ZENITH

MARMARAMUN'26

INTERNATIONAL COURT OF JUSTICE

Agenda Item

PROMETHEUS Dispute: Sovereign Rights over Population Data and the Legality of Algorithmic Manipulation (Germany v. United States of America)

Board Member
EMRE TURUNÇ

Board Member
YAĞMUR KOCABAŞ

Strive For Perfection

10th Anniversary

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Letter From the Secretary General

Dear Participants,

On behalf of the Secretariat and Organization Team, it is my great pleasure to welcome you to MarmaraMUN'26 Zenith. Following last year's pursuit of perfection, we now gather at the Zenith, the highest point, symbolizing our collective ambition in the 10th year anniversary of MarmaraMUN Society. As the Secretary General of the MarmaraMUN'26 Zenith and the Club President of the MarmaraMUN Society I am very pleased to host you at our university'

Zenith means the highest point, it comes from astronomy, where it describes the highest point in an arc traveled by a star or a planet or another celestial body. The sun reaches its Zenith when it is as high in the sky as it is going to go on that day. MarmaraMUN always represent the highest point, now we are putting a milestone for the MUN Community. You will gain experience from the best of the business in our country, almost every single one of our board members have secretariat experiences and they contributed to the community for years. This statement also goes for our organization team and its members. You will debate, meet qualified people and of course, have fun.

Our carefully selected committees and agendas promise an exceptional academic experience. I invite you to speak with courage, think openly, and engage with respect. Every single individual present in the conference is hand-picked from 1500+ applicants, so make it count and use the opportunity wisely. At the end of the day MarmaraMUN'26 Zenith is where ideas rise, friendships form, and legacies begin.

Welcome to MarmaraMUN'26 Zenith and be prepared to strive for perfection.

Sincerely,
Korcan Musa KARAŞAHİN
Secretary General of MarmaraMUN'26 Zenith

1. Historical Background of the International Court of Justice

11. Introduction: The Evolution of International Law

The concept of international law has undergone a profound transformation over the centuries. Initially rooted in the diplomatic traditions of Europe, it progressively expanded its reach to the Mediterranean, Russia, the Near East, and eventually to the Americas, Asia, Africa, and Oceania through the avenues of colonialism and global trade. Fundamentally, international law is designed to regulate the interactions between sovereign entities, functioning as the vital bedrock that stabilizes and strengthens international relations. It operates on the core premise that as long as interactions between states exist, a framework of rules is strictly necessary to prevent anarchy.

While historically perceived merely as a tool to dictate the parameters of war and peace, modern international law transcends these boundaries. Today, it encompasses a vast and intricate web of specialized legal disciplines, including but not limited to international environmental law, global trade regulations, human rights, and refugee law. The main actors in this legal framework remain sovereign states. However, the application of these rules demands a delicate balance: it must not infringe upon state sovereignty, and it must rely exclusively on peaceful and equitable measures. The historical journey toward the institutionalization of these principles - culminating in the creation of the International Court of Justice (ICJ) - is a testament to humanity's enduring quest to replace the battlefield with the courtroom.

1.2. The 19th Century: The Precursors to Global Justice

The nineteenth century was a dynamic and volatile period for the development of international law. During its early decades, international law was widely regarded as an exclusive construct of European powers. The prevailing notion among European jurists was that non-European nations were not entitled to the privileges and protections of this legal system. This era was also heavily dominated by the philosophy of legal positivism. Positivism asserted that the legal principles binding upon states originated solely from their own free will and consent. Consequently, an intense focus was placed on the absolute sovereignty of the independent nation-state. Driven by competitive national interests,

governments frequently utilized international law not as an objective standard of justice, but as a strategic diplomatic tool to achieve political and imperial ambitions.

Despite this competitive atmosphere, the 19th century witnessed pioneering initiatives aimed at fostering peaceful dispute resolution. A major milestone was the revival of international arbitration. When diplomatic negotiations failed, states increasingly began submitting their disputes to ad-hoc arbitral tribunals. The success of the *Alabama Claims* arbitration in 1872 between the United States and the United Kingdom demonstrated that even highly contentious issues involving national honor could be settled through legal mechanisms rather than armed conflict.

This momentum culminated in the Hague Peace Conferences of 1899 and 1907. These conferences represented the first significant international efforts to codify the laws of war and establish institutional frameworks for the peaceful settlement of international disputes. A monumental outcome of the 1899 Conference was the creation of the Permanent Court of Arbitration (PCA). Although it was not a "court" in the traditional sense - but rather a standing roster of jurists from which states could select arbitrators - the PCA laid the essential psychological and structural groundwork for a truly permanent international judiciary.

1.3. World War I and the Establishment of the League of Nations

The devastating outbreak of the First World War in 1914 shattered the fragile political and economic balances of the global order. The Concert of Europe, which had relied on temporary diplomatic interventions to resolve conflicts, proved entirely inadequate to stop a global catastrophe. The war brought down empires, fundamentally redrew the maps of Europe and the Middle East, and gave rise to a myriad of new, often conflicting, political ideologies. From the birth of totalitarianism and fascism in Europe to the rise of socialist and capitalist labor unrests, the post-war world was characterized by extreme volatility.

