

## Telders International Moot Court Competition 2019

### Questions for clarification

1. Are there any binding norms - of either international or national nature - that regulate the practices and procedures that must be followed in extradition requests between Tenovia and Brolin?

**A: All available information is in the text provided and in the responses below.**

2. What kind of private and business-related property does Ms. Desmond have in Brolin?

**A: All available information is in the text provided and in the responses below.**

3. Did Ms. Desmond work for her company from the rented apartment (and did she continue to do so after her appointment as national envoy)?

**A: Ms. Desmond resigned from her position as director of Paintgood on 2 April 2018. Up until that date, she stored about half of the equipment owned by the company Paintgood in a spare room of her rented apartment. The other half of the equipment was kept at Paintgood's registered office in the centre of Gremont. While she was director of Paintgood, Ms. Desmond completed minor paperwork for Paintgood, such as bookkeeping, from her rented apartment on weekends.**

4. What private property of Ms Desmond is subject to the order of seizure and sale?

**A: The letter from Brolin's authorities to Ms. Desmond (see paragraph 33 of the text provided) does not specify what private property will be seized and sold. No private property of Ms. Desmond has been seized or sold.**

5. Is the Drizac Management Act 2016 still in force in 2017?

**A: No.**

6. What is the nationality of Mr. Zunitte?

**A: Mr. Zunitte is a national of Brolin.**

7. Is there an extradition agreement between Tenovia and Brolin?

**A: No.**

8. Is there a customs control at the border between Tenovia and Brolin?

**A: No.**

9. Is the Case written based on the statements of both States (Statement of Agreed Facts) or just one of them (which one)?

**A: The facts contained in the text provided and in these responses are accepted as true by both States.**

10. On which date did the Falconner Security Act (2017) come into force?

**A: The Falconner security Act (2017) came into force on 1 August 2017.**

11. Is it enough for sending State (Tenovia) to notify receiving State (Brolin) about the appointment of the envoy to CLAWS or they need to complete the necessary (under the Claws Convention) procedure of appointment?

**A: All available information is in the text provided.**

12. Is Ms Desmond still Director of Paintgood?

**A: No, Ms. Desmond resigned from her position as Director of Paintgood on 2 April 2018.**

13. Is Ms Desmond getting paid in her position as Director of Paintgood?

**A: Ms Desmond received a salary from Paintgood while she worked there as director. However, Ms. Desmond resigned from her position as director of Paintgood on 2 April 2018 and is therefore no longer paid by the company.**

14. Is Tenovia demanding the extradition (see para. 17) or the apprehension/arrest of Mr Zunitte (see paras. 17 and 19)?

**A: On 20 August 2017, Tenovia's Ambassador to Brolin demanded the extradition of Mr. Zunitte for questioning in Tenovia in relation to the assault on Ms. Starman (see paragraph 17 of the text provided). In its Application to the International Court of Justice, Tenovia requests the Court to adjudge and declare that Brolin violated customary international law by the assault on Ms. Starman in Tenovian territory and by failing to apprehend Mr. Zunitte (see paragraph 34 of the text provided).**

15. Whether Brolin and Tenovia are parties to a treaty that allows for extradition between states?

**A: No.**

16. Given the question stated in reference to "customary" international law, can we refer to international treaties in our arguments?

**A: If appropriate, reference can be made to international treaties in argument.**

17. Can we refer to ECHR/other international Humanitarian/Human rights law (eg. Yugoslavia) cases in our arguments?

**A: If appropriate, reference can be made to international case law in argument.**

18. Besides the ICERD, VCDR, VCLT, and CLAWS, have Brolin & Tenovia signed any other International Conventions?

**A: Brolin and Tenovia have both ratified the Charter of the United Nations.**

19. For how long did Ms. Starman harbour Coco?

**A: Coco walked into Tenovia on 15 August 2017 and was found by Mr. Zunitte on 18 August 2017.**

20. Which exactly official functions did Ms. Desmond exercise as a diplomatic agent?

**A: All available information is in the text provided.**

21. Was Brolin obliged under its national legislation to apprehend persons for actions similar to the ones committed by Mr. Zunitte?

**A: Assault is a crime under the national law of Brolin.**

22. How many Brolinites signed the declaration at the football game?

**A: Amongst the attendees at the football game, about 62% were ethnic Brolinites (with citizenship in either Tenovia or Brolin). All ethnic Brolinites signed the declaration at the entrance to the stadium.**

23. Did the Brolin minister receive and read the note in para 21?

**A: Yes, on 5 September 2017.**

24. Are the ethnic Tenovis indigenous to the area of Brolin and Tenovia?

**A: Yes.**

25. When did the CLAWS Convention enter into force?

**A: The CLAWS Convention entered into force on 1 January 1999.**

26. When and to whom did Brolin's Minister of Foreign Affairs tell that Zunitte should be apprehended?

**A: On the day of the broadcast (see paragraph 17 of the text provided), 20 August 2017, Brolin's Minister of Foreign Affairs told Tenovia's Ambassador to Brolin that "Brolin will do everything in its power to apprehend Mr. Zunitte". Tenovia's Ambassador to Brolin responded that Tenovia would await news of Mr. Zunitte's**

