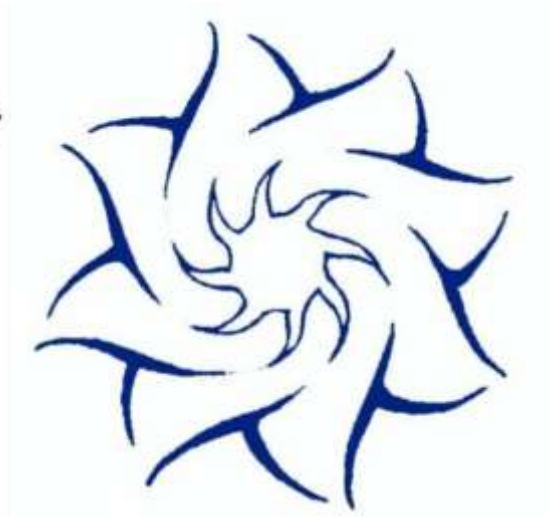


21ST D.M. HARISH MEMORIAL GOVERNMENT LAW COLLEGE
INTERNATIONAL MOOT COURT COMPETITION

7TH - 9TH FEBRUARY, 2020



HOSTED BY:

Government Law College

IN ASSOCIATION WITH:

D. M. HARISH FOUNDATION

INTERNATIONAL COURT OF JUSTICE

COMPROMIS

BETWEEN

THE KINGDOM OF ALDOVIA (APPLICANT)

AND

THE UNITED PROVINCES OF CASTLEBURY (RESPONDENT)

TO SUBMIT TO THE INTERNATIONAL COURT OF JUSTICE

THE DIFFERENCES BETWEEN THE PARTIES

CONCERNING ‘THE INTERNATIONAL CHAMPIONSHIP CUP 2021’

Jointly notified to the Court on 7th February, 2020

COUR INTERNATIONALE DE JUSTICE

COMPROMIS

LE ROYAUME D'ALDOVIA (DEMANDEUR)

ET

LES PROVINCES UNIES DE CASTLEBURY (DÉFENDEUR)

VISANT À SOUMETTRE À LA COUR INTERNATIONALE DE JUSTICE

LES DIFFÉRENDIS QUI OPPOSENT LES DEUX PARTIES

CONCERNANT ‘LA COUPE DU CHAMPIONNAT INTERNATIONAL, 2021’

notifié conjointement à la Cour le 7th February, 2019

JOINT NOTIFICATION

ADDRESSED TO THE REGISTRAR OF THE COURT:

The Hague, The Netherlands

On behalf of the Kingdom of Aldovia (the “**Applicant**”) and the United Provinces of Castlebury (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 International Championship Cup 2021’, signed in The Hague, The Netherlands, on the 7th February, 2020.

**Ambassador of the Kingdom of Aldovia to
the United Provinces of Castlebury**

**Ambassador of the United Provinces of
Castlebury to the Kingdom of Aldovia**

COMPROMIS

**SUBMITTED TO THE INTERNATIONAL COURT OF JUSTICE BY
THE KINGDOM OF ALDOVIA (APPLICANT)
AND
THE UNITED PROVINCES OF CASTLEBURY (RESPONDENT)
ON THE DIFFERENCES BETWEEN THE PARTIES
CONCERNING 'THE INTERNATIONAL CHAMPIONSHIP CUP 2021'**

The Kingdom of Aldovia and the United Provinces of Castlebury,

Considering that differences have arisen between them concerning the 'International Championship Cup, 2021'

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 Kingdom of Aldovia shall act as Applicant and the United Provinces of Castlebury 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 2020 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 2020 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, in triplicate, in the English language.

