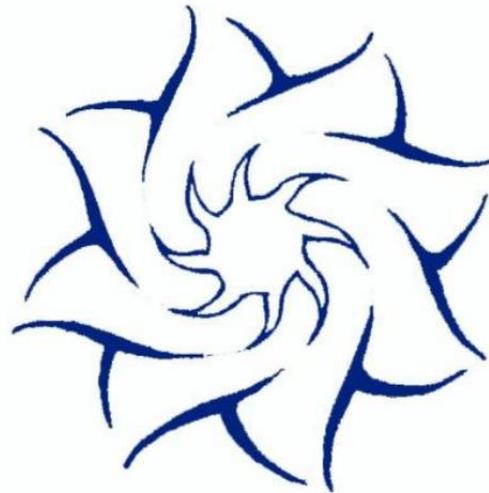


22ND D.M. HARISH MEMORIAL GOVERNMENT LAW COLLEGE

INTERNATIONAL ONLINE MOOT COURT COMPETITION

27TH-28TH MARCH, 2021



HOSTED BY:

Government Law College

IN ASSOCIATION WITH:

D. M. HARISH FOUNDATION

INTERNATIONAL COURT OF JUSTICE

COMPROMIS

BETWEEN

THE PEOPLE'S DEMOCRATIC REPUBLIC OF PERIGITIS (APPLICANT)

AND

THE FEDERAL UNION OF EREVNITIS (RESPONDENT)

TO SUBMIT TO THE INTERNATIONAL COURT OF JUSTICE

THE DIFFERENCES BETWEEN THE PARTIES

**CONCERNING 'THE LIABILITY FOR THE SYMPAN, THE INTERPRETATION OF
THE PEREVIAN ACCORD AND OTHER MATTERS'**

Jointly notified to the Court on 7th February, 2021.

COUR INTERNATIONALE DE JUSTICE

COMPROMIS

RÉPUBLIQUE DÉMOCRATIQUE POPULAIRE DU PÉRIGITIS(DEMANDEUR)

ET

L'UNION FÉDÉRALE DE L'ÉREVNITIS(DÉFENDEUR)

VISANT À SOUMETTRE À LA COUR INTERNATIONALE DE JUSTICE

LES DIFFÉRENDS QUI OPPOSENT LES DEUX PARTIES

**CONCERNANT 'LA RESPONSABILITÉ DU SYMPAN, L'INTERPRÉTATION DE
L'ACCORD DE PÉRÉVIEN ET D'AUTRES QUESTIONS'**

Notifié conjointement à la Cour le 7th February, 2021.

JOINT NOTIFICATION

ADDRESSED TO THE REGISTRAR OF THE COURT:

The Hague, The Netherlands

On behalf of the People’s Democratic Republic of Perigitis (the “**Applicant**”) and the Federal Union of Erevinitis (the “**Respondent**”), in accordance with Article 40(1) of the Statute of the International Court of Justice, we have the honour to transmit to you an original of the Compromis for submission to the International Court of Justice of the Differences between the Applicant and the Respondent concerning ‘The Liability for The Sympan, the interpretation of The Perevian Accord and other matters’, signed in The Hague, The Netherlands, on the 7th of February, 2021.

**Ambassador of the People’s Democratic
Republic of Perigitis to the Federal Union
of Erevinitis**

**Ambassador of the Federal Union of
Erevinitis to the People’s Democratic
Republic of Perigitis**

COMPROMIS

**SUBMITTED TO THE INTERNATIONAL COURT OF JUSTICE BY
THE PEOPLE'S DEMOCRATIC REPUBLIC OF PERIGITIS (APPLICANT)**

AND

THE FEDERAL UNION OF EREVNITIS (RESPONDENT)

**ON THE DIFFERENCES BETWEEN THE PARTIES
CONCERNING 'THE LIABILITY FOR THE SYMPAN, THE INTERPRETATION OF
THE PEREVIAN ACCORD AND OTHER MATTERS'**

*The People's Democratic Republic of Perigitis and The Federal Union of Erevnitis,
Considering that, differences have arisen between them concerning the 'The Liability for The
Sympan, the interpretation of The Pervian Accord and other matters'
Recognising that the Parties concerned have been unable to settle these differences by negotiation;
Desiring further to define the issues to be submitted to the International Court of Justice
(hereinafter referred to as the "Court") for settling this dispute;
In furtherance thereof the Parties have concluded the following Compromis:*

Article 1

The Parties submit the questions contained in the Compromis (together with Corrections and Clarifications to follow) to the Court pursuant to Article 40(1) of the Statute of the Court.