In the aftermath of the carnage, the international community realized that ad-hoc diplomatic conferences and optional arbitrations were no longer sufficient. There was a desperate need for a permanent, well-organized, and democratic international organization dedicated to maintaining global peace and collective security. This realization materialized in the Treaty of Versailles in 1919, which officially established the League of Nations.

The League represented a paradigm shift in international relations. It sought to create a structured legal system to prevent future global conflicts. However, while the political organs of the League (the Assembly and the Council) were tasked with maintaining peace, the architects of the League recognized that a purely political body could not objectively resolve complex legal disputes between states. Article 14 of the Covenant of the League of Nations explicitly called for the establishment of a "Permanent Court of International Justice" to hear and determine any dispute of an international character submitted to it by the parties.

1.4. The Permanent Court of International Justice (PCIJ)

Following the mandate of Article 14, an Advisory Committee of Jurists was appointed in 1920 by the League of Nations to prepare the draft Statute for the new court. Once ratified by the majority of member states, the Permanent Court of International Justice (PCIJ) officially came into existence. On February 15, 1922, the PCIJ held its inaugural public session at the Peace Palace in The Hague, Netherlands.

The PCIJ was a revolutionary institution. Unlike the Permanent Court of Arbitration, the PCIJ was a permanently constituted tribunal with a fixed bench of judges, its own comprehensive statute, and its own rules of procedure. Furthermore, the selection of judges was meticulously designed to ensure that the panel represented the principal legal systems and civilizations of the world.

The PCIJ possessed two main types of jurisdiction: it could deliver binding judgments in contentious cases submitted by states, and it could provide advisory opinions on legal questions referred to it by the Assembly or the Council of the League of Nations. Between 1922 and 1940, the PCIJ enjoyed a highly productive era. It dealt with 29 contentious cases and issued 27 advisory opinions. Its jurisprudence clarified numerous ambiguous areas of international law, covering issues ranging from territorial disputes to the rights of minority populations. The PCIJ proved that a permanent international judicial body could function effectively and objectively.

However, the Court's fate was inextricably tied to that of the League of Nations. In the 1930s, the League failed to halt the aggressive expansionism of totalitarian regimes. Treaties like the Kellogg-Briand Pact (1928), which attempted to outlaw war, proved entirely ineffective because they lacked enforcement mechanisms and failed to address the systemic causes of conflict or define self-defense adequately. When the Second World War erupted in 1939, the League collapsed, and the PCIJ's activities ground to a halt. Its last public sitting

occurred in December 1939, and as the war engulfed Europe, the Court relocated its offices to Geneva before eventually ceasing operations.

1.5. The Ashes of War and the Birth of the United Nations

The catastrophic scale of World War II, which far surpassed the destruction of the first, made it agonizingly clear that a stronger, more robust framework was required to govern international relations. The failure of the League of Nations was not necessarily a failure of the concept of international organization, but a failure of its specific mechanisms, particularly its inability to enforce decisions.

In 1945, delegates from 50 nations gathered in San Francisco to draft the founding document of a new global organization. On October 24, 1945, with the ratification by the five permanent members of the Security Council (China, France, the Soviet Union, the United Kingdom, and the United States) and a majority of other signatories, the United Nations Charter officially came into force.

The primary objective of the UN was the preservation of universal peace and security. Unlike its predecessor, the UN Charter instituted a definitive and universal prohibition on the use of force.

Article 2(4) of the UN Charter famously states: *"All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations."*

This revolutionary article finally provided the legal mechanism that earlier treaties lacked. Furthermore, the Charter recognized that true peace requires more than the absence of war; it necessitates international cooperation in solving economic, social, cultural, and humanitarian problems, thereby solidifying faith in fundamental human rights and the equal rights of all nations.

1.6. The Establishment of the International Court of Justice (ICJ)

During the drafting of the UN Charter, a critical question arose regarding the international judiciary: Should the PCIJ be revived and reformed, or should an entirely new court be established?

In 1944, a Committee of Jurists met in Washington, D.C., followed by discussions at the San Francisco Conference. Ultimately, it was decided that a new court - the International Court of Justice (ICJ) - would be created. Several political and practical reasons drove this decision. First, creating a new court allowed it to be structurally integrated into the United Nations. Second, several founding members of the UN (such as the USA and the Soviet Union) had not been parties to the PCIJ. Creating a new entity allowed these global superpowers to be founding members of the new judicial organ.

Despite being a new institution, the ICJ was designed to be the direct successor to the PCIJ. The Statute of the ICJ was based almost entirely on the Statute of the PCIJ. Furthermore, the ICJ took over the PCIJ's physical headquarters at the Peace Palace in The Hague, creating a seamless continuity in the physical and legal legacy of international justice. The PCIJ was formally dissolved in April 1946, and the ICJ held its inaugural sitting the following day, April 18, 1946.

