dated 20 February 2024, attached as **Appendix B**; and
- (3) Report of the Office of the Prosecutor of the ICC Relating to the Hacking and Publication of Confidential Information and the Resulting Disappearance of Witnesses, dated 13 May 2024, attached as **Appendix C**.

17. After duly considering the Parties and Participant’s submissions and the evidence, the Pre-Trial Chamber hereby makes the following findings and conclusions:

- a. That the Court lacks jurisdiction over Mr. Vragar under Article 12(2)(b) of the Statute because his only link to Pentos was that he was born there, which in and of itself does not constitute a sufficient link for the Court to exercise jurisdiction based on nationality.
- b. That the allegations and evidence are insufficient to establish substantial grounds to believe that Mr. Vragar aided and abetted the commission of the other inhumane act of “gender apartheid” under Article 7(1)(k) and Article 25(3)(c) of the Statute because: (1) apartheid only applies to racial oppression not gender discrimination; (2) “gender apartheid” as supported by the alleged facts of this case is not sufficiently similar to the other enumerated crimes against humanity to be recognized as “an other inhumane act”; and (3) Mr. Vragar could not be deemed to have the necessary *mens rea* to aid and abet an international crime merely by providing Southeros the means to protect its borders from unlawful migration.
- c. We note that the Court has universal jurisdiction over those accused of offenses under Article 70 of the Statute, but without evidence that Mr. Vragar was involved in the hacking of the ICC, mere publication of a document, which may have been acquired by hacking, is not adequate to establish sufficient grounds to believe that Mr. Vragar committed an offense against the administration of justice under Article 70(1)(c) of the Statute.

For these reasons, the majority of Pre-Trial Chamber XV hereby:

Declines to confirm the charges against Arrix Vragar;

Declares that the arrest warrant for Arrix Vragar shall cease to have effect, subject to the determination of any appeal in this matter; and

Orders the Registrar to notify the parties and participants of this decision.

#### **Dissent by Judge Variance:**

I found the arguments of the Prosecution on all three issues persuasive, and I therefore dissent from the Decision of the majority of the Pre-Trial Chamber.

**[Signed] Judge Friendly, Judge Learned, and Judge Variance (dissenting)**

**Dated 15 September 2024**

**At The Hague, The Netherlands**

## Appendix A



## Appendix B



**Human Rights International  
20 February 2024  
Situation of Human Rights in Northeros**

### Introduction

1. This Report concerns allegations that Arrix Vragar, a national of Pentos (a State party to the ICC), aided and abetted the international crime of gender apartheid committed by the Baleran government of Northeros. Gender apartheid occurs when inhumane acts are committed in the context of an institutionalized regime of systematic oppression and domination by one gender group over any other gender group or groups, and committed with the intention of maintaining that regime.

2. This Report was prepared by the Staff of Human Rights International based on public records obtained from investigations in Northeros, Southeros, Pentos and Davos and interviews with confidential insiders who provided information on condition of anonymity. Their names and other identifying information have been redacted from the public version of this Report to protect their safety and help ensure their participation in any eventual trial before the ICC.

### Background

3. The Republic of Northeros and the Kingdom of Southeros are two States that share an island in the Stormy Sea. The Rocky River runs between the two States and their border is the midpoint of the River. There is only one border crossing station between the two States, which is located near the western mouth of the River. To the south of Northeros and Southeros, across the Davos Passage, are the island States of Pentos and Davos. All four States are members of the United Nations and Parties to the 1951 Convention on the Status of Refugees. Pentos ratified the Rome Statute establishing the International Criminal Court in 2002. None of the other three States are Parties to the Rome Statute. The four States are party to no other treaties relevant to this situation.

4. The Republic of Northeros (formerly a parliamentary democracy, currently a totalitarian regime) has a population of 5 million, a territory of 2,000 square kilometers, and a GDP of 2 billion dollars (US). Its economy is based on mineral extraction and coastal fishing. The Kingdom of Southeros (a monarchy) has a population of 7 million, a territory of 2,400 square kilometers, and a GDP of

3 billion dollars (US). Its economy is based on agriculture and cattle farming. One of the poorest nations in the world, the State of Pentos (a tribal oligarchy) has a population of 150,000, a territory of 200 square kilometers, and a GDP of 20 million dollars (US). Its economy is based on agriculture and coastal fishing. The State of Davos (a democracy) has a population of 5 million, a territory of 1,000 square kilometers, and a GDP of 20 billion dollars (US). Its economy is based on technology, banking and tourism. While Northeros, Southeros, and Pentos have scant police and security forces, Davos has a significant police force as well as a modest army, navy, and coastguard.

