



# 6<sup>th</sup> RMLNLU – SCC Online<sup>®</sup>

INTERNATIONAL MEDIA LAW MOOT  
COURT COMPETITION,

March 9-11, 2018

## MOOT PROPOSITION

## Case before the International Criminal Court (ICC)

### “CASE CONCERNING THE RED BROADCASTS”

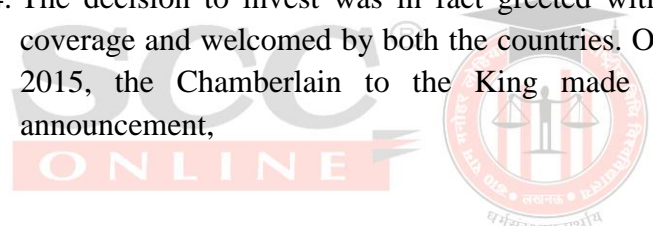
1. The Kingdom and Commonwealth of Sømland (KCS) is a country in the Northern and Western hemisphere. It is a developed country having made great advancements economically, scientifically and culturally. As a democratic country the King is the titular head and nominal sovereign of the State. However, the King still exercises great respect and obedience in all spheres of life. Though the king is apolitical, he has at times intervened and influenced decision making in the past when the country had faced critical issues, including the abolition of racial apartheid, minority persecution and questions of war and peace. His stature and position have a great impact upon the outcome of all these situations.
2. The businesses, however, are completely balanced in favour of private enterprises, publically held enterprises, PPF based enterprises as well as State based corporations. In fact the profit from state based corporations is the second largest source of revenue after taxes and levies.
3. As per the laws of the Country, all State Corporations are headed by the King, in all of which he is also the principal shareholder. The profits of the state corporations are usually diverted towards public revenue, though a marginal share is also credited towards his personal purse.
4. The laws of Sømland, also prescribe that no forum, domestic or foreign can compel the Sovereign to appear in any court of law. Further, any criminal prosecution or civil cause of action in any jurisdiction shall not survive ipso facto being against the royal personage.
5. Sømian Casting Corporation (SCC) is the state run news corporation. Over time the SCC has grown to become one of the world's premier media and digital news channels with great presence in all form of media including radio, digital and online forms as well as television news. In spite of being a State Broadcasting Corporation most of the decisions in terms of functioning and administration of the company are independent and without any active governmental or any other agency's

interference. However, as per the formative documents of the company and legislations there are several clauses which empower the King as the principal shareholder and the King-in-Council (effectively it is the Prime Minister and his council of ministers whose advice is binding upon the King as per the Sominan Constitution) to censure, stop, regulate or control content in “national interest”, “public good” and in “maintaining good and peaceful relationships between the Kingdom and other civilized nations”.

6. The Exalted Empire of the Ecclesiastical and Confederating Kingdoms of Dragoonia (EEEKD) is a rapidly modernizing country sharing its border with the Kingdom of Sømland. The Kingdom of Sømland was in fact once a principality of the empire. However after the Ninth Great War, which happened two hundred years ago, when the map of the continent was redrawn, the Kingdom of Sømland had gained a separate identity.
7. Since both the kingdoms shared a common history both the countries also had several common ancestries, ethnicities and social cultural and religious beliefs albeit with marked difference in compositions and populations.
8. In Sømland the Masons constitute roughly 65% of the population, followed by the largest minority of Tamrais who constitute more than 20% of the population. Semicans, Tromas, and Keljuks constitute the rest of the population in the composition of 10%, 4% and 1% approximately.
9. In Dragoon, the empire is more heterogeneous with Masons being 20%, Tamaris as 40%, Semicans 16%, Tromans, 14% and Keljuks constituting the rest.
10. The ethnic compositions are culturally the first point of loyalty for each of these communities irrespective of the religious and cultural beliefs which they follow. In fact the very creation of Sømland was on the basis of Masonic majority and identity, when the Seventh Søm, Illitish the Contemplator, established the kingdom consequent to the Ninth Great War.
11. However with the growth of a cosmopolitan and secular culture, ethnic loyalty in the present times is far more diluted in Sømland. In contrast in Dragoonia the ethnic loyalties are

largely intact. Though both countries have had largely peaceful and symbiotic culture, guided by beliefs of diversity and syncretism, flash points and ethnic tensions have emerged from time to time.

