

# The Prosecutor



## Ruslan Mutsaers

the 'frange

before the International Criminal Court



THE PROSECUTOR



ICC

National  
Bounds 2023

Asia Pacific  
Moon Court



**Situation in the Peace Sea**  
**Prosecutor v. Cosmo Mosco**

**Instructions**

1. *Proceedings*: The hearing takes place in the jurisdiction of the International Criminal Court  
61 of the 1998 Rome

with sufficient evidence to establish substantial grounds to believe that the person committed  
llenge the evidence

2. *Facts and evidence*: The case is entirely fictional. The Statement of Agreed Facts includes all the facts supported by evidence that have been transmitted to the Defence, as well as facts and evidence presented by the Defence. Teams should confine themselves to the facts supplied. Neither the Prosecutor nor the Defence may introduce new evidence or facts at the hearing (Article 61(6)(c) of the Rome Statute is not applicable). Teams may nonetheless draw reasonable inferences from the facts. They may also question the credibility or weight of the evidence.

3. *Procedure*: The problem is not intended to raise questions of procedure other than the rights of the accused pursuant to Articles 66 and 67 of the Rome Statute. Any other procedural questions should be ignored.

4. *Jurisdiction and admissibility*: Counsel may, if relevant, address issues of conflict classification or gravity. Any other issues of jurisdiction and admissibility should be ignored.

5. *Applicable law*: In accordance with Article 21 of the Rome Statute:

1. *The Court shall apply:*

(a) *In the first place, this Statute, Elements of Crimes and its Rules of Procedure and Evidence;*

(b) *In the second place, where appropriate, applicable treaties and the principles and rules of international law, including the established principles of the international law of armed conflict;*

(c) *Failing that, general principles of law derived by the Court from national laws of legal systems of the world including, as appropriate, the national laws of States that would normally exercise jurisdiction over the crime, provided that those principles are not inconsistent with this Statute and with international law and internationally recognized norms and standards.*

2. *The Court may apply principles and rules of law as interpreted in its previous decisions.*

6. Teams are encouraged to look at the case law of international and national courts. If teams rely on decisions of national courts, these should be leading decisions and teams should expect to be asked for copies of the headnote and the portion of the transcript or judgment referred to in their argument.

7. *Participation to treaties*: at all material times, the treaties listed in Annex I were in force for the Republic of Canciferous and the Kingdom of Monstera.

## **Indicative Authorities and Research Material**

### **International Criminal Court**

- a) Rome Statute of the International Criminal Court (1998): [http://legal.un.org/icc/statute/english/rome\\_statute\(e\).pdf](http://legal.un.org/icc/statute/english/rome_statute(e).pdf)
- b) Elements of Crimes under the Rome Statute: <https://www.icc-cpi.int/Publications/Elements-of-Crimes.pdf>

### **Basic IHL Documents**

- a) IHL Treaties: <https://ihl-databases.icrc.org/ihl>
- b) Customary IHL: <https://ihl-databases.icrc.org/customary-ihl/>
- c) ICRC Commentaries to the Geneva Conventions and their Additional Protocols: <https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/vwTreaties1949.xsp>

### **Cases**

- a) International Criminal Tribunal for the Former Yugoslavia: <http://www.icty.org/en/cases/judgement-list>
- b) International Criminal Tribunal for Rwanda: <http://unictr.unmict.org/en/cases>
- c) International Criminal Court: <https://www.icc-cpi.int/cases>
- d) International Court of Justice: <https://www.icj-cij.org/en/decisions>