COMPROMIS

- 1) **MIU** (“Mundus Ipsum Unitarum”) is a non-profit organisation formed and registered in Maldevia under the Maldevian Trusts & Other Organisations Act, 1942. As per this law, MIU is not required to pay taxes on its revenue, and it is not mandatory for MIU to submit its annual income and expenditure statement to the Maldevian Tax Authority.
- 2) The role of MIU is to govern football, a sport played by two teams of 11 players each, using any part of their bodies except their hands and arms, to maneuver a ball into the opposing team’s goal. As the global authority for football, MIU has 198 members, one from each state with a national football association. MIU members pay membership fees to MIU and are required to be members of one of MIU’s four confederations – **EIC** (“Europae Ipsum Confoederatio”), **AFA** (“American eu Foedus Associations”), **CIUA** (“Consociationes a Ipsum Unionem in Asia”) and **UOVNI** (“Unionis Oceanian Vehicula Nisi Iaculis”). Of the four confederations, EIC comprises of 14 member nations that have previously won the International Championship Cup the highest number of times. As set forth in the MIU Regulations, these confederations play a significant role in MIU. MIU earns 75% of its revenue from the sale of television, online streaming and marketing rights from the International Championship Cup, which is conducted in summer (*i.e.* in the period between May to July), every three years, and from the Confederation Games, held by each confederation between its teams.
- 3) MIU also runs the MIU Community Programme (popularly known as the *Me & You* Programme) which accepts donations and supports organisations that use football as a tool for social change to improve the lives of underprivileged young people around the world. Once a year, the MIU Community Programme invites well-established non-profit entities to apply for funding from MIU in order to use football as a tool to address issues impacting the youth such as education, health, peace building, refugees, leadership and gender equality
- 4) Between 1976 and 2018, the venues for MIU’s International Championship Cup were selected by a majority vote by the Members of MIU, after the conclusion ceremony of the preceding International Championship Cup. However, in December 2018 the Board of Governance of MIU, without seeking approval from the Members of MIU, amended the MIU Regulations, suspended the voting process and announced that the International Championship Cup, 2021 would be hosted by the Kingdom of Aldovia.

- 5) The Kingdom of Aldovia (“**Aldovia**”) is a monarchy, which has never been colonised, and has always been governed by the royal family of Aldovia. The population of Aldovia is 800,000. Aldovia therefore usually relies on migrant labour and workforces from other nations, for carrying out infrastructure projects and for various other activities. Aldovia also heavily relies on developed nations for medical and pharmaceutical assistance, as it is unable to produce either active ingredients or formulations, due to lack of human resources and due to the lack of economic viability of domestic production. In 2009, Aldovia officially became a member of the Organisation of the Petroleum Exporting Countries (“**OPEC**”). As of 2019, Aldovia has become one of the most influential member countries in OPEC, producing almost 50% of the OPEC Production Quota. Geographically, Aldovia is a small desert island situated in the Aldovian Ocean, which has mild winters but harsh summers. Daytime temperatures at the normal time of the year for playing the International Championship Cup, are usually 50 degree Celsius (122 degree Fahrenheit). Aldovia therefore does not have a strong tradition of playing football owing to lack of grass fields and high summer temperatures, has no indigenous football fan base and its national team has never qualified for the International Championship Cup.
- 6) An instantaneous explosion of international criticism followed the announcement by MIU, particularly by the mainstream and social media in nations whose teams belong to EIC. EIC’s news agencies also published transcripts of an alleged closed door meeting that was held in October, 2018 between the Board of Governance of MIU and a team of Maldevian lawyers, wherein the Board members had sought an opinion with respect to the validity of amending the MIU Regulations without a majority vote of the Members of MIU. The transcript, which was obtained by allegedly hacking the e-mail account of one of the Maldevian lawyers present at the meeting, further included the following statement, “*This amendment is the only way we can award the bid to Aldovia. If we cannot find a way, the offer of \$300 million to me and you will, unfortunately, no longer be on the table.*”
- 7) Following this, the Board of Governance of MIU once again amended the MIU Regulations such that the venues for MIU’s International Championship Cup, after 2021, would be selected by a majority vote by the Members of MIU and also convened a Special Ethical Vigilance Commission. The Special Ethical Vigilance Commission was headed by Mr. Praetor Magis, a retired judge of the Supreme Court of Maldevia. The Special Ethical Vigilance Commission submitted a sealed 150 page ‘Report of Findings’ to the Board of Governance of MIU. Thereafter, MIU released an official statement “...*the Report sets out*

that serious violations of the regulations have occurred but the selection of Aldovia for the 2021 International Championship Cup is not the result of bribery or corruption.”