Article 2

It is agreed by the Parties that the People's Democratic Republic of Perigitis shall act as Applicant and the Federal Union of Erevnitis as Respondent, but such agreement is without prejudice to any question of the burden of proof.

Article 3

- (a) The Court is requested to decide the Case on the basis of the rules and principles of international law, including any applicable treaties.
- (b) The Court is also requested to determine the legal consequences, including the rights and obligations of the Parties, arising from its Judgment on the questions presented in the Case.

Article 4

(a) Procedures shall be regulated in accordance with the applicable provisions of the Official Rules of the 2021 D.M. Harish Memorial Government Law College International Moot Court Competition.

(b) The Parties request the Court to order that the written proceedings should consist of Memorials presented by each of the Parties not later than the date set forth in the Official Schedule of the 2021 D.M. Harish Memorial Government Law College International Moot Court Competition.

Article 5

(a) The Parties shall accept any Judgment of the Court as final and binding upon them and shall execute it in its entirety and in good faith.

(b) Immediately after the transmission of any Judgment, the Parties shall enter into negotiations on the modalities for its execution.

In witness whereof, the undersigned, being duly authorised, have signed the present Compromis and have affixed thereto their respective seals of office.

Done in The Hague, The Netherlands, this seventh day of February in the year two thousand and twenty one, in triplicate, in the English language.

COMPROMIS

- 1) The region known as Perevia is comprised of various islands, including the People's Democratic Republic of Perigitis (“**Perigitis**”), The Federal Union of Erevnitis (“**Erevnitis**”) and other island nations that are governed by indigenous tribes and their distinct monarchies. A small island known as “New Perevia” also forms part of this region, and is territorially shared between Perigitis and Erevnitis, who each govern different parts of the island. The island has a scarce population, with eastern half of New Perevia housing the Central Prison Authority of Erevnitis, whereas the western half of New Perevia includes fragmented farmlands belonging to the Peregitiens.
- 2) Peregitiens and Erevnitians have similar ethnicities, racial identities and cultures and the two countries have always maintained friendly and peaceful diplomatic relations, and are signatories to the Perevian Accord (see Annexure), which is a bilateral treaty that governs *inter alia*, the use of the New Perevia, trade and commerce between the two nations and the importance of maintaining peace in the region.
- 3) Perigitis (pronounced *per-ay-guy-tis*) is a territorially large nation that is comprised of geographically of prairielands, grasslands, flatlands, plateaus and tabletop mountains. Perigitis also has large coal and natural gas reserves and is one of the member nations of Organisation of Petroleum Exporting Countries (“**OPEC**”). Due to its physical landscape, Perigitis has become a destination of choice for multinational industrial companies, particularly in the energy and petroleum sector. Internationally, Perigitis is ranked among the top thirty on the World Economic Forum's “most-networked countries” and in the top quarter as a least corrupt country per Transparency International's corruption index.
- 4) Erevnitis (pronounced *er-ev-night-us*) is territorially much smaller than Perigitis and its geographical landscape is comprised of primarily of fertile plains and silt rich river basins. Erevnitis has a large unobstructed coastline, with abundant natural minerals including thorium and bauxite deposits. Although the economy of Erevnitis was primarily based on agriculture and pearl harvesting, towards the end of the 20th century, utilisation of Erevnitis's large bauxite reserves for the manufacture of aluminium led to Erevnitian Companies being the primary manufacturers of rocket fuel. The Erevnitis Space Research Organisation (“**ESRO**”) is one of largest government space agencies in the world which possesses full launch capabilities, deploys cryogenic engines, launches extra-terrestrial missions and operates large fleets of artificial satellites.