### Statement of Agreed Facts

1. The Republic of Canciferous and the Republic of Loria are separated by the Peace Sea (see **regional map, Annex II**). The Democratic Republic of Loria lies to the west of Chiobar to the west. Ru Ru Island, lying approximately 160 nautical miles (nm) south of Chiobar, DRL and Monstera and 350 nm west of Canciferous. It is the largest island (5,785 km<sup>2</sup>) of the group of islands situated there and is the only one which is inhabited by the Ru Ru people.
2. Ru Ru Island (an island so nice they named it twice) is home to large exotic wildlife populations. Its beautiful coral reef and white sandy beaches attracts thousands of tourists every year. The island is also known for its surrounding crystal blue waters. Tourism is the main source of revenue for the Ru Ru people. The Ru Ru people are an indigenous tribe who share a unique spiritual connection with the natural environment. To them, the coral reef is considered a sacred site and is frequently visited by them to drink the sacred water.
3. Due to Ru Ru Island's primary source of energy is liquefied natural gas (LNG) imported from DRL. The *Chameleon* is the regular transporter of LNG to Ru Ru Island. The vessel is privately owned and registered in Chiobar but operates with a crew of 29 DRL nationals. The *Chameleon* delivers approximately 70,000 tonnes of LNG once every two months. The inhabitants rely on rainwater tanks and a desalination system for their drinking water. Fish and other seafood form a significant part of the Ruruan diet. While there is some agricultural production (primarily fruits), the majority of food is imported from around the world, the Port of Milkeno. An ecologically sensitive coral reef is located 10.80 nm east of Port Milkeno.
4. Canciferous is the most technologically advanced country in the world. It sits on 2,527,013 km<sup>2</sup> of land and has a population of 20 million people. At present, it is one of the richest, most technologically advanced countries in the world with a powerful military boasting state-of-the-art weaponry. However, its riches have come with a price its advancement has not always led to peaceful relations with its neighbours.
5. On the other side of the Peace Sea, Monstera is a constitutional monarchy with a territory of 2,150,000 km<sup>2</sup> and a population of 25 million people. The Monsteran people live primarily in coastal villages. Monstera is a peaceful democracy that relies heavily on imported goods. Unfortunately, its poverty is not an accident.
6. Monstera has abundant natural resources including iron, natural gas and oil and had one of the largest oil reserves in the world. It was also one of the most nutrient rich countries with a pristine natural environment, surrounded by tropical fruit trees, banana plantations and crystal white sand beaches. Despite its riches, it was a peaceful nation. Its leader, King Mutu comes from a long dynasty that has instilled in the Monsteran people a philosophy of non-violence. As such, Monstera maintained a very small military which was only deployed in extreme circumstances, as a measure of last resort.
7. Despite this, Canciferous and Monstera have fought several small wars over the past 200 years, largely over the contested sovereignty of Ru Ru Island. Over the last few centuries, Canciferous claimed sovereignty over Ru Ru Island even though Ru Ru Island was under

Monsteran control from 1880 onwards. Under Monsteran control, Ru Ru Island enjoyed complete autonomy in managing its internal affairs, with Monstera only in charge of the Island's defence and foreign affairs.

8. In 1970, Canciferous attempted to take over Ru Ru Island. After 1 month of Canciferan occupation, Monstera successfully reclaimed the island and drove off Canciferan forces.
9. On 10 June 1983, Canciferous invaded the Monsteran coast to gain control of its natural resources, burning its forests and plantations in the process, leaving it with nothing. Outmatched by the powerful Canciferous Armed Forces (CAF), the Monsteran Defence Force (MDF) was overwhelmed after 3 days of fighting.
10. King Mutu was devastated by all the violence. In line with his philosophy of peaceful resistance, he entered into negotiations with Canciferous and signed a peace treaty, the Treaty for Friendly Relations between the Republic of Canciferous and the Kingdom of Monstera . Among other provisions, the Friendly Relations Treaty allowed Canciferous to access oil reserves for 15 years, on the condition that all CAF were removed from Monsteran territory.
11. Since the 1983 invasion, the region has experienced a significant economic downturn due to the disruption to exports caused by flooding, the effects of which were exacerbated by climate change, and most recently, the COVID-19 pandemic. However, to the rich slowly regrow some banana plantations and forests, albeit not to their previous scale and beauty. As a result, the country has become heavily reliant on imported goods from around the world.
12. Monstera rebuilt the MDF, however, its personnel and weaponry remained limited. leader, President McFriendly was so moved by peaceful resistance and lack of retaliation since the C3.087 Tc(C3.ET. reWø 0 595.2 1 203.08 705.2 Tm0 g7.35 0 g0 Gu3)5.25 842 re n

acquiescence in 1970 during the Canciferan occupation as proof of its territorial claim.

17. Between 2018 and 2020, Canciferous was ruled by a military dictatorship led by President Cosmo Mosco. He rose to power largely due to his political campaign promising to make the country stronger and richer than ever. When he took power in November 2018, President Mosco appointed Admiral Niptup as Chief of the CAF.

18. In December 2018, a large oil reserve was discovered off the coast of Ru Ru Island. If successfully drilled and extracted, the oil would provide significant financial benefit. President Mosco engaged in diplomatic talks with King Mutu over the newfound discovery.

provide state-of-the art equipment to undertake the oil extraction and take 70% of the proceeds given its history with the Island.