A defining characteristic of the ICJ is its intimate connection with the United Nations. Under Article 92 of the UN Charter, the ICJ is explicitly designated as the *"principal judicial organ of the United Nations."* This integration carried a massive legal implication: according to Article 93 of the Charter, all UN member states are *ipso facto* (by the very fact) parties to the Statute of the ICJ. There was no longer a need for a separate treaty action for a state to recognize the legal existence of the Court, thereby universally boosting its prestige, authority, and global reach.

1.7. The Modern Role and Contemporary Relevance of the ICJ

Today, the International Court of Justice stands as the pinnacle of the international legal framework. Its role has expanded far beyond the territorial and diplomatic disputes that characterized its early docket. In the 21st century, the ICJ is regularly called upon to adjudicate on some of the most pressing and complex issues facing humanity.

The Court frequently handles cases concerning the application of the Convention on the Prevention and Punishment of the Crime of Genocide, issues of state immunity, the legality of the use of force, maritime boundary delimitations, and violations of international humanitarian law. Furthermore, as environmental crises transcend borders, the ICJ has increasingly been involved in disputes related to international environmental law and the management of shared natural resources.

The transition from the ad-hoc arbitrations of the 19th century to the permanent, universal jurisdiction of the ICJ reflects the profound evolution of human civilization. It signifies a collective, albeit challenging, commitment to the rule of law over the rule of power. As long as states continue to interact in a complex and interdependent global landscape, the International Court of Justice remains the ultimate arbiter, safeguarding the principles of the United Nations Charter.

2. Mandate, Jurisdiction, and Functions of the ICJ

1. **Jurisdiction of the Court**

The International Court of Justice has two forms of jurisdiction:Contentious jurisdiction and Advisory jurisdiction.

The first form of jurisdiction granted to the ICJ is known as contentious jurisdiction. This involves resolving disputes between states under international law. No entity other than a state may bring a dispute before the ICJ, and no individual may bring a claim. The ICJ is generally open to any state that is a party to the ICJ Statute, and it may be open to a non-party state in some situations. According to Article 35 of the ICJ Statute, a non-party state may access the ICJ under conditions provided by the UN Security Council and subject to the provisions in treaties that were effective when the ICJ Statute took effect. However, these conditions must not create a situation in which parties stand before the ICJ in unequal positions.

An important limitation on ICJ jurisdiction is consent. The ICJ cannot review a dispute between states unless each state involved has recognized its jurisdiction. ICJ decisions are final, binding, and generally not subject to appeal, meaning that they permanently affect the legal rights and obligations of the states involved in the dispute.

The other form of jurisdiction granted to the ICJ is Issuing Advisory Opinions to Public International Organization is The ICJ provides advisory opinions to five UN organs and 16 specialized agencies. While the General Assembly and the Security Council can seek opinions on any topic, other organizations can seek opinions only on topics specifically related to their activities. The UN Secretary-General or the head of the organization seeking an advisory opinion starts the process by submitting a request to the ICJ Registrar. The ICJ

then will gather and review information on the topic through written and oral proceedings as needed.

In response to a request for an advisory opinion, the ICJ identifies the states and public international organizations that could provide useful information. (The member states of the organization requesting an advisory opinion are likely to be among those contacted.) Initially, each state or organization may provide a written statement to the ICJ and potentially written comments on the statements of other states or organizations. The ICJ then has the discretion to schedule oral proceedings. It will release the written statements to the public when the oral proceedings begin.

A key distinction between ICJ judgments and advisory opinions is that advisory opinions are not binding on the organizations that request them. Organizations can determine how much weight to give them. Generally, though, ICJ opinions receive substantial deference. They help shape international law by resolving ambiguities that could cause disputes.

2. Basis of Jurisdiction

The Court's **contentiousjurisdiction** is designed to settle legal disputes between states and is fundamentally grounded in the principle of **state consent**. For a case to be brought before the Court, the states concerned must have accepted its jurisdiction. In practice, such consent may be expressed in three principal ways: through a **specialagreement (compromis)** between the parties for a specific dispute; through **compromissoryclauses** in international treaties that refer disputes to the Court; or through unilateral declarations made under Article 36(2) of the ICJ Statute, by which states recognize the Court's jurisdiction as compulsory in relation to other states accepting the same obligation. This stage is crucial, as the Court—unlike domestic courts—does not possess automatic or universal jurisdiction.

Additionally, as a fourth method that is particularly important to mention, the Forum Prorogatum is one of the ways in which a state accepts the jurisdiction of the International Court of Justice; it refers to a state's acceptance of jurisdiction through its subsequent conduct, even without its prior express consent.

Normally, the ICJ's jurisdiction is based on the explicit consent of states. However, in Forum Prorogatum, even if a state has not initially accepted the court's jurisdiction, it is

deemed to have effectively accepted jurisdiction by subsequently participating in the case, presenting a defense, or addressing the merits before the court. In such cases, the court may proceed with the proceedings, having determined that the state's consent has been established.

In short, Forum Prorogatum is an expansion of the ICJ's jurisdiction through implied consent and serves as an exceptional basis for jurisdiction that provides flexibility in international adjudication.