12. That in recent times the Kingdom of Sømland and the Empire have developed a far more friendly relationship. This relationship has culminated into Dragoon removing several restrictions on trade with Sømland and Sømland initiating a series of investments in Dragoonia. One such measure was the initiation of 100% FDI in the realm of media and broadcast.
13. Felocious von Trapta, a world renowned journalist, the then incumbent Chief Executive of the SCC, who was the effective and principal force behind the operations of the SCC decided to advise investment in Dragoonia hoping to establish and commercially exploit the market by establishing Dragoonia's first international media house.
14. The decision to invest was in fact greeted with much media coverage and welcomed by both the countries. On 20<sup>th</sup> August, 2015, the Chamberlain to the King made the following announcement,



*“His Royal Highness, the protector of the realm of the Commonwealth, the ender of the great war, the father of all that is Sømland, the great guide, and the giver of all wealth, was today briefed about the intention to initiate the process of investment into media in our friend, the Exalted Empire of the Ecclesiastical and Confederating Kingdoms of Dragoonia (EEEKD). He personally requested Mr. Felocious von Trapta of the SCC to initiate investment in the most earnest and expedient fashion.*

*His Royal Highness also expressed his wish that the initiative shall serve to bridge the differences which exist and strengthen the bonds which subsist between the two countries.”*

15. The Officer of the Embassy of Personnel and Chief of the Royal Guards, responsible for press of the Emperor of Dragoonia, issued a statement on 25<sup>th</sup> Day of August, 2016,

*“His Exalted Highness, the Magnificent, the Munificent defender of the realms, defender of the faiths, the Supreme Lord of the Confederating Fiefdoms, His Most Royal Highness, the Eleventh Dragon of Dragoonia, Draka Dolmisitien the Third, today granted audience to Mr. Felocious Trapta of the SCC who brought greetings and tidings from the territories of Sømmland. The Emperor reiterated his belief in the principle of “many nations, one people” and expressed and expected that the investment of Søm shall serve as a bridge to a single capital. Also of the fact that the Houses of Illitmesh and the Dragon Nest of Dolmisitien are bound by relationships of marriage, goodwill and brotherhood, and that since it is His Royal Highness the King’s enterprise which wishes to operate, the project shall be expedited in our blessed realm”*

16. The Prime Minister of Sømmland, registered a protest in respect of the speech, but since did not want the investment to fall through did not pursue the matter. Nevertheless he expressed hope that *“friends will understand that the past is not the present”*

17. In accordance with the laws of Dragoonia, a local company was incorporated in the Empire which was to serve as the Special Purpose Vehicle for the project. As such DCC, or Dragoonia Casting Corporation was a 100% owned subsidiary of the SCC. The DCC organized its own team though substantial guidance and inputs, especially editorial and content checks which kept on coming from Sømmland. Mr. Trapta who originally also served as the interim in-charge of the project thereafter appointed an independent team in Dragoonia under Zulfedich Zignoria Haslaf, a national of Dragoonia,. However he continued to be the Chief General Editor of the entire content department for both SCC and DCC.

