

Appeal from the Pre-Trial Chamber's Decision on
Jurisdiction and A



5. Most of the roughly 400,000 inhabitants of Pantos originally migrated there from Braanos, and a majority of the Pantosian population speak Braan, the predominant language of Braanos, rather than Astaf, the predominant language of Astafur. With the encouragement of the government of Braanos, on March 15, 2014, the population of Pantos conducted a plebiscite in which sixty percent of the voting age men and women supported severing sovereign ties with Astafur and merging with Braanos. Consistent with the provisions of the Astafur Constitution, the government of Astafur immediately announced that the secession plebiscite was not valid and that Pantos would remain part of Astafur unless and until a dissolution agreement was reached with the Astafur government and approved by the Astafur Parliament. Negotiations for such an agreement were commenced but stalled over the issue of legal rights to the lucrative cobalt reserves

determining that the preconditions to the exercise of jurisdiction under Article 12 were met. The Prosecutor has asked the Pre-Trial Chamber for authorization to formally open an investigation.

12. Since April 25, the Pre-Trial Chamber has received written requests from 234 victims (all of whom are immediate family members of people whose deaths are allegedly attributable to the April 20 cyber attack) wishing to participate in the proceedings, and has appointed a common legal representative for these victims. Approximately 60% of the victims had supported secession/annexation while 40% favored remaining part of Astafur. Polls indicate that some victims blame the attack partly on Astafur, since it had ignored the results of the plebiscite and in light of the events in Hugo Park.

13. In a submission, dated May 25, 2014, Counsel for the Government of Braanos raised several objections to the jurisdiction of the ICC with respect to this matter. Government Counsel argues that:

-- an Article 12(3) Declaration can only be made by the government in control of the State on whose territory the crime occurred, and that Astafur does not have effective control of Pantos.

-- even if Pantos had been part of Astafur at the time of the acts in question, there is no reasonable basis to believe that a crime within the jurisdiction of the Court has been committed because all the alleged actions took place in the territory of Braanos and in cyber-space; none took place in Pantos.

-- the facts alleged in the International Rights Watch Report (excerpted in paragraph 7 above) do not constitute violations of the laws of war.

In addition, Government Counsel argues that the Pre-Trial Chamber erred in designating a single Legal Representative for Victims since there are two distinct victims' groups with distinct interests.

14. On June 30, 2014, representatives of the ICC Office of the Prosecutor, Counsel for The State of Braanos, and the Legal Representative for the Victims submitted briefs and made oral presentations before this Pre-

16. Second, the Pre-Trial Chamber concludes that Article 12 of the Court's Statute contemplates the objective territorial basis of jurisdiction, including cases in which war crimes are committed by a non-Party State over the internet.
17. Third, the Pre-Trial Chamber concludes that the facts alleged in the International Rights Watch Report, if proven in court, would constitute violations of the law of war principle of distinction, forming the basis of war crimes under Article 8 of the Rome Statute.
18. Finally, the Pre-Trial Chamber concludes that a single Legal Representative for Victims can appropriately represent the victims in this case, despite the fact that some of those in the victims' group supported secession while others

Appendix: Map of the Region