3. Institution of Proceedings

Once jurisdiction is established, proceedings formally begin with the submission of an application. This may take the form of a unilateral Application instituting proceedings or a jointly submitted special agreement. The case is then entered into the Court's General List, and the respondent state is duly notified. At this point, the respondent may raise preliminary objections, challenging the Court's jurisdiction or the admissibility of the claim. These objections are considered in a separate phase; if upheld, the proceedings terminate, whereas if dismissed, the Court proceeds to examine the merits of the case.

4. Preliminary Phase

The preliminary examination phase is a critical "filter" stage in proceedings before the International Court of Justice that determines whether the case will proceed to the merits. This phase essentially reviews whether the fundamental conditions necessary for the case to proceed legally are met. At this stage, the respondent state typically raises preliminary objections. These objections fall under three main categories: claims that the court lacks jurisdiction, claims that the case is inadmissible, or arguments that the application was not filed in accordance with procedure. For example, a state may argue that there is no valid jurisdiction agreement between the parties or that the dispute falls outside the court's jurisdiction. The court examines these objections in a separate preliminary ruling phase without entering the merits of the case. If the court finds the objections regarding lack of

jurisdiction or inadmissibility to be valid, the case is dismissed before proceeding to the merits. However, if the court rejects these objections, the case automatically proceeds to the substantive trial phase, and written and oral proceedings begin.

5. Merits Phase

The merits phase is conducted in two principal stages. The first is the **written proceedings**, during which the parties submit detailed pleadings, including memorials, counter-memorials, and, where necessary, replies and rejoinders. These written submissions contain not only factual accounts but also comprehensive legal arguments, supported by sources such as international treaties, customary international law, judicial decisions, and scholarly writings. This phase is highly technical and forms the backbone of the case.

Oral hearings constitute the second and dynamic phase of the proceedings before the International Court of Justice and represent a critical stage in which the arguments presented in written pleadings are debated before the Court. This phase takes place in The Hague and involves oral presentations by the representatives of the state's parties, as well as their attorneys and legal advisors. Oral hearings are not merely a repetition of the written phase; rather, they provide the parties with the opportunity to explain their legal arguments in greater depth, respond directly to the opposing party's claims, and answer the judges' questions immediately. During this process, the judges play an active role by questioning the parties' arguments, clarifying ambiguous points, and defining the legal framework of the case.

6. Incidental Proceedings

Incidental proceedings are temporary and auxiliary procedures that arise to supplement the main proceedings while a case is pending before the International Court of Justice. These proceedings are implemented to ensure the smooth progress of the case and to protect the rights of the parties. One of the most important tools in this context is provisional measures. The Court may order provisional measures without waiting for the outcome of the case if there is a risk that one of the parties may suffer irreparable harm. Additionally, the Court may request further evidence on technical or complex issues or seek expert opinions. In

short, incidental proceedings are supportive mechanisms designed to ensure the fair, balanced, and effective conduct of the process, rather than directly deciding the merits of the case.

7. Judgment and Decision-Making

The decision-making process is the most critical stage, beginning after the conclusion of the oral proceedings before the International Court of Justice and determining the legal outcome of the case. Once all evidence, written submissions, and oral arguments have been presented, the judges proceed to closed-door deliberations at the Court's headquarters in The Hague and conduct a detailed review of the case file. During this phase, the judges strive to reach a common legal conclusion based on sources of international law, previous case law, and the arguments presented by the parties.

The deliberation process is entirely closed and conducted free from external influence. The judges first address the admissibility of the case and jurisdictional issues, followed by the substantive legal issues. Decisions are generally made by majority vote; in the event of a tie, the President of the Court's vote is decisive. Each judge is not required to concur with the majority opinion; judges may write a separate opinion or a dissenting opinion containing a completely opposing assessment. These opinions do not affect the binding nature of the decision but enhance the transparency of the legal debate.

The decisions rendered are final and binding on the parties; there is no appeal mechanism. However, in very limited circumstances, a request may be made to revise or interpret a decision if a new and decisive fact emerges. In this way, the decision-making process both produces a final legal resolution and upholds the principles of stability and certainty in international law.

8. Post-Judgment Procedures

The post-judgment process is the phase that begins following the announcement of a judgment by the International Court of Justice and addresses the judgment's effects, implementation, and, to a limited extent, its reconsideration. The judgment is legally binding on the parties; however, this binding nature is based on respect for the international legal system rather than on a direct enforcement mechanism. After the decision is announced, the parties first assess the reasoning and consequences of the judgment. If any uncertainty or difference in interpretation arises regarding the implementation of the judgment, either party may request the court to interpret the decision. Additionally, as a highly exceptional measure, a revision of the decision is possible. Revision may be requested only if a new and decisive fact—unknown to the court at the time the decision was rendered and capable of affecting the outcome—comes to light. For this reason, revision is not a frequently used procedure and is subject to strict conditions.

If a state refuses to comply with an ICJ ruling or decision, the other party may refer the matter to the UN Security Council. The Security Council theoretically has the authority to impose sanctions or take other measures; however, in practice, this process often depends on political balances and does not always result in an effective sanctions mechanism.

Consequently, the post-decision process is based not so much on ensuring the enforcement of the ICJ's ruling as on the interpretation of the decision, its reconsideration in exceptional cases, and its support through political-legal pressure mechanisms within the international system.