### **The Plight of the Women of Northeros**

5. As Northeros emerged from the economic ravages of the COVID-19 pandemic in the fall of 2021, the Baleran faction seized power from the democratic government in a coup d'etat. According to Northeros public records, shortly after assuming power in November 2021, the Baleran regime issued a series of decrees significantly curtailing the rights of females in Northeros: Decree #1 bans females in Northeros from holding government positions or serving as teachers, lawyers, doctors, or nurses; Decree #2 provides that females in Northeros are not allowed to attend school past the age of eight; Decree #3 prohibits females in Northeros from driving or taking public transportation; and Decree #4 prohibits the issuance of travel documentation to females of Northeros nationality to prevent them from leaving Northeros. The Decrees define females as those born with female genitalia as reflected in their birth certificate and mandatory national identity card. Violators of these four decrees face public flogging upon conviction by a local tribunal irrespective of their gender.

6. Although it was not a party to the International Covenant on Civil and Political Rights, the former government of Northeros had respected the rights therein, including the prohibition of discrimination based on gender. Since November 2021, women in Northeros who held government positions or served as teachers, lawyers, doctors, and nurses under the former regime have been stripped of their positions. In May 2022, the U.N. Human Rights Council adopted a resolution by a vote of 40 in favor and 7 opposed, urging Northeros to rescind the four November 2021 Decrees, but Northeros has refused to do so.

7. Since the adoption of the November 2021 Decrees, tens of thousands of women, men, and children from Northeros have attempted to flee to Southeros, which has laws guaranteeing gender equality. Since female nationals of Northeros cannot obtain a valid travel document, migrants have been crossing into Southeros by swimming or rafting across the Rocky River at night. An average of 5,000 persons a month have attempted to cross the river. About one-third of those drown in the swift currents, but a large number make it into Southeros. Faced with the fast growing numbers of migrants from Northeros, Southeros established several tent camps for them near the river, currently housing of4o3( )-9(15)3(5)13(,)-4(00)3( un(do)53(cumen)12(t63(ed)3( )-4(N)5(ort)-6(he)14(r)-3(c



2022, the government of Southeros contracted with Vragarsoft Corp. for the development and installation of an A.I. fully Automated Border Security System (ABSS). Southeros paid Vragarsoft a total of \$120 million in twelve monthly installments for the project and ABSS was made operational in July 2023.

9. **Name redacted [Morghule]** reported that ABSS consists of 60 towers on the Southeros side of the Rocky River placed every half kilometer. The towers are equipped with infrared autonomous assault rifles that automatically fire upon anyone who crosses south of the midpoint of the river from Northeros. ABSS does not fire on persons lawfully crossing the bridge at the single official border crossing station.

automatically deemed a national of the State of Davos. Vragar attended Davos-funded public school through graduation from High School in 1990. On his 18th birthday, Vragar obtained a Davis passport and duly registered for Davos military service as required of all male citizens, though he was never called to serve. That fall, Vragar enrolled in the Davos Institute of Technology (DIT), one of the top-ranked universities in the world, on a full scholarship available to outstanding students of Davos nationality. After graduating Magna Cum Laude from DIT with a BA in Computer Science in 1994, followed by an MBA from DIT School of Business in 1996, Vragar bought a home in the Davos capital city of Riverrun, and established a computer company out of his garage called Vragarsoft Corp., which he incorporated in Davos.

15. Today, Vragarsoft Corp. is privately owned and controlled by Arrix Vragar. It has more than 120 employees, generates gross revenue in excess of 200 million dollars (US), and is valued at over 500 million dollars (US). Its corporate headquarters is located on a sprawling campus on the outskirts of Riverrun.

16. Although Vragar is an extremely private person and there is not much publicly known about him or his company, Human Rights International was able to gather the following details from a confidential conversation on 13 February 2024 with **Name redacted [Syrix Shreaker, the Assistant Executive Aid to Arrix Vragar]**. In its early days, Vragarsoft produced simulated war video games, such as “Summon to Duty,” “Cogs of War,” and “Ultimate Command,” which were among the most popular in the world. Due to the success of his business, by 2010, Vragar had become one of the wealthiest individuals in Davos. He keeps his money in the Davos National Bank and pays millions of dollars in personal and business taxes to the Davos Internal Revenue Service each year.