18. Of a large number of programming content, one of the proposed shows which were produced was the “*The Pride of the Masons*”. The show besides showing the cultural and linguistic history of the Masons also highlighted the creation of Sømmland primarily on Masonic grounds.
19. The show opened to great response and was aired only after a self assessment was undertaken as per the censorship guidelines of both countries. However, since the producers and channel felt that the show had depiction of war and violence, an advisory with regards to sensitive audience and viewer discretion was also issued.
20. That since the show dealt with the history of the region, it started receiving great publicity. As a result the company launched a web broadcasting channel from Sømmland which would not be dependent on a television set, but where any and every person who had access to an internet connection could view the show from anywhere. The channel also had a feature called “*Your news, your views*”, where small three minute videos and video blogs could be uploaded by any user. In accordance with Sømmland’s least interventionist policies in commercial matters and the doctrine of *laissez-faire* which was essential to the country’s economic jurisprudence and general belief of the country that all kinds of opinions must be accommodated and aired, the editorial board seldom intervened in the video-logs.
21. That as the show progressed and reached towards depicting the formation of Sømmland, the show began focussing on the historical cruelties, measures of ethnic cleansing and tyrannies of the Empire as against the Søm. Thus the reaction as to what was initially expected was completely different. The show was received with a sense of great pride in Sømmland, who saw this show as a narration of identity. In Dragoonia the show was received as a revisit to the historical failure. Nevertheless, since the show claimed to be historically accurate it gained significant viewership in Dragoonia especially in minority dominated provinces.
22. The Loyal Voice and Expression Regulatory Board; the censor board responsible for censorship and also the regulatory body for *les majaste* laws, issued a warning to the channel on 30<sup>th</sup> September, 2012, asking it to “*retrospect and revise the content*”

*being streamed, which is not suitable for the appetites of the peoples of the Empire and also seeming to portray the ancestors of His Exalted Emperors as violent persons”.*

23. Zulfedich Zignoria Haslaf, the head of the DCC aired the following message on 1<sup>st</sup> October, 2012, in response to this message:

*“The DCC express grave disappointment with statement of the Board which is nothing but intervention and interference against the established traditions of free press in civilized nations. It is an open invitation to the Board, to highlight as to where the documentary is factually incorrect and false or subject to dramatic exaggeration. So far as referring to the personage of His Exalted Majesty’s person is concerned, the ancestral portrayal is historical not fictional, and the conclusions if any are natural and consequential”.*

24. The show thus continued unabated. Twenty four episodes were broadcasted till the month of November, 2013.

25. That on 2<sup>nd</sup> November, 2013, Valfus von Transal, a Sømian national of the Keljuk ethnicity, aired his first video, citing in response to the controversy stating,

*“the Masonic pride is not only an expression of free pride but also a reminder of an idea whose time has come. Indeed the Masons refused to bow down to the fire of the Dragons, the coals of their tyranny and blowed upon the hot embers of dissent in their times. The story needs to be sung, nay resung, nay find new voices and bards and the Empire needs to be broken to pieces and the constituting nations become free peoples. The time for Revolution is here. Let this be the call for Red.”*

26. Similar videos as a part of the “Your news, Your views”, series, by Transal, kept on airing through November and December, and owing to the controversy generated the show received substantial revenue. That year the SCC clocked its maximum revenue historically and the show began to be broadcasted around every part of the world. Interestingly, Transal too

became a well known voice, receiving both bouquets and brickbats.

27. Inspired by his success Transal set up what was called the “*Government of Keljukistan in Exile*” and named himself its Caretaker on 1<sup>st</sup> February 2014. The Keljukian sentiment, received an impetus and identity for the first time, and the Keljukian majority fiefdom of Zapahara bordering Sømmland started seeing incidents of violence. Several political outfits began to be formed at different levels in Universities, Trade Unions and think tanks.
28. This continued for the greater part of the year, but by end of 2014 the Government declared these organizations as banned and unlawful. The Keljuk Liberation Army was in addition declared to be a Terrorist Organization.
29. Violent demonstrations erupted throughout the country with the participants divided on ethnic grounds. Several casualties were also reported in which the deceased were more often than not Masons and Keljuks.
30. On 20<sup>th</sup> December, 2015, a violent clash between the Keljukian demonstrators and police lead to the death of 128 protestors and twenty five police personnel. In addition the collateral casualties were 8. It was hard to determine as to who started the violence.
31. Transal, who had now uploaded his video blog several times, began to call for greater Keljuk unity and urging the Keljuks to “*tear down the walls and the pluck the dragons claws of imperialism till he bleeds red*”.
32. In response to this video and in the aftermath of the violence, a small group of students in Dragoonia formed what was called the “*Keljuk Liberation Army*”, claiming Transal as their chief inspiration, their object- to be free of the Emperor and attain self-rule and their means as “*Red*”.
33. The Keljuk Liberation Army invited Transal to head their outfit and become the leader of a movement advocating independence by any means including “hands” and not only by means of a