Following the publication of the official release, the members of the Special Ethical Vigilance Commission stepped down from their positions and the Special Ethical Vigilance Commission was disbanded. Thereafter, members of the international media approached Mr. Praetor Magis seeking an explanation for the disbanding of the Special Ethical Vigilance Commission, but Mr. Praetor Magis merely stated that the ‘Report of Findings’ had been submitted, and as the matter was confidential, he was unable to comment any further.

- 8) In response to the media reports expressing concerns in respect of the health and safety of the players and fans, due to the severe weather conditions in Aldovia in the summer, the spokesperson for the Aldovian Government stated that *“Each of the indoor stadia will harness the power of the sun to keep the stadia at a comfortable temperature as well as for providing a mild environment for spectators by converting solar energy into electricity that will then be used in large air-conditioners for the benefit of both spectators and players at the stadia. When games are not taking place, the solar panels on the stadia will export energy onto the power grid. During matches, the stadia will draw energy from the grid. This is the basis for the stadia’s carbon-neutrality. Along with the stadia, we plan to make the cooling technologies that we’ve developed available to other countries in hot climates, so that they too can host major sporting events.”*
- 9) During this time, it was also widely reported online, that following the successful bid by Aldovia, about 6 young players with no previous international exposure, and who were directly or indirectly related to or otherwise connected with the individual members of the Board of Governance, had been drafted into a football club known as “The Foot Bolters”, which is a regular participant in the annual AFA Confederation Games, and has successively won four AFA Confederation Games between 2014 and 2018. The Foot Bolters is owned by Bolts Avenue PLC, a private limited corporation established in Maldevia. Although Maldevian laws restrict availability of detailed information to the general public with respect to a private limited corporation, it has been reported that 60% of shareholding in Bolts Avenue PLC is held by an entity controlled by the Crown Prince of Aldovia.
- 10) In February 2019, a whistle-blower known only as “S”, released an e-mail communication that was widely publicised, about the possibility that Aldovia ‘bought’ the 2021

International Championship Cup through bribery via Mr. Magnus Curo who was president of the AFA at the time. S alleged that several officials were given “huge benefits” by Aldovia and also leaked documents alleging that the Aldovian state-run television channel ‘*The Island*’ secretly offered \$500 million to MIU, for broadcasting rights, just days before MIU announced that Aldovia will hold the 2021 International Championship Cup. The contract also documented a secret TV deal between MIU and *The Island* that a further amount of \$50 million would also be paid if Aldovia wins the bid. S also stated that an additional \$300 million was offered by Aldovia, payable into a designated MIU account three years after the initial offer, which brought the amount offered by Aldovia to host the 2021 International Championship Cup to \$850 million. MIU officially responded by stating that “*allegations linked to the MIU 2021 International Championship Cup bid have already been extensively commented on by MIU, after the submission of the ‘Report on Findings’ by Mr. Praetor Magis.*” Aldovian officials forming part of the bid team for the 2021 International Championship Cup denied any wrongdoing.

