

Appeal from the Pre-Trial Chamber's Decision on Confirmation of Charges

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 Defense, (2) Counsel for the Prosecution, and (3) Legal Representative for Victims (hereinafter "Victim's' Representative"). In accordance with the rules of the competition, each team shall write a Memorial for each of these groups, setting forth its legal arguments in the context of the interlocutory appeal by Defendant challenging the jurisdiction of the ICC and other matters in the context of the Pre-

[This is a fictional document for use in the ICC Moot Court Competition]

Pre-Trial Chamber VI
ICC Moot Court Competition
Situation Relating to Valaria



Pre-Trial Chamber VI of the International Criminal Court (ICC) renders this decision on the application filed by the Defense, challenging the jurisdiction of the ICC and other matters in the context of Confirmation of Charges.

Factual Background

1. The case arises out of allegations of genocide and crimes against humanity committed in the territory of Valaria by members of a militant group known as the “Dothrocky Riders,” including Tarion Bannister. Relevant geographic locations are set forth in the attached map of the area.
2. The State of Valaria and its neighbor to the south, the State of Quirth, are parties to several international instruments relevant to this case including the Vienna Convention on the Law of Treaties, the International Covenant on Civil and Political Rights, the four Geneva Conventions of 1949 and the two Additional Protocols of 1977. They have not,

Lorash (currently about 510,000 members) and the Steelborn (about 490,000 members). Most of the Lorash ethnic group live in urban cities in the industrial northern part of Valaria, while most of the Steelborn group live in the southern part in rural farms, cattle ranches, and small villages. Through democratic elections, the Lorash-dominated political party

campaign had success with respect to liberating some of the smaller mining operations in the deep south of Valaria.



Para. 9. By 25 January 2016, the Dothrocky Riders were finally vanquished by the national army, with many of the militant group's ranks, including John Sleet, killed in intense fighting. A small group of surviving Dothrocky Riders, including

7. The Prosecution and Defense have stipulated that Tarion Bannister was 18-years-old at the time of the acts alleged in paragraph 7 of the 10 June 2016 International Rights Watch Report. They further stipulate that Tarion Bannister was kidnapped from a small village in southern Valaria by the Dothrocky Riders in 2006 when he was 8 years-old and forced to serve as a child soldier. For several years thereafter he was subject to forcible indoctrination, including through beatings and involuntary use of narcotic drugs. Other child soldiers who disobeyed commands or attempted to escape were tortured and killed in front of him by John Sleet and his lieutenants. The Prosecution and Defense do not agree on the legal significance of these facts.

The objections of the Defense

8. In a written submission dated 24 July 2016, Counsel for Tarion Bannister raised several objections to the jurisdiction of the ICC and other related matters, which the Pre-Trial Chamber agreed to consider at a hearing on Confirmation of Charges under Article 61 of the Court's Statute. Specifically, the Defense argued:

First, the military regime, which seized power in a coup and then claimed to have accepted the jurisdiction of the ICC as the so-called "interim government," is not the lawful government of Valaria, and therefore it was not competent to accept ICC Jurisdiction with respect to this case under Article 12(3) of the ICC Statute.

Second, the facts alleged in the International Rights Watch Report do not constitute genocide because the third-gender people do not fall within any of the groups listed in Article 6 of the ICC Statute, and as a consequence the ICC lacks jurisdiction to prosecute him for that crime. *The Defense has not, however, challenged the Court's subject matter jurisdiction with respect to crimes against humanity.

Third, although Tarion Bannister was 18 years old at the time of the alleged acts, he is excluded from criminal responsibility under Article 31(1) of the ICC Statute due to his



1. On 15 September 2016, the Pre-Trial Chamber issued the “Decision on the Confirmation of Charges Against Tarion