

# ALL-EUROPEAN INTERNATIONAL HUMANITARIAN AND REFUGEE LAW MOOT COURT COMPETITION



## CASE STUDY: THE SITUATION IN THE BLUE SEA REGION

Faculty of Law, University of Ljubljana, 2020



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1. Arronia, Binon and Caurus are neighbouring States. Arronia and Binon were formerly parts of Caurus and have gained independence through peaceful secession in 1986. They are all littoral States lying adjacent to one another around the enclosed Blue Sea. Arronia lies in the north-west of the Blue Sea, Binon south-west and Caurus east of the Blue Sea.
2. The Blue Sea covers an area of 430.532 km<sup>2</sup> and has a maximum depth of 1.550m. It is supplied by a number of rivers, including rivers Sure and Selba. Watersheds of all three States bordering it, Arronia, Binon and Caurus, drain into the Blue Sea. The Blue Sea is constrained by the Blue Mountains in the west and is connected with the World Sea through the strait of Seatown. It has long been the site of important shipping lanes as well as a major fishery. The most important strategic point in the Blue Sea is the Abarian peninsula with the city of Arrongrad overlooking the Blue Sea.
3. Arronia is a developing State covering 630.599 km<sup>2</sup> and has a population of 34 million. Its main income comes from the export of coffee, flower, manufactured textile and leather products. It has a good and stable GDP growth amounting to 10% per annum. Its capital city is Arrongrad with a population of 1,44 million. Since the 1990's, Arronia has opened to many foreign investments, mostly in infrastructure. Its most important investment partner is Doremark. These two States have signed a Partnership and Cooperation agreement in 1995 and a Military Partnership Agreement in 2005, presupposing, among other things, a Doremark military base at the Abarian peninsula. The current president of the State of Arronia is Ms Abbey.
4. Binon is likewise a developing State. It stretches over 230.003 km<sup>2</sup> and has a population of 19 million. Binon's major income comes from the export of agricultural commodities, such as coffee and cocoa, however, it has adopted a policy of rejecting any foreign investments. In the 1990's, Binon's economy collapsed. In 2005, oil and gas was discovered in the Blue Sea, 10 miles away from Smalltown, a popular touristic coast town of Binon. Due to lack of resources, the extraction of oil and gas has been postponed. Under the current president, Mr Buyah, the country struggles with poverty, hyperinflation, unemployment, shortages of basic goods, crime and corruption. Moreover, due to a poor health system, child mortality in the country is amongst the highest in the world. This leads many citizens of Binon to flee the country in search of better life, mostly to the neighbouring, well-developed Caurus.

5. Caurus is a developed State covering 8.989.300 km<sup>2</sup> and has a population of 55 million. Its economy is based on oil and gas industry. It has 66 offshore platforms located in its territorial sea and is the main exporter of oil and gas in the region. Its capital city is Seatown, with the population of 5.4 million. The incumbent president is Mr Coloy, who is Commander-in-Chief of Caurus defence forces, the number of which amounts to roughly 7% of the entire population.
6. States Arronia, Binon and Caurus have signed a Friendly Relations Treaty in 1987, which included an agreement on their land and sea borders.
7. On 23 August 2020, presidential elections were held in Binon. Mr Buyah won an eight term in office and has been in power since 1988. The official results credited him with more than 80 % of the vote, however, the elections were labelled as neither free nor fair by international monitors. The opposition candidate, Ms Goodwill, claimed that the results were a fraud and that she has won the elections by 55 % of the vote. On 25 August 2020, she filed an appeal to the Central Electoral Commission, calling for the results to be invalidated. Arronia, Caurus and Doremark refused to accept the results of the election. Following her application to the Central Electoral Commission, Ms Goodwill was arrested, which triggered protests. More than 800.000 people across the country demanded transition of power from Mr Buyah to Ms Goodwill. Protests escalated to violence when the police opened fire against protesters and on 28 August 2020, the military was called in to suppress protestors. In response, a Free Binon Army (FBA) was formed under the leadership of commander Grossman. The aim of the movement was to free the country of the current regime, start a democratic transition by organising new free and fair elections and open up to economic and military cooperation with neighbouring States. The fighting that ensued between the FBA and Binon's military took place in mostly urban areas.
8. Until the end of October 2020, more than 40.000 people have died in Binon, mostly supporters of Ms Goodwill and members of FBA. The situation in the country has forced many to flee their homes and cross the border irregularly into neighbouring Caurus.
9. Following the events in Binon, Mr Coloy condemned the 'violence against protesters' in the neighbouring State and called for a transition of power from Mr Buyah to Ms Goodwill. Since September 2020, Caurus was faced with a significant influx of persons from Binon and was