- 11) S was later identified as Ms. Sibil Ceraula, an Aldovian national who had been a member of the Aldovian bid team for the 2021 International Championship Cup. Ms. Sibil Ceraula later retracted her claims of bribery, stating she had fabricated them in order to exact revenge on the Aldovian bid team for relieving her of her job with them. She also denied being put under any pressure to make her retraction. MIU publicly confirmed receiving an email from her which stated her retraction.
- 12) United Provinces of Castlebury (“UPC”), is one of the largest nations in EIC, and has previously won the International Championship Cup 5 times. UPC is a “superpower” and has a sizable population, ample indigenous supplies of food and natural resources, enjoys a high degree of non-dependence on international intercourse, and has a well-developed nuclear capacity. UPC also exercises substantial diplomatic influence through multilateral trade and economic treaties executed between UPC and the other 13 countries that form part of EIC. However, due to a lack of natural oil reserves, UPC imports almost 70% of its petroleum from various OPEC Member Countries, and is therefore dependant on the OPEC for their demand in petroleum.
- 13) In June 2019, the Dignity for Migrant Workers Union (“DMWU”), an international non-profit organisation incorporated in UPC, alleged that the Aldovian Labour Laws were leaving migrant workers vulnerable to systematic abuse. Workers may not change jobs or even leave the country without their employer’s permission. DMWU reported “*serious*

exploitation”, including workers having to sign false statements that they had received their wages in order to regain their passports. In July 2019, after a stealth visit to an alleged labour camp, Mr. Scobo Furtivus of the DMWU described the workers as “*basically slaves*” and added that “*If the Aldovian Government has not yet done the fundamentals even after the award of the 2021 International Championship Cup, they have no commitment to human rights*”. The spokesperson for the Aldovian Government responded: “*Our country is a small nation that is committed to enhance working conditions in order to ensure a lasting legacy of improved worker welfare. We are aware this cannot be done overnight. But the 2021 International Championship Cup is acting as a catalyst for improvements in this regard.*”

- 14) UPC’s ambassador to Aldovia, said that Aldovia had become “*a cesspit*” for workers from her homeland and that Aldovian companies handling construction for the required infrastructure for the 2021 International Championship Cup “*force migrant workers to face exploitation and abuses that amount to modern-day slavery, as defined by the International Labour Organization, during a building binge paving the way for 2021. Migrant workers in Aldovia have been living in labour camps with unsanitary and dilapidated conditions. Some migrant workers have not been paid in months, but the Aldovian construction companies have denied them their worker IDs or passports, rendering them trapped. Workers have described having to beg for food and being beaten. They could try to escape, but if caught without proper papers, they could be arrested.*”
- 15) In response, the spokesperson for the Aldovian Government stated that Aldovia was deeply committed to the health, safety, and prosperity of migrant and expatriate workers. The spokesperson for the Aldovian Government further stated that Aldovia would continue to build on their world-leading system, which would protect workers from recruitment through arrival, during their time in Aldovia, and until their safe return home to their families.
- 16) In early December, 2019, the president of the EIC who was a national of UPC stated that “*the football associations of the world should conclude that major tournaments cannot be held in states which actively participate in opaque polices, human rights violations and corruption*”, and that UPC would boycott the 2021 International Championship Cup and call other member nations of MIU to boycott the same. UPC also announced that it had begun the process for initiating legal action against the Board of Governance of MIU.