- 5) Due to the unsuitable topography of Erevnitis, Erevnitis has for the last twenty years been launching its space missions from a base built on New Perevia. These missions also include the launch of **PERENAV**, a series of multipurpose geostationary satellites for telecommunications, broadcasting, meteorology, and search and rescue operations that was commissioned from ESRO by Perigitis, and continue to be maintained and operated by ESRO.
- 6) In early January, 2018, international press began reporting that Erevnitis was in the final stages of launching “**The Sympan**” which was touted as being the most ambitious project of ESRO, comprising a fully manned Space Station and an unmanned Space Observatory. Mr. Ekken Trikos, the Chief Scientist of ESRO was quoted as saying, “*It’s too complicated to describe, to you primitive folks. But could you imagine what would happen if, let’s say, you merged the Hubble Telescope with the International Space Station? Well, it’s like that, but so much more. You could say its ESRO’s space branch office.*” In March, 2018, Erevnitis carried out a low orbit test launch from the base on New Pererevia. The test launch suffered glitches in launch communications and camera packs to check for a successful launch test were not recoverable. ESRO published a press release stating that “*these are minor setbacks, which are bound to arise when the project is of such a grand magnitude. Our preparations remain steadfast, and we hope to launch by this summer. This will be a proud moment for all Erevnitisians, and we hope that when they hold their heads up high, they look towards the sky and towards Sympan*”. Thereafter, in August, 2018, Erevnitis launched The Sympan from the base on New Perevia. However, after clearing the earth’s orbit, The Sympan lost both its primary and back-up star sensors, leading to a loss of orientation and break in communication. A week after launch, The Sympan broke apart and fell to the Earth, disintegrating as it collided with the Earth’s atmosphere. Massive amounts of debris remained in space, and large chunks fell over the region of Pererevia, destroying a steel plant in Erevnitis and causing bush fires in Perigitis that spread over millions of hectares, burning down several tracts of farmlands and pastures, killing livestock and causing grave ecological, health and biodiversity hazards in the region.
- 7) During the first half of 2018, a Peregitian citizen, named Mr. Plusios Anthropos who, through his various companies owned large natural gas mines and drills in Perigitis, garnered attention on social media for his posts and tweets, where he talked of using his equipment for mining the lunar surface. In a tweet in April, 2018, he said, “*We have the stuff, if you have the money. Dust, rocks or Helium-3, we are the only ones who can get it all. It’s a lunar*

gold rush, and we'll be there first." As his social media presence grew stronger, independent fact-checking websites posted stories stating that Mr. Plusios Anthropos was the "*de-facto King of Perigitis*" on account of him having lent huge amounts of money to the election campaign of the incumbent government, in return for the government substantially investing in his various companies. It was also widely reported, in tabloids, that Mr. Plusios Anthropos was set to marry Ms. Gynaika Afelis, the daughter of the President of Perigitis.

- 8) In late August, 2018, the President of Perigitis signed an executive order called "Encouraging International Support for the Recovery and Use of Space Resources." The order emphasized that "*Perigitis does not view outer space as a 'global commons' and calls the Perevian Accord a 'a failed attempt at constraining free enterprise', which situation Perigitis will address, even if that means withdrawing from the Accord.*" Following this, Mr. Plusios Anthropos officially launched Aether Inc., an aerospace and sub-orbital spaceflight manufacturing and services company. The press release issued by Aether Inc. soon after its incorporation stated that "*Peregitian pastures are still reeling from the disastrous after effects of the Sympan. But there are newer pastures, out there,*" and that the Company was swiftly moving towards establishing a moon industrial base and setting up the first 'moon colony'.
- 9) In response to this, Erevnitian Government swiftly issued a response stating that "*Perigitis should know better than to make such absurd statements. Erevnitis through ESRO has always tried to lead the region to technological advancement and has in fact always lent a helping hand to Perigitis. We have had peaceful relations in the past, but such arrogant behaviour by Perigitis shall not go unnoticed by Erevnitis; Perigitis remains a signatory to the Perevian Accord, and we would strongly advise them, and their enterprises to abide by the terms*"
- 10) Around the same time as the above response was issued by the Erevnitian Government, the Peregitian Government initiated action against Ervenitis under the Perevian Accord and the Space Liability Convention for the damage caused by The Sympan. Erevnitis responded by stating that under Article 47 of the Perevian Accord, Erevnitis was not responsible for a "*force majeure event*" and that in any event since Perigitis was internationally critiquing the Perevian Accord, they were estopped from now relying upon the provisions of the very same accord.
- 11) On 1st October, 2018, being the 'Constitution Day' of the People's Democratic Republic of Perigitis, Perigitis deployed a branch of its national army on the island of New Perevia and

started setting up a military base abutting the launch base built by Erevnitis. The Minister for External Affairs of the Government of Erevnitis issued a letter to his counterpart in Government of Perigitis, stating that the “*militarisation of New Perevia by Perigitis is a veiled attempt at aggression and is being viewed by Erevnitis as a matter of grave concern. We would strongly suggest that such actions be ceased at the earliest, failing which Erevnitis shall have no option but to respond similarly.*” The Government of Perigitis did not respond, and by 31st October, 2018, Perigitis had in addition to military forces on the island, also deployed two aircraft carrier warships that functioned as sea-airbases. In addition to this, members of the Ervenitian Department of Corrections, that used to travel from mainland Erevnitis to the Central Prison on New Perevia, also stated that upon arrival on New Perevia, they were subjected to strict body cavity searches by certain paramilitary forces and private security officers, who the Erevnitian personnel described as Peregitian citizens.

