

## **2019 International Criminal Court Moot Court Competition Problem**

### **Case before the International Criminal Court (ICC): Prosecutor v. Dani Targarian of Cilanta**

### **Appeal from the Pre-Trial Chamber’s Decision on Confirmation of Charges**

### **Corrections/Clarifications to the Problem**

#### NOTE TO COMPETITORS

The ICC Moot Court Competition Organization has received several requests for corrections and clarifications. Any request for clarification not addressed in the following paragraphs has been considered to be unnecessary, redundant, inappropriate, or immaterial. In addition to listing the corrections/ clarifications below, they have been incorporated into the Corrected Version of the Pre-Trial Chamber VI’s Decision which can be found on our website. The Correct Version of the Pre-Trial Chamber VI’s Decision supersedes the previous document.

#### INTRODUCTION

Pre-Trial Chamber VI of the International Criminal Court (ICC) issues the following corrections/clarifications to its decision on the application filed by the Defense, challenging the jurisdiction of the ICC and other matters in the context of Confirmation of Charges:

- 1. In paragraph 16, it says that “after the six-month clock had run without the Security Council making a determination”, but the referral time between August 5 2018 to January 6 2019 is only five months. Is this a deliberate discrepancy or a mistake?**

The Problem was meant to indicate that the six-month clock had in fact fully run. To correct the mathematical error, the dates in January 2019 in paragraphs 16, 17, and 18 are hereby changed to February 2019, and the date the opinion was issued is changed to March 2019.

2. **Paragraph 8 says that the legal opinion of Dani Targarian was commissioned on 23 July 2018 but in paragraph 14 it says that the documents recovered from Dani Targarian’s computer reveal that the email was from 25 July 2018 – which is the correct date for the request for the legal opinion?**

The date for the request for the legal opinion in the first sentence of paragraph 14 is hereby revised to read July 23, 2018, consistent with paragraph 8.

3. **What time did the Cilanta federal police raid Dr. Dani’s house? In paragraph 13 it was mentioned in the early morning hours while paragraph a of the Objections of the Defense stated “night time search”, so what was the exact timing?**

Paragraph 13 is hereby corrected to read in relevant part:

Although the Cilanta federal police could not obtain a warrant to conduct a lawful search, they nonetheless raided Dani Targarian’s home in Cilanta in the early morning hours (1:15-2:00 AM) of July 30, 2018. The Cilanta police indiscriminately went through her family’s personal belongings and confiscated all of the computers found in her home. A Cilanta forensics expert was able to access Dr. Targarian’s computer files and uncovered a series of incriminating documents that Cilanta turned over in hard copy to the Office of the Prosecutor of the International Criminal Court on August 1, 2018.

4. **Are Astipur, Bravos and Cilanta parties to: a. European Convention on Human Rights, b. International Covenant on Civil and Political Rights, c. Geneva Conventions and Additional Protocols, and d. Chemical Weapons Convention?**

Paragraph 2 is hereby revised to insert the following sentence at the beginning of the paragraph:

Astipur, Bravos, and Cilanta are members of the UN and parties to the International Covenant on Civil and Political Rights and the Geneva Conventions of 1949 and the Additional Protocols thereto. They are not party to other treaties relevant to the subject matter of the case except for the Rome Statute.

5. **What status does the State of Astipur have in the proceedings of appeal against the decision of the Pre-Trial Chamber? Is Government Counsel acting as an amicus curiae (Rule 103) or as a “State participating in the proceedings [under Art. 19(2) ICCS]“ (Regulation 24[3])?**

The first paragraph of the Problem is hereby amended to state:

This is a fictional case intended to enable students to familiarize themselves with the law and practice of the ICC. Participating teams will be divided into three groups: (1) Counsel

for the Defendant, (2) Counsel for the Prosecution, and (3) Counsel for the State of Astipur participating in the proceedings under Rule 103 of the ICC Rules.

**6. Who reported the casualties of the airstrikes of Astipur and is the report reliable?**

The penultimate sentence of paragraph 11 is hereby revised to read:

Further, by attacking in the early morning hours, we have minimized casualties which are reported by the Bravos' press to be less than 100.

**7. Pursuant to paragraph 14, please clarify the exact timings of when the final memorandum was sent by Dani Targarian, the timing of when the Cabinet approval took place and the timings of when the airstrikes against Bravos occurred**

To correct some errors related to dates, paragraphs 11-15 are hereby revised. Please read carefully the updated version of the Pre-Trial VI's Decision available on the website.