19. King Mutu declined recalling that 1983 invasion for natural resources had left Monstera families torn apart and the country in ruins. King Mutu exclaimed, *The coral reef is sacred to the Ru Ru people and their spiritual connection to the environment should not be disturbed. Even if I were to agree to that ridiculous offer, it would be to , not to swell already- bulging*

20. President Mosco was enraged by comments. He immediately tasked Admiral Niptup with leading a CAF military operation to take over the Island.

21. On 1 October 2019, the CAF navy led by Admiral Niptup commenced their campaign to seize Ru Ru Island with a Naval Task Force and the flagship *Deathstar*. The Monstera military received intelligence that CAF were making its way towards the island to seize control. The MDF prepared its naval forces to sail the Peace Sea to intercept the CAF.

22. At 11 am on 4 October 2019, the CAF launched two drones from Canciferan territory which were used to fire four precision-guided missiles at the , killing 20 MDF soldiers. One of the missiles hit the MDF weapons cache on the base, destroying the majority of its military equipment. A secondary explosion from the cache hit a passing fishing vessel, killing its 3 crew members. Afterward, MDF naval assets launched missile attacks on CAF vessels and missile fire was exchanged until about 4 pm.

23. For the next few hours, Admiral Niptup ordered his forces to cease fire, maintain concealment, and refrain from launching any further attacks. After sunset, at around 8 pm, the sea was pitch black and C or detected. The CAF navy was using the latest stealth technology in their warship construction and this made it almost impossible to detect their vessels through conventional radar.

24. Admiral Niptup intended for the *Deathstar* to capture the Port of Milkeno at the northern end of Ru Ru Island. However, the only route available required the *Deathstar* to travel through the Peace Canal, a maritime choke point which was heavily guarded by the MDF on

Approximately 54 nm from the Peace Canal, Admiral Niptup ordered the ship to assume a deceptive lighting posture. It would take approximately 2 hours to arrive at the chokepoint from where they were. Approximately 1 hour from the choke point, the ship transmitted false Automatic Identification System (AIS) data to other ships in the vicinity, including MDF authorities, to suggest that the ship was a civilian cruise liner.

25. Approximately 40 minutes after clearing the Peace Canal, the *Deathstar* revealed its true colours while launching several missile strikes against MDF al ship. As a result of the missile attack, 8 MDF soldiers, 43 fishermen on two commercial fishing vessels and 26 Monstera coast guards were killed. The fishing vessels including their catch destined for nearby coastal villages were destroyed.
26. The next day, the *Deathstar* with the support of amphibious forces proceeded to the Port of Milkeno. After a short confrontation lasting 3 hours, the CAF captured the Port.
27. the CAF offensive, King Mutu encouraged the MDF to be more strategic in its approach. The decided to leak information about an upcoming shipment of LNG, which was due to arrive in approximately . The information leaked was that the LNG carrier would transport a defensive capability, the Rapidly Detect Identify and Shoot (RaDISh) system, that can autonomously detect and shoot down any incoming munitions to neutralise the entire CAF missile capability. The decision was made in an effort to bolster the perception of to deter a CAF attack long enough to obtain reinforcements from DRL.
28. The MDF intelligence unit identified a former Canciferan intelligence agent who was working for President Mosco in a personal capacity but also had ties to Monstera. The former agent arranged a call with President Mosco which Admiral Niptup also attended. The agent said:

*Monstera has a game-changing capability, some sort of an LNG carrier arriving at Port Milkeno in the next three months.*

With that, t former agent again after that.

29. The CAF did not have any further information regarding the name of the vessel, its flag state or its port of origin. The CAF was ordered to constantly monitor the movements of all vessels within a 50 nm radius from the Port and to check tanker ships on a more stringent basis especially ships arriving unexpectedly. This consisted of visiting and searching each such vessel to verify its character.
30. As the days turned into weeks, President Mosco became increasingly concerned about the capacity to neutralise the offensive capabilities. President Mosco was conscious that the battle damage assessment ober 2019 indicated a significant majority of the had been destroyed. Admiral was based on this damage assessment. President Mosco emphasised to Admiral Niptup, *if MDF get their hands on this RaDISh system, our campaign will be destroyed. We cannot afford to lose this war*
31. To further counter the resistance, Admiral Niptup planned to disrupt the MDF communications in order to hinder any coordination related to the transportation and deployment of the RaDISh system. The CAF identified a Monstera-owned communications fibre optics cable that connects to a landing station mainland. The cable runs undersea for more than 1,300 km between DRL, Monstera and Ru Ru Island. Admiral Niptup

was advised by her intelligence officers that there was a 45% probability that the routing system of this cable was being used by the MDF to transmit data. President Mosco directed his government to ensure there was adequate connectivity for the surrounding areas through satellite backup (Marlink).