unable to accommodate all of them in the overly packed refugee camps, built in cooperation with the United Nations High Commissioner for Refugees (UNHCR).

10. In response to the refugee crisis, Caurus began to forcibly remove certain newly arriving persons back to Binon and Mr Coloy decided to start building a 5-meter tall barrier along 85% of the land border between Binon and Caurus. Moreover, on 15 October 2020, Mr Coloy also decided to covertly approve support to the FBA in the form of 1,5 million worth of military equipment, including weapon supply.
11. Caurus also established processing centres at the border for new arrivals who are not forcibly returned to Binon and where all new arrivals, including children and persons with specific needs claiming asylum, are held indefinitely without being issued a written decision until their applications are decided by the authorities. Registration, interviewing and decision-making takes several months, as Caurus does not have the resources to establish sufficient human and technical capacities in the centres. Asylum-seekers are not allowed to leave the centres at will, however, they are allowed to go back to Binon through a gate in the processing centre. Processing camps have become overcrowded and access to services, such as adequate health care, sanitation and hygiene services, as well as legal assistance is strictly limited. Caurus faces international criticism from the UN, including UNHCR, however, it claims that applicants are not detained in the processing centres as they are allowed to go back to Binon freely.
12. Thousands of Binonian refugees and migrants attempt dangerous journeys by sea to reach Caurus on small boats and dinghies, relying on the services of smugglers. UNHCR reported that 1,500 people had lost their lives at sea so far. The Caurus navy started to intercept boats carrying refugees and migrants on the high seas and push people back to Binon. However, some of the boats manage to reach waters near Caurus and are rescued by commercial vessels and humanitarian vessels operated by NGOs flying the flag of Caurus. Caurus does not allow vessels to disembark rescued people at its ports. Currently, around 150 refugees and migrants, including children, pregnant women and persons with medical needs, have been stranded on board of a commercial tanker near a commercial port in Caurus for three weeks. Food and drinking water is quickly running out. UNHCR called of Caurus to allow disembarkation in a safe port.

13. In 2005, the Caurus National Nature Institute (CNNI), while conducting geological research of the mid-Blue Sea ridge, discovered the largest oil and gas reserves in the world. Further research and exploitation was, however, not possible due to specificities of the terrain and moreover, any activities of Caurus were opposed by Arronia and Binon, both claiming that this part of the mid-Blue Sea ridge lies in their continental shelf. Since then, Arronia, Binon and Caurus are trying to achieve an agreement on the delimitation of the maritime zones, but without success.
14. Caurus was covertly developing the appropriate equipment that would allow further exploration and exploitation of the mid-Blue Sea ridge. By 2020, it had all the necessary equipment to start drilling and on 20 July 2020 Caurus issued a licence to its national oil company to start drilling in the mid-Blue Sea ridge. In August 2020, the Secret Service of Arronia gained this information and made it publicly available. This triggered tensions between the two countries. Among other things, the ambassador of Caurus in Arronia was declared *persona non grata* and by the end of August the number of military personnel in the military base of Doremark on the Abarian peninsula had doubled.
15. In February 2018, Arronia ordered two high-speed hydrofoil ferries from the company Sea Technology, registered in Doremark, allowing for travel from the westernmost part of the Blue Sea to the easternmost part in less than 24 hours. This newest product is claimed to be the fastest vessel in the world. They were supplied on 5 September 2020 and one week later, on 12 September 2020, the first promotional ride was conducted. Apart from the crew, representatives of Sea Technology, the Minister of Infrastructure of Arronia and press from both Arronia and Doremark were also on board. On 13 September 2020 at 2.05 am, the high-speed hydrofoil accidentally crossed into the territorial sea of Caurus. Caurus' on shore military radar detected an unusually fast object in the territorial waters of Caurus and Commander M. Viecke delivered an order to destroy the object at 2.06 am. The vessel was shot at 2.07 am, killing all 45 passengers.
16. On 14 September 2020 Arronia sent a diplomatic note to Caurus, condemning the incident and requesting that Caurus take full responsibility and pay just compensation. Moreover, it proposed an independent international investigation of the incident. Mr Coloy, however, denied any involvement of Caurus in the incident and denied access to any potential international investigators in their territorial sea. Mr Coloy was convinced that the high-speed