- 12) As tensions between the two nations began to escalate, Erevnitis in December, 2018 declared that the “*continued show of strength*” by Perigitis was no longer tolerable and deemed that “*Perigitis has, in fact, through its hostile behaviour de facto declared war with Erevnitis.*” Following this, in January 2019, ESRO ceased operations on all ongoing Perigitis projects and withdrew support to PERENAV and remotely shut down its systems, due to which all satellite communications and broadcasting in Perigitis came to a complete standstill.
- 13) Thereafter on coaxing by international agencies, both the nations attempted to resolve their issues through high level consultations, however they were unable to arrive at a settlement which was mutually acceptable. Consequently, both Perigitis and Erevnitis approached the International Court of Justice with a joint notification. The International Court of Justice was confronted with the following issues:
 - (i) Whether the Respondent is liable for the space debris and the damage caused to the Applicant caused by the disintegration of the Sympan.
 - (ii) Whether the Applicant is entitled to conduct the activity of ‘Moon Mining’ under the Perevian Accord.
 - (iii) Whether the alleged ‘militarisation’ of the region of New Perevia by the Applicant qualifies as a ‘threat or use of force’ under Article 2(4) of the United Nations Charter or other applicable law, and whether the consequent shutting down of PERENAV by the Respondent, is a valid countermeasure under international law.

Additional Information:

Peregrinus and Erenitius are members of the United Nations and the World Trade Organisation, and are parties to the Vienna Convention on the Law of Treaties, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies, Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space, Convention on International Liability for Damage Caused by Space Objects and the Convention on Registration of Objects Launched into Outer Space

The "Perebian Accord"

The States Parties to this Treaty,

RECOGNIZING the importance of their bilateral economic and trade relationship;

REALIZING that it is in the interests of both countries that trade grow and that there is adherence to international norms so as to promote market-based outcomes;

CONVINCED of the benefits of contributing to the harmonious development and expansion of world trade and providing a catalyst to broader international cooperation;

ACKNOWLEDGING the existing trade and investment concerns that have been identified by the Parties;

and RECOGNIZING the desirability of resolving existing and any future trade and investment concerns as constructively and expeditiously as possible,

And

NOTING the achievements of States in the exploration and use of the moon and other celestial bodies, RECOGNIZING that the moon, as a natural satellite of the earth, has an important role to play in the exploration of outer space, DETERMINED to promote on the basis of equality the further development of co-operation among States in the exploration and use of the moon and other celestial bodies, DESIRING to prevent the moon from becoming an area of international conflict, BEARING in mind the benefits which may be derived from the exploitation of the natural resources of the moon and other celestial bodies, RECALLING the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies, the Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space, the Convention on International Liability for Damage Caused by Space Objects, and the Convention on Registration of Objects Launched into Outer Space, TAKING INTO ACCOUNT the need to define and develop the provisions of these international instruments in relation to the moon and other celestial bodies, having regard to further progress in the exploration and use of outer space,

Have agreed to the following:

....

Article 5

The parties hereto agree that the island known as New Perevia shall be used by all States Parties exclusively for peaceful purposes.

Any use of force or any other hostile act or threat of hostile act on the island is prohibited. It is likewise prohibited to use the island in order to commit any such act or to engage in any such activity. The establishment of installations and fortifications, the testing of any type of weapons and the conduct of military manoeuvres on the island shall be forbidden. The use of military personnel for scientific research or for any other peaceful purposes shall not be prohibited. The use of any equipment or facility necessary for peaceful exploration and use of the island shall also not be prohibited.

..

Article 11

The provisions of this Agreement relating to the moon shall also apply to other celestial bodies within the solar system, other than the earth, except in so far as specific legal norms enter into force with respect to any of these celestial bodies.

For the purposes of this Agreement reference to the moon shall include orbits around or other trajectories to or around it.

This Agreement does not apply to extra-terrestrial materials which reach the surface of the earth by natural means.

Article 12

All activities on the moon, including its exploration and use, shall be carried out in accordance with international law, in particular the Charter of the United Nations, and taking into account the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, adopted by the General Assembly on 24 October 1970, in the interest of maintaining international peace and security and promoting international co-operation and mutual understanding, and with due regard to the corresponding interests of all other States Parties.

....

Article 14

The exploration and use of the moon shall be the province of all mankind and shall be carried out for the benefit and in the interests of all countries, irrespective of their degree of economic or

scientific development. Due regard shall be paid to interests of present and future generations as well as to the need to promote higher standards of living conditions of economic and social progress and development in accordance with the Charter of the United Nations.