**apprehension by Brolin with impatience, and would suspend its own police investigation in Tenovia pending news of Mr. Zunitte's apprehension by Brolin.**

27. Did anyone else than ethnic Tenovis sign the declaration at the entrance of the stadium?

**A: Yes, every person who was allowed to enter the stadium signed the declaration, whether they were an ethnic Tenovi or not.**

28. Have both parties ratified the ICCPR?

**A: No, neither party has ratified the ICCPR.**

29. Is Ms. Desmond still working and conducting business as the director of Paintgood?

**A: No, see Q12.**

30. For what purpose did Ms. Desmond use the rented accommodation in Gremont?

**A: Ms. Desmond lives alone in her rented accommodation in Gremont. See also Q3 and the text provided.**

31. Was Ms Desmond a permanent resident of Brolin?

**A: All available information is in the text provided and in these responses.**

32. It is stated in paragraph 33 of moot problem: "Desmond does not comply with the domestic court's order. On 3 August 2018, she receives a letter from Brolin's authorities stating that if she does not comply with the court's order by the end of August 2018 she will be subject to seizure and sale of her private property to the value of \$18,500." What does the term "seizure" mean for the purposes of the previous sentence? Does it mean that Ms Desmond will be arrested, or it simply refers to her property?

**A: The letter described in paragraph 33 of the text provided does not refer to the arrest of Ms. Desmond. The letter states that Ms. Desmond's private property will be seized and sold to the value of \$18,500.**

33. Is Ms Desmond still enjoying the rights of director of "Paintgood"?

**A: No, see Q12.**

34. Has the state medal, usually reserved for emergency services personnel, which Mr Zunitte was awarded ever been awarded to a non-emergency services worker before Mr. Zunitte?

**A: No.**

35. Were non-ethnic Tenovis, residing in either Brolin or Tenovia, among those football supporters who were not allowed entry into the football stadium in Brolin prior to the start of the Great Football Match between Brolin and Tenovia, due to their refusal to sign Brolin's declaration?

**A: No non-ethnic Tenovis refused to sign the declaration to gain entry to the stadium. Therefore, no non-ethnic Tenovis were refused entry to the stadium on that basis.**

36. Is Ms. Desmond a permanent resident of Tenovia?

**A: All available information is in the text provided and in these responses.**

37. Is there any type of agreement bilateral, multilateral, regional or any other one that collects the extradition conditions between Brolin and Tenovia?

**A: No.**

38. Drizac Management Act (2016) continues to have legal effects when Startman's assault occurs? And, What is the territorial scope in which the act is applied?

**A: The Drizac Management Act is no longer in force in 2017. All other available information is in the text provided.**

39. How many days before the football match did Mr. Zunitte find the dog?

**A: Mr. Zunitte found Coco on 18 August 2017. The football match was on 7 September 2017.**

40. Are Brolin and Tenovia parties to the UN Charter?

**A: Yes.**

41. Is Mr. Zunitte a national of Tenovia?

**A: No, see Q6.**

42. Is there a connection between the phone calls made by Ms Desmond and her mother and the appointment of Ms Desmond as a CLAWS representative?

**A: All available information is in the text provided.**

43. Which Falconner's powers under Drizac management Act (2016) were still in force at the moment of the committing the assault?

**A: The Drizac Management Act is no longer in force in 2017.**

44. Is the religion under which Tenovis must keep their promises spread only among Tenovis or it is also accepted by people of other nationalities?

**A: Ethnic Tenovis of all nationalities adhere to the traditions described in paragraph 3 of the text provided.**

45. Which effective remedies are available in Brolin?

**A: All available information is in the text provided.**

46. On what date did Mr. Zunitte cross the border between Brolin and Tenovia and assaulted Ms. Starman?

**A: Mr. Zunitte crossed the border from Brolin into Tenovia on 18 August 2017.**

47. In what part of a day was the meeting between Tenovia's Ambassador to Brolin and Brolin's Minister of Foreign Affairs held?

**A: The meeting was held at 1pm in the afternoon of 20 August 2017.**

48. Was Ms. Desmond a resident of Brolin throughout all of the events that occurred in the Compromis?

**A: All available information is in the text provided and in these responses.**

49. Were there any restrictions regarding use of the equipment (government-issued uniforms, crowd-control equipment (shields, visors), tasers and patrol vehicles) provided under the Financial Agreement (2017) prior to entry into force of / for the purposes other than Falconner Security Act (2017)?