voice, and to not “*only be ready to bleed Red but to exact Red as well*”

34. The Board in Dragoonia immediately issued a notice banning the show and the channel was discontinued in Dragoonia. Zulfedich Zignoria Haslaf was issued a show cause notice both for *les majaste* laws and also for Sedition. A similar notice was also sent to Mr. Trapp and the SCC, and the DCC was declared an anti-national organization with its broadcasting license “suspended.”
35. A legislation initiated at the Emperor’s prerogative was passed by the Balma, the National Assembly of the Empire of Dragoonia, nationalizing the assets of DCC on 30<sup>th</sup> January, 2014.
36. The next day, the Chamberlain to the King on a draft forwarded by the Council of Ministers made the following announcement,

*“We condemn the arbitrary theft of our nation’s wealth in Dragoonia. The lack of an infrastructure to police hooligans, and the inability of a government to control vandalism cannot be a reason to capture the wealth of another country. We came in goodwill, but we were subject to this arbitrary treatment. I shall request His Exalted Highness to reconsider this action taken by his Government and expediently release the assets and restore the rights to SCC and its subservient corporations, lest it be impedimental to the interests and friendships of the two great countries”*

37. On 1<sup>st</sup> February, 2015, the Board in Dragoonia issued the following press release,

*“In consequence to a substantial enquiry conducted, we have considered such evidence on record, we find that program and content of “the Masonic Pride”, be destroyed from the national archives. Indeed not only shall this show be discontinued but the apparatus for its previous broadcast be dismantled, lest it be put to further abuse. We convey that the Board has made this decision not*

*having any other choice left, they are committed to independent media but cannot allow free media to be a voice against the interests of the Empire and against the peerless personality of our Lord, the Dragon.”*

38. On 5<sup>th</sup> February, 2015 the Ambassador of Dragoonia to the Court of Sømland protested that the King’s speech amounted to a ‘diplomatic incident’, and expressed regret that “*Sømland had called the Emperor a thief and that an unconditional apology be issued by the Kingdom was necessary lest not irreparable damage be done by both the countries. Not only that, he also expressed regret that no official statement had come condemning the SCC and DCC and the Sømian nationals towards discounting the Sovereignty of the Great Empire. In regret we have no option but to shut down diplomatic relations between the countries. The first step towards removing this malicious and seditious content shall be the first step to not only build a staircase but also pave a way for the return of the key to the assets of Sømland held in trust.*”
39. In response to this incident both the diplomats exited their counterpart countries. The SCC news channel and its web channel however continued to function without disruption. As a measure of abundant precaution the SCC conducted an in-house enquiry and mentioned in its press note “*there was not a single abusive word, nor any direct word towards calling for violence in those episodes. And therefore there seemed no reason to either discontinue the show or take down any content posted by Transal. Indeed we may disagree with what he says but we disagree to the notion that he need not say it*”. The revenues consequentially continued to increase. Even though the Board now moved to ban the website, the content of both the shows and videos continued to be circulated through modus operandi mirror websites, social media and peer sharing.
40. The KLF grew in numbers, and Transal disappeared from his known address. Dragoonian intelligence suggested that he crossed over into the Empire’s restive Keljukian majority province of Zapahara.
41. In this backdrop Transal released another video on 25<sup>th</sup> February, 2015, where he said “*enough was enough, and the only way to move forward was to let the Red flow*”. In the

following week, several government officials primarily of Tamaris ethnicity were assassinated. One common point of their assassination was that they were stripped naked and painted red. Though KLF or any other organization did not claim responsibility for these acts, it was widely considered that they were the organization responsible for them.