32. On 29 October 2019, Admiral Niptup ordered the use of a submarine with cable-cutting abilities to cut the undersea cable. However, the submarine malfunctioned and only managed to cause minor damage, resulting in internet and communications disruptions to Ru Ru Island, DRL and Monstera for a period of 3 weeks. The MDF lost communications for 24 hours, disrupting its air surveillance capabilities over key CAF targets. The MDF was able to reroute its data traffic to an alternate cable and also rely on Marlink as backup.

33. Although the internet was still able to function, it was at a much slower speed (2G), resulting in significant disruptions to internet and communication networks vital to humanitarian operations and international trade, including difficulties receiving and making bank transfers. Hospital and medical centres limited access to patient data and software hampered efforts to schedule surgery and diagnose health conditions. The slow connection delayed the movement of goods and services to Ru Ru Island by 1 week including essential food and medical supplies. A large cable-laying vessel was mobilized to repair the damage, at a cost of \$10 million and taking approximately 3 weeks to complete.

34. In late December 2019, the *Chameleon* travelled Port of Milkeno to deliver the LNG. On 6 January 2020, the vessel was seen to be approaching the Port. By the time it was detected, the *Chameleon* was approximately 5.40 nm away from Ru approximately 4.30 nm away from the Port. A CAF commander, Colonel Right alerted Admiral Niptup about the approaching LNG carrier. The below conversation followed:

**Admiral Niptup:** *How did this happen how did we let this vessel get so close to the Island?! Is it carrying the RaDiSh?*

**Col. Right:**

**Admiral Niptup:**  
*catastrophic to our campaign.*

**Col. Right:** *Admiral, the vessel is already on its way. impact on the Port and the potential environmental implications for the reef. What do you want us to do?*

**Admiral Niptup:** *There is no time to waste! Proceed with the attack!*

35. Admiral Niptup ordered the CAF marines to proceed with a missile strike on the vessel. When the missile hit the vessel, 13 merchant crew members were killed along with 24 Ruruans. There was a significant leak of LNG which spilled into the water in close proximity to the coral reef. The vessel causing an explosion. At the time of the attack, two MDF patrol boats each carrying 22 MDF navy squadron members were patrolling the area in the vicinity of their military base. Due to the wide-radius impact of the explosion, 15 squadron members were killed and the remaining 27 were injured from being thrown off the patrol boats. The remaining 16 crew members and 27 MDF squadron members were injured and shipwrecked at sea. Some were in the water, and other were still on board what was left of the burning vessel.



36. The concentrations of LNG in the water meant that it could not be properly filtered through the desalination process. Engineers estimated that the water would remain unsafe for consumption for at least 1 year. Climate experts also warned that the methane in the spilled LNG could have a climate impact, resulting in an increased risk of tsunamis occurring in the area in the next 3 years. A United Nations Environment Programme report later revealed that the estimated recovery period of the marine environment and wildlife in the area extended beyond several generations.
37. Shortly after the attack, the Governor of Ru Ru Island fled to the Monsteraan mainland. The CAF quickly gained full control of Ru Ru Island and the surrounding area. The Canciferous Government established a military administration on Ru Ru Island under the direct supervision of the CAF.
38. Over the next two days, the CAF navy conducted a search and rescue operation to collect the crew and MDF personnel from the *Chameleon* ~~and from the~~ water, and to search for the dead. The people collected were taken to the *Deathstar* and given medical care. The CAF questioned all the *Chameleon* crew members they rescued. They released 12 crew but held the captain and 3 deck officers together with the 27 MDF squadron members they pulled from the water. nationals that were released. DRL coastal boats responded to the appeal, collecting and repatriating the crew to DRL.
39. Due to severe weather conditions in the Peace Sea, the *Deathstar* remained anchored off the coast of Ru Ru Island for 12 days before setting sail for Canciferous.
40. The CAF navy were ill-prepared as they had not anticipated detaining people. The *Deathstar* was not set up for holding captured persons onboard. The CAF navy made makeshift holding cells by converting an unused cabin/F3 11 T ~~by~~ BT

responded, exclaiming,  
fine.