9. Advisory Proceedings

The advisory opinion procedure is a special process conducted by the International Court of Justice to clarify a legal question at the request of international organizations, as distinct from its role in resolving contentious disputes between states. In this process, there are no opposing parties; instead, authorities within the international legal order request a legal

interpretation from the Court. Among the most common applicants are the United Nations General Assembly and the United Nations Security Council.

The process begins when the relevant authority sends a formal request to the Court. In this request, a specific question of international law is formulated in a clear and abstract manner. After accepting the request, the Court gives the relevant states and international organizations the opportunity to submit written opinions. This stage allows the parties to present their statements containing their legal analyses and arguments, similar to the written proceedings in contentious cases.

If deemed necessary, the court may also hold oral hearings. However, the purpose of this process is not to determine which party is in the right, but to provide the most accurate and comprehensive answer to the legal question. Judges draw upon sources of international law to form a non-binding opinion on the matter that carries significant legal force.

Advisory opinions are not legally binding; however, they are recognized as an important source of interpretation in international law and may influence the conduct of states, the decisions of international organizations, and even future judicial precedents. For this reason, the advisory opinion process plays a critical role in the International Court of Justice's function of norm-setting and the interpretation of international law.

10. Composition of the Court

The Court's structure is an institutional system designed to safeguard both the independence and international representativeness of the International Court of Justice. The Court consists of 15 independent judges based in The Hague who serve on a permanent basis. These judges are elected for a nine-year term and are eligible for re-election. The election process is conducted simultaneously by both the United Nations General Assembly and the United Nations Security Council, and a candidate must secure a majority vote in both bodies

to be elected. This system aims to ensure that the Court is formed in a manner that is independent of political blocs and maintains a balanced composition.

One of the fundamental principles of the court's structure is that no two judges may be citizens of the same state. This rule was established to prevent national interests from directly influencing court decisions and to ensure global representation. Additionally, care is taken to ensure that judges represent the world's major legal systems and geographic regions. In this way, both different legal traditions and different state perspectives are balanced within the court.

However, an ad hoc judge system is implemented to ensure the full equality of the contracting states before the court. If there is no judge on the bench who is a national of a state party to a case, that state may appoint a judge specifically for that case. This practice serves as an important mechanism for reinforcing the principles of impartiality and balance in the proceedings.

III. Structure of the Case

1. AGREEMENT

DIGITAL RESPONSIBILITY AND CYBER ACTIVITIES AGREEMENT

The Hague, Netherlands

23 October 2014

Introduction

In today's world, advancing technology brings certain complexities and corresponding responsibilities. It is therefore necessary to minimize such complexities and to establish a procedure applicable to any disputes that may arise, as well as to designate a competent judicial authority. The primary objective of this international agreement, concluded among 21 States, is to provide guidance on digital technologies and any complications arising

therefrom. The Agreement was unanimously adopted at a meeting attended by representatives of the 21 States.

Article 1: Purpose

1.1 This Agreement has been concluded to prevent and resolve disputes that may arise from international digital platforms, software, cyber activities, and data processing applications; and to promote the responsible and secure use of digital technologies.

Article 2: Scope

2.1 This Agreement covers cross-border data transfers, digital platform activities, software systems, artificial intelligence applications, and cyber operations.

Article 3:Definitions

3.1Digital Activities: Includes software, online platforms, data processing, artificial intelligence systems, and cyber activities.

3.2Dispute: It refers to disputes arising between the Contracting States as a result of the interpretation, implementation, or breach of digital activities and the implementation of the Agreement.

3.3 Contracting State: Refers to states that are parties to the agreement and have accepted its obligations.

Article 4: Principle of Sovereignty

4.1 The Contracting States shall respect the sovereignty of other States in the conduct of digital activities.

Article 5: Principle of Prevention of Harm

5.1 The Contracting States shall be obliged to prevent digital activities originating from their jurisdiction from causing serious harm to other States.

Article 6: Government Obligations

6.1 The Contracting States shall be responsible for preventing, monitoring, and penalizing cross-border digital data breaches by digital platforms and companies operating within their jurisdictions.

6.2 The Contracting States are required to take reasonable measures to protect the digital rights of their citizens and those of other Contracting States.

6.3 Governments are responsible for ensuring that companies within their borders comply with international obligations regarding data transfers abroad or cyber activities.

Article 7: Data Protection Obligations

7.1 The Contracting States shall take the necessary measures to protect fundamental rights and freedoms in cross-border data processing activities.

Article 8: Cooperation

8.1 The Contracting States shall cooperate with each other in the event of cyber crises and data breaches.

Article 9: Transparency

9.1 The Contracting States shall inform other parties about significant cross-border digital risks.

Article 10: Emergency Response

10.1 In the event of a serious digital breach, the Contracting States shall establish a rapid communication mechanism.

Article 11: Technological Oversight

11.1 The Contracting States may establish technical mechanisms to ensure the oversight of cross-border digital systems.

Article 12: Compensation

12.1A State Party that has suffered damage as a result of a violation of this Agreement may claim appropriate redress and compensation.