42. What followed was “*Operation Ragnarok*”, where the Royal Dragoonian Army entered the province and began a crackdown on several persons including civilian and KLF card holder Keljuks. Transal along with other leaders of KLF was spotted by a platoon of the Royal Forces and was chased by the Forces to the border of Sømland, where he entered the country showing his passport. The Dragoonian troops arrived in the meantime and opened fire at Transal and the escaping members of the KLF. Somland border posts responded by firing and in the confusion, the other Keljukians broke the border post and started running with the Dragoonian army hunting them down within the Sømian territory.
43. The border area reporter of the SCC immediately posted videos of the Dragoonian army inside Sømian territory and His Majesty’s Army of Sømland retaliated by launching the “*Operation Dead Dragon*”. On receipt of distress calls, troops from Dragoonia crossed over, and by next morning a full state of War had erupted between both the countries on 26<sup>th</sup> Feburary, 2015.
44. Sømland was overrun by the Empire, and the Kingdom surrendered on 1<sup>st</sup> March, 2015. In the meantime the United Nations Security Council (UNSC) passed a unanimous resolution condemning the actions of Dragoonia and called for unconditional withdrawal of troops.
45. The Empire fearing military action by the UNSC agreed to withdraw the troops, but refused to hand over the King, Mr. Trapp and Mr. Transal who were now in the custody of the Empire. As per the negotiations with the interlocutors, on 15<sup>th</sup> March, 2015, Dragoonian forces withdrew, handing over the Government to the crown prince and son of the captured King, Aldroof, Count of Gnarlia by means of treaty. He had no option left but to sign the treaty and fearing the death of his father in captivity, he acceded to the term expressing his agreement to hand over the King, Trapp and Transal to an

international and neutral body to bring them to justice for what were then known as the red broadcasts and the mayhem which ensued.

46. The situation did not pacify both the countries and guerrilla warfare continues to plague them. Each country called these episodes “State sponsored” and it was feared that another war may break out.
  47. On 1st January, 2016 the UNSC, vide its Resolution “*Red Resolved*”, referred the matter to the International Criminal Court (ICC) at The Hague. Dragoonia handed over to the ICC, the custody of the King, Trapp, Transal and Haslaffor them to face trial.
  48. The Emperor on 15 January, 2017 wrote to the Prosecutor a letter which stated, “*The four individuals are the true test of international systems questioning law, the first, His Royal Highness was in a position to control and restrict these crimes when he chose not to, and should now not be shielded by impunity of his royal office. Mr. Trapp and Haslaf are not only to be treated as criminals alone, but in light of the question that can a corporation be criminal, and in consequence those in charge of the same be guilty of war crimes, crimes against humanity and genocide, and profiteering from blood be equated to one of these. Indeed to that extend his Royal Highness is also answerable. And lastly Mr. Trapp is the man responsible for the blood, painting the entire nation red with his broadcasts, and as such cannot a man be guilty without picking up a weapon for the vilest of crimes and therefore the speech itself be considered genocidal ,a crime against humanity and a war crime*”
  49. The Office of the Prosecutor explored these grounds and designed a case including the points raised on these lines of the letter.
  50. The present proceedings are before the Trial Chamber and the Office of the Prosecutor has decided to prosecute all the four individuals to the maximum extent. The Defence has decided to fight the case on grounds of jurisdictional and technical grounds and on merits claiming each party as “*neither guilty nor capable of being prosecuted*”.
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51. Dragoonia is both a signatory to the four Geneva Conventions along with the Protocols and has also ratified the ICC Statute. Sømland, while being signatories to the Geneva Conventions and the protocols, is not a signatory to the ICC Statute. Both countries are members of the United Nations Organization.

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Argue for Both Sides.