**A: The relevant sections of the financial agreement and the Falconner security Act (2017) are discussed in the text provided. There are no other relevant sections.**

50. Whether all Tenovis attendees were notified about the new security requirement in advance of the Great Football Match (by the Tenovis Minister of Sports / tickets provider / etc.) and offered compensation, or discovered it at the entrance to the stadium on the day of the game?

**A: All attendees were informed of the requirement to sign the declaration on the day of the Great Football Match, when they arrived at the stadium.**

51. Does the national law of Brolin define the concept of 'permanent resident' for the purposes of Article 38 of the VCDR?

**A: No.**

52. Did Brolin financially assist Falconner employees at the same time that it provided them with the governmental equipment or after the end of their mission concerning the security of the game?

**A: The lump sum paid by the government of Brolin to Falconner, in accordance with the financial agreement (see paragraph 7), was paid to Falconner one week before the football game. Falconner employees receive a salary, paid monthly by Falconner to them.**

53. What are the criteria for being "appropriate envoy to CLAWS"? (para. 30)

**A: All available information is in the text provided.**

54. What was the duration of the Falconner security Act (2017)? (para. 7)

**A: The Falconner security Act (2017) contained a sunset clause specifying that the law would cease to have effect forty-eight hours after the end of the 2017 football game between Brolin and Tenovia.**

55. Was it necessary for all of the attendees at the football game to sign a declaration at the entrance of the stadium? (para. 23)

**A: Yes.**

56. Did, and if yes when did, Brolin receive the Note of Tenovia's Minister of Sports that ethnic Tenovis are not permitted on Thursdays to make promises to strangers? (Compromis, paras 21 and 22)

**A: Yes, see Q23.**

57. Was there any communication between Ms. Desmond and Tenovia regarding her appointment to CLAWS before she leased the apartment in December 2017? (Compromis, paras 26, 27, 30)

**A: No.**

58. Does Ms. Desmond have a residence in Tenovia and is she married? (Compromis, para 25)

**A: Ms. Desmond owns two apartments in Tenovia, which she rents out. She lived in one of the two apartments in Tenovia until late 2010, when she moved to Brolin. The entire rental income from the two apartments in Tenovia is currently being used to repay her credit card loans. When she visits Tenovia (which she does every few months), she stays with her mother or her sister. Ms. Desmond married a man from Brolin in 2014 and they lived together in Brolin for 12 months. However, they separated in 2015 and currently have no contact.**

59. In light of what is stated in paragraph eight, on what day did Mr. Zunitte cross the border?

**A: Mr. Zunitte crossed the border from Brolin into Tenovia on 18 August 2017.**

60. Paragraph 35 states 'no question of jurisdiction or admissibility is raised by either Party'. Does this mean that the parties do not challenge the jurisdiction of the ICJ to hear claims under CERD?

**A: The parties do not challenge the jurisdiction of the Court. Participants may assume that preconditions to jurisdiction which apply (if any) have been satisfied.**

61. Does Tenovia grant personal immunity to the Minister of Women?

**A: All available information is in the text provided.**

62. Has the unrest in the Drizac region of Brolin been put to an end by Falconner Security?

**Yes.**

63. Has Brolin's Prime Minister determined what exactly to do with Mr. Zunitte between the day Mr. Zunitte fled the country in August 2017 and the 28th of August 2018?

**A: No.**

64. Were any individual complaints submitted to the CERD committee by attendees of the football match?

**A: No information is available in relation to individual complaints made, if any. See Q60.**

65. Is Ms. Desmond considered a 'permanent resident' of Brolin, since she has lived there for many years?

**A: All available information is in the text provided and in these responses.**

66. Was Ms. Desmond's property seized before the institution of proceedings before the ICJ on the 28 August 2018?

**A: No, Ms. Desmond's property has not been seized.**

67. Is Brolin able to make a counter-claim stating that there is no jurisdiction under CERD despite not raising an objection to jurisdiction at the first stage of the trial?

**A: No, Brolin does not raise a counter-claim in this case.**

68. Is Ms. Desmond considered a permanent resident according to Brolin's internal law?



**A: See Q51.**

69. Has Brolin taken any measure after the match regarding Mr. Zunitte's apprehension?

**A: No.**

70. Is Mr. Zunitte a national of Tenovia or a national of Brolin?

**A: See Q6.**

71. How many of the attendees at the football game are simultaneously of Tenovi nationality and Tenovi ethnicity, and what is their percentage with regard to the overall number of attendees?

**A: in 2017, about 35,000 people watch the match from inside the stadium. Amongst the individuals who arrive at the entry to the stadium to watch the match, about 28% are simultaneously of Tenovi nationality and Tenovi ethnicity.**

72. When did the Falconner security act (2017) come into force? (day and month)

**A: See Q10.**

73. Which facts demonstrate that Ms. Desmond used the rental property for official functions?

**A: All available information is in the text provided and in these responses.**

74. Was the rental agreement signed on behalf of Mr. Desmond as a representative of CLAWS?

**A: No, the rental agreement was signed 'Jane Desmond'.**