Article 13:Resolution of Disputes

13.1 Any dispute arising between the Contracting States concerning the interpretation, application, or violation of the Agreement shall first be resolved through negotiation.

13.2 Disputes that cannot be resolved through negotiations within a reasonable period of time shall be submitted to the International Court of Justice (ICJ) at the request of either party.

13.3 The Contracting States hereby accept the compulsory jurisdiction of the International Court of Justice in respect of disputes arising under this Article.

Article 14: Interim Measures

14.1 The Contracting States may request provisional measures during the period of dispute in order to protect rights and prevent damage.

14.2 The International Court of Justice (ICJ) is authorized to issue provisional measures and ensure their implementation by the parties.

Article 15: Sharing of Information and Evidence

15.1 The Contracting States are obliged to share information and evidence requested by the ICJ in a timely manner.

15.2 Confidential or proprietary information may only be used for the court proceedings and may not be disclosed to third parties.

Article 16: Amendments and Additional Provisions

16.1 The Contracting States may agree to add additional provisions or make amendments to the Agreement.

16.2 Additional provisions and amendments shall neither expand nor restrict the authority of the ICJ; they shall solely clarify the scope of application.

Article 17: Entry into Force and Acceptance by the States Parties

17.1 This Agreement shall enter into force upon the ratification of at least three States.

17.2 The States Parties shall be deemed to have accepted all the provisions of the Agreement as binding upon ratification.

2. DETAILS OF THE DISPUTE

DISPUTE AND FACTUAL BACKGROUND

(GERMANY v. UNITED STATES OFAMERICA)

a. Introduction to the Dispute

The present dispute concerns the conceptual boundaries of state sovereignty and the legal framework regarding state responsibility in the digital age. The Applicant, the Federal Republic of Germany, alleges that the Respondent, the United States of America (USA), has violated international law through a US-based technological entity, PROMETH (Prometheus). The primary contention of the Applicant is that the Respondent state influenced the 2029 German Federal Elections through algorithmic interferences, unlawfully processed the biometric data of German citizens, and deliberately deepened social polarization. Conversely, the Respondent USA contends that the activities in question were exclusively the acts of a private commercial entity, asserting that no responsibility is attributable to the State for such actions, and characterizes Germany's

confiscation of the Frankfurt Data Center as a breach of international investment law obligations.

b. The Rise of PROMETH and Data Mining

PROMETH was established in 2027, headquartered in the United States. Although official records present it as a joint subsidiary of Silicon Valley's three largest tech giants (Aethelgard, NeuroLink, and GlobalSphere), the underlying allegations of the case suggest that this structure is backed by the strategic support of U.S. National Security Units (DARPA-like entities). The strongest basis for these claims is that the company's CEO is a former high-ranking official from the CIA's Directorate of Analysis (DA). Within only two years of its incorporation, the company reached 2.4 billion active users. This figure corresponds to nearly one-third of the global population with internet access. By the end of 2028, following its Initial Public Offering (IPO), it reached a marketcapitalization of 3.2 trillion dollars. PROMETH is not merely a social network; it is a "one-stop" ecosystem where financial transactions, biometric authentication, and news feeds are aggregated. Therefore, its closure or suspension is equivalent to economic suicide for a state. What distinguishes PROMETH from its competitors is that it knows the user better than they know themselves. The AI system collects the following data:

· **Biometric Micro-Responses:** The analysis of involuntary facial muscle movements via optical sensors to detect users' genuine emotional reactions to specific content.

· **Behavioral Data:** Monitoring of scrolling speed and temporal pauses during text input to determine the user's cognitive hesitations or emotional arousal.

· **Biological Data:** Analysis of sleep cycles and geolocation history to identify the periods when the user is most psychologically vulnerable.

The "**Psychological Vulnerability Profile**", which emerges when all these factorsconverge, is a flawless roadmap determining which words can intimidate an individual orwhich visuals can radicalize them. Although the official purpose of the technology is"personalized user experience," leaked whistleblower documents reveal that the

trueobjective is "maximum engagement through emotional polarization." According to theApplicant, these profiles have been utilized as instruments for strategic politicaloperations rather than traditional commercial advertising activities. PROMETH is not anordinary corporation; it is a "Cyber Sovereign."

c. The 2029 Federal Republic of Germany and Its Political Climate

In order to understand the merits of the dispute before the International Court of Justice,an examination of the multidimensional crisis environment in Germany in 2029 isimperative. This period is characterized as an "interim period" where all the pillarsconstructed by the Federal Republic after the Second World War were shaken. As of2029, Germany has officially lost its title as the "Economic Powerhouse of Europe."Caught between the unstoppable rise in energy costs and the US-China trade wars, theGerman automotive giant ecosystem is in a precarious position. Unemployment rates inindustrial cities such as Stuttgart and Wolfsburg have reached double digits (14%) for thefirst time. 48% of the German economy has become dependent on US-based cloud

systems and algorithmic structures such as PROMETH for critical infrastructure and dataprocessing. This situation has sparked heated debates in the doctrine under the heading of"Digital Colonialism." Polls conducted before the 2029 Federal Elections show that thecombined vote share of Germany's traditional "People's Parties" (Volksparteien),CDU/CSU and SPD, has declined to an all-time low of 38%.