hydrofoil ferry sank due to spontaneous combustion which was a result of a manufacturing deficiency of the vessel.

17. Since no agreement could be reached between the two States, on 18 September 2020, Ms Abbey declared on national television that Arronia was a target of a military attack conducted by Caurus and that *"in response to such attack we can use all necessary means to defend our nationals and property."* On the eve of 18 September 2020, Ms Abbey tweeted that in response to the high-speed hydrofoil ferry incident, Arronia would target the military base Fort Guardo located in the uninhabited, south-eastern part of Caurus on 19 September 2020 at 15.00.
18. The next day, an air strike operation was conducted by Arronia, destroying the Fort Guardo military base and the nearby Hirare Air Force Base. There were no casualties at the Fort Guardo military base, however, 150 soldiers were killed at the Hirare Air Force Base, including 70 soldiers who were transferred there from the Fort Guardo military base.
19. On 20 September 2020, Caurus started a large scale naval and air military operation called *Free Blue Sea*, whereby it targeted numerous military bases in Arronia, including the Doremark military base at the Abarian peninsula.
20. On the same day, Sea Technology donated 3 military high-speed hydrofoil vessels to Arronia, equipped with the newest artificial intelligence technology, enabling the vessel to navigate autonomously and recognise potential targets and destroy them. One of the vessels was designed to carry short-range ballistic missiles.
21. On 22 September 2020, a missile hit an area in the territorial sea of Caurus where most of its off shore platforms were located, destroying 10 platforms and damaging further 12 platforms. The explosion caused huge oil spillage causing ecological catastrophe at the coast of Caurus.
22. Since then, both States have been regularly conducting military attacks against one another. In response to the situation, on 28 September 2020, Caurus closed the strait of Seatown for all foreign vessels, cutting all maritime freight transport from Arronia to Binon.
23. On 3 October 2020, high-speed hydrofoil no 3 was navigating through the Blue Sea autonomously in the search of a Caurus military submarine. At 10.05 am, it located a vessel

near the mid-Blue Sea ridge. The vessel was identified as a military target by the hydrofoil autonomous targeting system and was eliminated at 10.06 am. At 11.00 am, a Caurus military ship found remnants of the vessel including 10 bodies, which were identified as citizens of Binon. After an investigation, it was concluded that the hydrofoil had shot a damaged boat which had approximately 65 persons from Binon on board, trying to reach Caurus by sea. However, due to engine failure the ship drifted into the direction of the mid-Blue Sea ridge. Having no satellite phone, the ship was unable to call for rescue.

24. In October 2020, the Pre-Trial Chamber of the International Criminal Court, following the request from the Office of the Prosecutor of the International Criminal Court, authorised an investigation into the situation in the Blue Sea region since 28 August 2020.
25. In November 2020, the UN General Assembly adopted a resolution addressing the crisis in the Blue Sea region and called upon Arronia and Caurus to engage in peace talks and resolve the conflict peacefully. The UN General Assembly also called for a peaceful and democratic solution to the situation in Binon.
26. States Arronia, Binon, Caurus and Doremark are all members of the UN, and are parties to all relevant treaties on international humanitarian law, human rights and refugee law as well as the 1998 Rome Statute of the International Criminal Court, however, they are not parties to the Kampala amendments.