17. **Name redacted [Shreaker]** said in 2011, Vragarsoft established “Cyberleaks,” a free online web platform that publishes leaked documents that Arrix Vragar deems to be authentic and in the public interest. Cyberleaks generates revenue through pop-up ads, which market Vragarsoft’s video games. It has exposed diplomatic and corporate secrets provided by insiders and whistleblowers. Since its establishment, Cyberleaks has been lauded for increasing transparency, assisting freedom of the press, and enhancing democratic discourse while challenging powerful institutions. **Name redacted [Shreaker]** said that Vragar continues to closely supervise the Cyberleaks division of Vragarsoft Corp. “Nothing is posted without his say so.”

18. **Name redacted [Shreaker]** said that as Vragarsoft grew and computer technology evolved, the company branched out into Artificial Intelligence. In 2019, it developed “Squawk GBT,” a generative AI platform with natural language processing that allows users to have human-like conversations to complete various research tasks. In 2021, the company began to develop automated AI security systems for private corporations. The ABSS system developed for Southeros in 2023 was Vragarsoft’s first large-scale automated AI security project for a foreign State.

19. Based on the information contained in this Report, Human Rights International urges the Office of the Prosecutor of the International Criminal Court to request that charges be brought against Arrix Vragar for his role in the crimes committed against the women of Northeros.

## Appendix C

**Report of the Office of the Prosecutor of the International Criminal Court Relating  
to the Hacking and Publication of Confidential Information and the Resulting  
Disappearance of Witnesses  
13 May 2024**

1. This Report to the Pre-Trial Chamber supplements the Report of the Office of the Prosecutor (OTP) of 5 April 2024, provided in accordance with Article 57(3) of the Rome Statute and alerting the Pre-Trial Chamber that a document relevant to the Investigation of the Situation in the Republic of Northeros had been hacked from the OTP computer system.
2. On 20 February 2024, the OTP received a Report from Human Rights International (HRI) detailing Arrix Vragar's alleged culpability for aiding and abetting the Northeros government's programme of systematic discrimination against females. The unredacted version of the HRI Report, provided only to the OTP, contained the names and identifying information of two insider witnesses who supplied incriminating information about Vragar's involvement in the aforementioned programme. The unredacted Report was logged in at 1300 hours as "OTP Doc. 2024.02.20.1300." HRI simultaneously posted a version of the Report on its website with the names and identifying information of the insider witnesses redacted.
3. On 5 April 2024, the IT Security Team at the Court detected an external hack of the OTP's IT system. A few hours later, the unredacted version of the 20 February 2024 HRI Report, bearing the log-in markings of OTP, was published on the free online web platform known as "Cyberleaks." The posting of documents on Cyberleaks, a division of Vragarsoft Corp., is closely controlled by Arrix Vragar.
4. Our IT Security team implemented immediate measures to respond to this incident and shore up the security of the Court's IT system. The team has confirmed that the HRI Report was the only document hacked from the Court at this time.
5. Immediately after learning of the incident, the OTP informed HRI that its unredacted report had been obtained by hackers and posted on Cyberleaks. The OTP also sought to inform the two insider witnesses of the possible threat to their safety caused by this incident, but they could not be contacted or found. Despite repeated attempts to locate them since April 5, there is no trace of their whereabouts. They have not returned to their place of employment. Their apartments are empty. Their friends and neighbors have no idea where they have gone.
6. While we have no evidence that Arrix Vragar or his employees at Vragarsoft Corp. were responsible for the hacking, we submit that it was an offense against the Court's administration of justice, for Cyberleaks, which is controlled by Arrix Vragar, to post the unredacted version of the HRI Report that was clearly acquired via hacking. It was either intended or reasonably foreseeable that this action would obstruct or interfere with the testimony of two important witnesses in an ongoing case before the Court involving Arrix Vragar. We will therefore be requesting that the additional charge of witness interference be brought against Arrix Vragar under Article 70 of the ICC Statute, which applies to him whether or not he is a national of a State party or committed an offense within the territory of a State Party.

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