The dramatic shift in vote shares was extraordinary. The Far-Right (AfD and itsderivatives) stood at 28% (emerging as the leading party particularly in eastern states anddeindustrialized regions), while the Far-Left (successors of Die Linke and BSW) held19% (a bloc strengthened by anti-capitalist and anti-NATO rhetoric). Meanwhile, theGreens and Liberals were stagnant around the 15% mark, having lost their capacity toform coalitions. The Federal Diet (Bundestag) entered a state of "legislative paralysis" inwhich no party was willing to form a coalition with another.

d. Sociological Fracture

German society has been split into two main camps, completely alienated from one another due to the "echo chambers" created by the PROMETH algorithm: Group 1, the globalist population living in metropolises such as Berlin and Hamburg, who are advocates of digital rights and supporters of refugee integration. Group 2, the group with extreme economic anxieties, who perceive migration as a "cultural invasion" and have been radicalized by the "fear of security" algorithmically fueled by PROMETH. The social trust index has dropped to its lowest level in the last 80 years (22%). The 2029 election year in the Federal Republic of Germany took place during a period where systemic crises, such as economic stagnation, intensifying debates regarding migration policies, and geopolitical tensions within NATO, converged. In this unstable conjuncture, the PROMETH algorithm was rendered operational based on the principle of "maximum engagement through emotional polarization." With this strategy, it was aimed to optimize user engagement through the prioritization of emotionally charged narratives situated at

ideological extremes.

e. Whistleblower and Data Disclosures

Approximately three months before the federal elections, a former senior data engineer of

PROMETH shared the company's internal correspondence, algorithmic diagrams, and content distribution strategies with the public. The disclosed documents indicate the existence of a systematic effort aimed at fragmenting the German electorate and eroding the political center through the promotion of radical narratives:

- **Targeting Far-Right Groups:** Aggressively prioritizing anti-migration narratives,

security concerns, and perceptions of cultural threat.

- **Targeting Far-Left Groups:** Prioritizing anti-capitalist radical narratives and systemic

opposition to NATO structures.

f. Escalation of Tensions: Confiscation of the Frankfurt Data Center

Following the disclosures, the German Federal Government suspended PROMETH's operations within its jurisdiction, citing an imminent threat to national security. Tensions peaked when the PROMETH Data Center in Frankfurt, one of Europe's most comprehensive data repositories, was confiscated via an administrative decision. Germany justifies this action as a legitimate **"countermeasure"** aimed at the preservation of evidence and the neutralization of cyber threats. The USA, on the other hand, characterized this measure as an unlawful seizure of private property and a violation of bilateral investment treaties.

g. Chronology of Key Events

3. LEGAL ANALYSIS AND DISCUSSION: DIGITAL SOVEREIGNTY AND THEBOUNDARIES OF STATE RESPONSIBILITY IN INTERNATIONAL LAW

I. Attribution of Conduct to the State

For state responsibility to arise under international law, two fundamental elements must

exist cumulatively: first, the conduct must constitute a breach of an international obligation (objective element); and second, the conduct must be legally attributable to the state (subjective element). In the PROMETH dispute, given that the company is a private commercial entity, the issue of attribution constitutes the crux of the case.

II. Distinction Between State Organs and Private Actors (ARSIWA Articles 4 and 8)

At the commencement of legal reasoning, the status of the actor must first be determined.

If PROMETH were an official organ of the United States (for example, a unit of an intelligence service), its acts would be automatically attributable to the state pursuant toARSIWA Article 4. However, since PROMETH is a private corporation, Article 8 of the"Draft Articles on Responsibility of States for Internationally Wrongful Acts" (ARSIWA)comes into play. According to this article, the conduct of a person or group shall beconsidered an act of a State if the person or group is in fact acting on the instructions of,or under the direction or control of, that State in carrying out the conduct. The scope ofthe concept of "control" herein has given rise to a historical dispute among internationaljudicial bodies.

1. The "Effective Control" Test (Effective Control Test - Nicaragua Judgment)

The Federal Republic of Germany alleges that the United States of America possesses direct and decisive control over the operational processes and algorithmic strategies of the PROMETH corporation.

Applicant's Perspective: It is asserted that the State in question issued direct instructions regarding the company's specific acts constituting election manipulation, or personally directed and managed these processes by providing financing.

Respondent's Perspective: It is argued that the relevant activities were conducted exclusively through the initiative of a private commercial enterprise, that the State had no operational intervention in these processes, and consequently, the "effective control" threshold was not met.

The International Court of Justice (ICJ), in its Nicaragua judgment, maintained a very high threshold for attribution in order to protect state sovereignty. According to this test, a state's general financing or supporting of a private actor is not sufficient for it to be held responsible for every act of that actor. It is required that the State issued direct instructions or personally directed and managed every stage (at the operational level) of 1 the internationally wrongful act in question .