- 17) By 31st December, 2019, most of the member nations in EIC had sent correspondence to MIU's headquarters in Maldevia, stating that their teams would not be participating in the 2021 International Championship Cup.
- 18) In response thereto, the Aldovian Government stated that such measures were equivalent to economic sanctions against Aldovia and was indicative of UPC's efforts to create unnecessary hurdles in the path of diplomacy. According to the Aldovian Government, hosting the International Championship Cup would have an immediate economic impact with a surge in tourism and foreign investment in the fields of construction and infrastructure. This was expected to boost the country's GDP in the short-term and have continued benefits in the years thereafter. The hosting of the 2021 International Championship Cup *"has a considerable economic effect,"* the spokesperson for the Aldovian Government said, in an official media briefing, *"...the tournament has already boosted the economic development of Aldovia and will continue to have a positive long-term economic impact. However, this unprecedented move instigated by UPC will have far-reaching effects on the morale of the players participating in the 2021 International Championship Cup, and vastly reduce the expected fillip to the Aldovian economy. This boycott is nothing but an arm-twisting measure by UPC, and serves no purpose other than negatively affecting the economy and people of Aldovia"*.
- 19) Thereafter the Aldovian Government wrote a letter of request to the Government of UPC expressing hope that UPC would honour the selection by MIU of Aldovia as the host nation for the 2021 International Championship Cup, and not boycott the same. Aldovia further stated that its citizens were being wrongfully penalised on account of such boycott, and in any event as Aldovia had not committed any unlawful acts against UPC, such unilateral action of boycott was an unjustified abuse of power by UPC. The Government of UPC rejected the request by the Aldovian Government, on the grounds that the selection process had been compromised and that in any event, Aldovia was committing severe human rights violations, in the construction of the requisite infrastructure to host the 2021 International Championship Cup.
- 20) In response, the Aldovian Government stopped all their petroleum export to UPC, and made representations to the OPEC Member Countries, urging them to boycott UPC in light of their unprecedented action against Aldovia. The OPEC Member Countries who were aware of the action taken by UPC, complied with the requests of the Aldovian Government, and immediately halted all their petroleum export to UPC, until the issue

between UPC and Aldovia was resolved. As a result of this decision taken by Aldovia and the OPEC Member Countries, UPC was unable to meet its own petroleum demand, which resulted in serious economic ramifications.

- 21) Thereafter, it was reported that Government of UPC was in the process of enacting a legislation to mandate the protection of intellectual property rights, notably patents, for pharmaceutical products manufactured by corporate bodies registered in UPC and also for the issuance of compulsory licences to entities incorporated in other nations, outside the EIC, for the import of generic versions of patent-protected medicines from UPC. In response, the Aldovian Government, which relies heavily on UPC and other developed countries for pharmaceutical assistance particularly in relation to life-saving drugs, issued a written request to the UPC Government asking them not to enact such a legislation and also wrote to the World Health Organisation (“WHO”), demanding that international pressure be levied upon UPC to prevent the passing of such a legislation. However, UPC passed the above legislation, titled the “Overseas Pharmaceutical Trade Act, 2020.” (“OPTA”)

- 22) Following this, UPC and Aldovia, attempted to resolve their issues through arbitration, however they were unable to arrive at a settlement which was mutually acceptable.

23) ***Issues for the Court’s Consideration***

Following failed diplomatic efforts, and a failed attempt at arbitration, the Applicant and the Respondent have now agreed to seek a settlement of their disputes by approaching the International Court of Justice on the following points:

- (a) Whether, the Applicant has contravened provisions of international law in securing its position as host for the International Championship Cup, 2021?
- (b) Whether the Applicant is the appropriate party for the redressal of grievances in respect of the claim by the Respondent in Issue (a)?
- (c) Whether the measures taken by the Respondent in the boycott of the International Championship Cup, 2021 are in the nature of an ‘economic sanction’ against the Applicant under international law, and if so, whether such sanction is justified?
- (d) Whether the economic measures taken by the Applicant in retaliation to the boycott of the International Championship Cup, 2021 by the Respondent may be considered as a valid counter measure against the Respondent under international law?
- (e) Whether the OPTA legislation enacted by UPC is in violation of international standards in respect of access to essential drugs?

- (f) Whether the Applicant has violated international law in relation to its treatment of migrant workers?

Additional Information:

Aldovia and UPC are members of the United Nations, World Health Organisation and the World Trade Organisation, and are parties to the Vienna Convention on the Law of Treaties, the United Nations Convention on Bribery and Corruption, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights. Aldovia and UPC are also signatories to the Agreement on Trade-Related Aspects of Intellectual Property Rights and have adopted The Doha Declaration on the TRIPS Agreement and Public Health. UPC along with other member states of EIC is also a signatory to the Criminal Law Convention on Corruption (Council of Europe) and the Civil Law Convention on Corruption (Council of Europe). Aldovia is a member of the Organisation of the Petroleum Exporting Countries (OPEC).