States Parties shall be guided by the principle of co-operation and mutual assistance in all their activities concerning the exploration and use of the moon. International co-operation in pursuance of this Agreement should be as wide as possible and may take place on a multilateral basis, on a bilateral basis or through international intergovernmental organizations.

...

Article 17

In exploring and using the moon, States Parties shall take measures to prevent the disruption of the existing balance of its environment, whether by introducing adverse changes in that environment, by its harmful contamination through the introduction of extra-environmental matter or otherwise. States Parties shall also take measures to avoid harmfully affecting the environment of the earth through the introduction of extra-terrestrial matter or otherwise.

States Parties shall report to other States Parties concerning areas of the moon having special scientific interest in order that, without prejudice to the rights of other States Parties, consideration may be given to the designation of such areas as international scientific preserves for which special protective arrangements are to be agreed upon in consultation with the competent bodies of the United Nations.

Article 18

States Parties may pursue their activities in the exploration and use of the moon anywhere on or below its surface, subject to the provisions of this Agreement.

For these purposes States Parties may, in particular:

1. Land their space objects on the moon and launch them from the moon;
2. Place their personnel, space vehicles, equipment, facilities, stations and installations anywhere on or below the surface of the moon.

Personnel, space vehicles, equipment, facilities, stations and installations may move or be moved freely over or below the surface of the moon.

Activities of States Parties in accordance with the above shall not interfere with the activities of other States Parties on the moon. Where such interference may occur, the States Parties concerned shall undertake consultations.

...

Article 21

The moon and its natural resources are the common heritage of mankind, which finds its expression in the provisions of this Agreement.

The moon is not subject to national appropriation by any claim of sovereignty, by means of use or occupation, or by any other means.

Neither the surface nor the subsurface of the moon, nor any part thereof or natural resources in place, shall become property of any State, international intergovernmental or non-governmental organization, national organization or non-governmental entity or of any natural person. The placement of personnel, space vehicles, equipment, facilities, stations and installations on or below the surface of the moon, including structures connected with its surface or subsurface, shall not create a right of ownership over the surface or the subsurface of the moon or any areas thereof.

The foregoing provisions are without prejudice to the international regime.

States Parties have the right to exploration and use of the moon without discrimination of any kind, on the basis of equality and in accordance with international law and the provisions of this Agreement.

...

Article 24

States Parties to this Agreement shall bear international responsibility for national activities on the moon, whether such activities are carried out by governmental agencies or by non-governmental entities, and for assuring that national activities are carried out in conformity with the provisions of this Agreement. States Parties shall ensure that non-governmental entities under their jurisdiction shall engage in activities on the moon only under the authority and continuing supervision of the appropriate State Party.

Article 25

A State Party which has reason to believe that another State Party is not fulfilling the obligations incumbent upon it pursuant to this Agreement or that another State Party is interfering with the rights which the former State Party has under this Agreement may request consultations with that State Party. A State Party receiving such a request shall enter into such consultations without delay. Any other State Party which requests to do so shall be entitled to take part in the consultations. Each State Party participating in such consultations shall seek a mutually acceptable resolution of any controversy and shall bear in mind the rights and interests of all States Parties. The Secretary-

General of the United Nations shall be informed of the results of the consultations and shall transmit the information received to all States Parties concerned.

If the consultations do not lead to a mutually acceptable settlement which has due regard for the rights and interests of all the States Parties, the parties concerned shall take all measures to settle the dispute by other peaceful means of their choice and appropriate to the circumstances and the nature of the dispute. If difficulties arise in connection with the opening of consultations or if consultations do not lead to a mutually acceptable settlement, any State Party may approach the International Court of Justice, with or without the United Nations' Secretary General acting as an intermediary.

...

Article 47

A party is not liable for a failure to perform any of its obligations if it proves that the failure was due to an impediment beyond its control and that it could not reasonably be expected to have taken the impediment into account at the time of the conclusion of the contract or to have avoided or overcome it or its consequences.

If the party's failure is due to the failure by a third party entity whom it has engaged to perform the whole or a part of the contract, that party is exempt from liability only if:

- (a) It is exempt under the preceding paragraph; and
- (b) The third party entity person whom it has so engaged would be so exempt if the provisions of that paragraph were applied to it.

The exemption provided by this article has effect for the period during which the impediment exists.

The party who fails to perform must give notice to the other party of the impediment and its effect on its ability to perform. If the notice is not received by the other party within a reasonable time after the party who fails to perform knew or ought to have known of the impediment, it is liable for damages resulting from such non-receipt.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto by their respective Governments, have signed this Agreement, opened for signature on 15th June, 1997.