

2020 International Criminal Court Moot Court Competition Problem

Case before the International Criminal Court (ICC): Prosecutor v. Cersei Bannister of Valaria

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 Defendant, (2) Counsel for the Prosecution, and (3) Counsel for the state of Valaria participating in the proceedings under Article 19(2)(c) of the Rome Statute. 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, Cersei Bannister, challenging the jurisdiction and admissibility of the ICC in the context of the Pre-Trial Chamber's Decision on Confirmation of Charges, under **Article 82(1)(a) of the ICC Statute**.

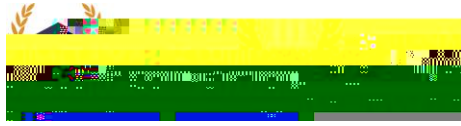
Established Agenda for the Appeal of the Pre-Trial Chamber's Decision

Pursuant to Pre-Trial Chamber VI's decision to grant the "Defense Request for Leave to Appeal Issues in the Confirmation of Charges Decision" (dated **March 15, 2020**), the Appeals Chamber seeks submissions of all parties and participants on the following issues:

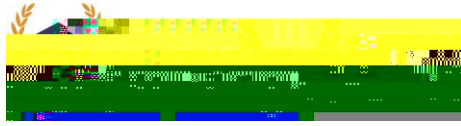
- a. Whether there are substantial grounds to believe one or more of the posts by the Dragos group made on the social networking platform, Statusphere,

the ICC Statute and/or providing the means to incite genocide under Article 25(3)(c) of the ICC Statute by allowing users to post statements that may constitute

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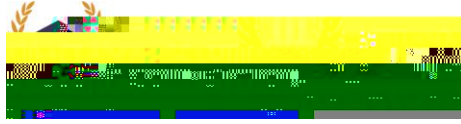


providing the means to incite genocide occurred in her State of nationality, Valaria, which is not a party to the ICC?

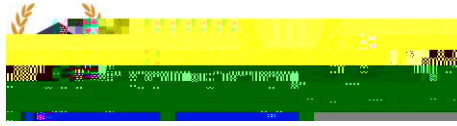


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**Confirmation of Charges against
Defendant Cersei Bannister of Valaria**

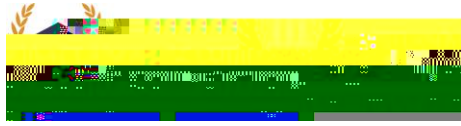


4. **Ethnic Groups in Valaria and Solantis:** Valaria has a population of 10 million people. Solantis has a population of 5 million people. Both States speak the same language, Valarian, but the dialects of the two countries differ somewhat. The population of Valaria used to

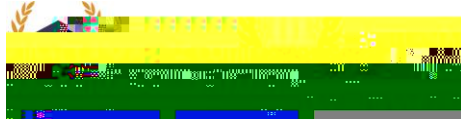


8. **The role of Statusphere in the attacks on the Stareks:** Based on in-country interviews and other sources, on 25 May 2019, the UN High Commissioner for Human Rights issued a report on the situation in Solantis that concluded that increasing violence against the Starek people of Solantis was linked to posts made on Statusphere by members of the Dragos extremist group. The High Commissioner stated that starting in January 2019 posts on Statusphere’s e-bulletin board would encourage Dragos members to “break down those widgets,” which the High Commissioner concluded was an ethnic slur used by members of Dragos to refer to the Starek people. Other posts extolled Dragos members to “pound the widgets,” “clean up the widgets,” and “put the widgets in cold storage.” Prompted by these coded calls to violence, groups of the Dragos attacked Stareks outside their worship centers, sporting events, concerts, fairs and trailer parks, beating them with metal pipes and bats, resulting in hundreds of injuries and over 150 Starek deaths in the first five months of 2019.

9. As soon as he read the UN High Commissioner’s report, on 26 May 2019, the President of Solantis, Theon Palejoy, emailed Cersei Bannister and asked her to remove the Dragos posts on Statusphere in light of the Commissioner’s findings. Bannister replied in an email later that day that Statusphere has a community standards policy, under which the company “will remove content and shut down groups when we believe there

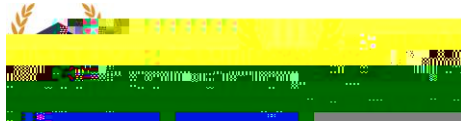


Each message was followed by violent attacks. Bannister's response was always the same. She claimed the Statusphere content monitors did not recognize the messages

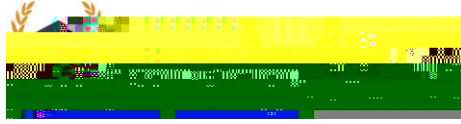


argued that the language of the statements made by Dragos members do not reflect genocidal intent as opposed to merely incitement to commit other crimes. And the Defense finally argued that the impact of the statements was too small to constitute incitement to genocide under international law and precedent, or to meet the gravity requirement of the ICC Statute.

Second, the Defense argued that Cersei Bannister cannot be held criminally liable for incitement to genocide as she, herself, did not make any violent posts on StatuspuBT/F3 12 Tf1 0 0 1 235



For these reasons, the Pre-Trial



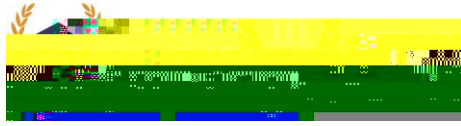
Appendix 1
Transcript of interview of Cersei Bannister by Jonah Morman, Solantis Gazette, 17 June 2019, verified by the Defense.

Mormant: Hello Dr. Bannister, this is Jonah Mormant from the *Solantis Gazette*. Your Communications Director gave me your number. Can I ask you some questions about the Statusphere social media network?

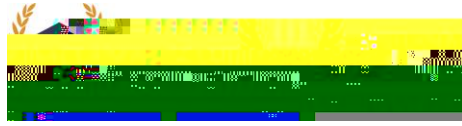
Bannister: Hello Jonah. I'd be happy to talk with you.

Mormant: Can you tell me how your social networking site works? How does someone sign up for membership in one of the affinity groups?

Bannister: The first step is to



The grammar, idioms, and vocabulary differ quite a bit. In this case, our content monitoring team believed the post read “It is time for those of the faith to see the light.” It



Appendix 3

Map