until I receive medical proof, they will be

43. The next day, weather conditions subsided and the *Deathstar* began its voyage to Canciferous. It managed to reach shore two days later on Canciferan territory. Five of the detainees had died on board from unknown causes. Admiral Niptup offloaded the remaining 26 people and placed them in a temporary camp in anticipation of moving them to a more permanent location as hostilities were ongoing. There was no running water and the detainees slept in tents made from a plastic sheet held together by rope. Detainees were given 5L of water a day and 2 meals a day. The CAF arranged with some local farmers to give the prisoners access to an area to grow their own vegetables. This allowed them to get involved in growing their own food, but also provided a relaxing activity to strengthen their mental health and well-being.
44. The CAF cooks provided the CAF troops and the detainees with two meals a day consisting of bread and meat. Some of the detained persons refused to eat any of the food given to them by the CAF due to the food being inconsistent with their religious beliefs.
45. The Canciferous coastal town was prone to sporadic weather conditions. For example, it would be 30°C one day and then the next day would be 12°C, with bouts of torrential rain. At least 10 detainees developed pneumonia and 10 developed boils all over their bodies with high fevers. Fearing the impact of the war, many Canciferans fled to other parts of the world,
46. Due to the scarcity of medical personnel in Canciferous, Admiral Niptup requested her  
  
them to hospital and to call the military doctor if necessary. One month had passed and the detainees remained at the camp. By this stage, medical evidence had been published about the new COVID-19 strain, *Deathicron* which verified and confirmed the information published in the media reports. Admiral Niptup never visited or spoke to Ms Flexi after her initial appointment, nor were any doctors living in Canciferous consulted. By 3 March 2020, 20 detainees had died, with only 6 surviving but severely malnourished.
47. King Mutu was once again distraught at the violence his people were forced to bear, particularly the latest reports of poor treatment of MDF personnel in Canciferan custody. On 15 May 2020, Monstera and DRL jointly agreed to refer the situation to the ICC.
48. On 20 June 2020, the ICC Prosecutor informed Monstera, DRL and Canciferous that they found there to be sufficient evidence to open an investigation. On 12 November 2020, the ICC issued an arrest warrant against President Mosco. President Mosco was arrested while visiting Chiobar on 2 August 2021 and was transferred to the ICC detention facility in The Hague, the Netherlands.

## Charges

### **PRE-TRIAL CHAMBER III**

Document Containing the Charges against Cosmo Mosco

The Office of the Prosecutor ("Prosecution") herewith submits the Document Containing the Charges against Cosmo Mosco, filed on 26 March 2022

At The Hague, The Netherlands

#### **Count 1**

With respect to the attack killing 8 MDF soldiers, 43 fishermen and 26 Monsteran coast guards on 4 to 5 October 2019:

On the basis of the responsibility of commanders and other superiors as per Article 28 of the Rome Statute,

Killing or wounding treacherously individuals belonging to the hostile nation or army as a war crime pursuant to Article 8(2)(b)(xi) of the Rome Statute

#### **Count 2**

With respect to the cutting of the undersea cable on 29 October 2019:

On the basis of individual criminal responsibility, for ordering, soliciting or inducing the commission of such a crime which in fact occurs or is attempted as per Article 25 of the Rome Statute,

Intentionally launching an attack in the knowledge that such attack will cause incidental loss of life or injury to civilians or damage to civilian objects which would be clearly excessive in relation to the concrete and direct overall military advantage anticipated as a war crime pursuant to Article 8(2)(b)(iv) of the Rome Statute

#### **Count 3**

With respect to the attack of the *Chameleon* on 6 January 2020:

On the basis of the responsibility of commanders and other superiors as per Article 28 of the Rome Statute,

Intentionally directing attacks against civilian objects, that is, objects which are not military objectives as a war crime pursuant to Article 8(2)(b)(ii) of the Rome Statute

#### **Count 4**

With respect to the deaths of 25 detainees held on the *Deathstar* and at the transit camp in Canciferous between January and March 2020:

On the basis of the responsibility of commanders and other superiors as per Article 28 of the Rome Statute,

Wilful killing as a war crime pursuant to Article 8(2)(a)(i) of the Rome Statute.





## Annex II: Regional Map