2. The "Overall Control" Standard (Overall Control Test - Tadić Judgment)

The complex nature of the cyber domain and technological collaborations brings the applicability of the "overall control" test, a more flexible standard of attribution in doctrine, to the forefront. Although the emphasis on "effective control" remains primary in the established jurisprudence of the ICJ, the frequency of cyber interventions executed through non-state actors invites a debate on the necessity of reinterpreting this traditional approach in accordance with modern requirements. Under this standard, the generalorganization of the private actor by the state, the provision of logistical support, and thecoordination of its activities at a strategic level are sufficient for attribution. A distinct"chain of command" is not required for every single instance of the conduct .

III. Violation of the Principle of Non-Intervention

The sovereign equality of states and the principle of non-intervention in internal affairs,protected under Article 2(1) of the United Nations Charter, must be examined in light ofthe nature of activities conducted in the cyber domain. The Federal Republic of Germanyasserts that interference in democratic electoral processes through algorithmicmanipulations constitutes a **"coercive"** attack on a state's right to determine its ownpolitical system. Conversely, the United States of America maintains that

commercialactivities based on information sharing and content optimization do not encompass theelement of "coercion" prohibited under international law; they argue that the will of theelectorate is not absolutely subjugated and that this situation remains within theboundaries of freedom of expression.

IV. Data Protection as Customary International Law

The issue of whether the non-consensual collection and processing of biometric andpsychometric data violates an established rule of customary international law, beyondregional regulations, constitutes another significant dimension of the case. It must beexamined whether the prevalence of data protection regimes worldwide has elevateddigital privacy to the level of an international norm through state practice and opiniojuris.

V . Legality of Countermeasures

Whether the action of confiscating the Frankfurt data center by Germany constitutes alegitimate countermeasure under international law or a wrongful act must be analyzedwithin the framework of ARSIWA.

4. SUMMARY OF CORE QUESTIONS TO BE ADDRESSED

1) Were the acts of the PROMETH corporation executed under the "effective control" of the United States of America?

2) Do the algorithmic manipulation activities exceed the threshold of "coercive interference" prohibited under international law?

3) Can the act of confiscating the data center be characterized as a legitimate countermeasure in light of the principles of proportionality and necessity?

4) Have the norms of digital privacy and data security begun to acquire the character of "jus cogens" (peremptory norms) in the cyber domain?

5) In modern legal debates, the machine learning capability of the algorithm challenges the theory of attribution. If the USA established the algorithm with a general parameter such as "analyze the political inclinations of the German people," but the algorithm developed its own methods (micro-targeting) to achieve this result, does this constitute a "specific instruction" within the meaning of *Nicaragua*?

6) Can the USA be held responsible even in the absence of a specific instruction? To what extent do the autonomous decisions of the algorithm intersect with the initial "direction" provided by the State?

7) If only "effective control" is sought (in the context of *Nicaragua*), can states systematically violate international law by hiding behind AI systems and face no legal sanctions (impunity)?

8) If a state's oil or minerals are within its sovereign domain, are the biometric and psychological data of its citizens also a "national asset"? Is the collective data of the people a natural resource of that state? In this context, does "digital colonialism" occur?

This case before the ICJ is the greatest test of international law in the digital age. TheCourt's decision will redefine the concept of digital sovereignty.

IV. Applicable Law

1. State Sovereignty and the Prohibition of Intervention

Rule: States may not intervene in the internal affairs of other states.

Legal Basis: United Nations Charter, Article 2(1) - Customary international law

2. The Element of "Coercion" in the Prohibition on Intervention

Rule: For an intervention to be deemed unlawful, it must be coercive.

Legal Basis: Nicaragua v. United States decision – Customary international law

3. State Responsibility

Rule: For a state to be held responsible,there must be an act contrary to international law, andthat act must be attributable to the state

Legal Basis: ARSIWA Article 2

4. Acts of State Organs

Rule: All acts performed by state organs are directly attributed to the state.

Legal Basis: ARSIWA Article 4

5. Attribution of Acts of Private Individuals to the State

Rule: Private individuals are attributable to the state only in the following circumstances:

- if there is an order
- if there is direction
- if there is control

Legal Basis:ARSIWA Article 8

6. Effective Control Test

Rule: The state must have established direct and operational control over specific actions.

Legal Basis: Nicaragua v. United States

7. Overall Control Test

Rule: It may be sufficient to attribute to the State:

- **the general organization**
- **strategic direction**

Legal Basis: Prosecutor v. Tadić

8. Principle of Sovereignty (Including Cyberspace)

Rule: States have sovereignty over their own territories and systems.

Legal Basis: UN Charter Article 2(1) – Customary international law

9. Data Protection and Digital Privacy

Rule: Individuals' data must not be processed without their consent.

Legal Basis: General Data Protection Regulation

10. Countermeasures

Rule: A state may take measures in response to an unlawful act.

Legal Basis: ARSIWA Article 22 etc.

Conditions:

- Must be proportionate
- Must be necessary
- Must be temporary

11. The Principle of Proportionality and Necessity

Rule: The measure taken must be proportionate to the violation.

Legal Basis: ARSIWA – Customary law

12. Investment Law and Protection of Property

Rule: States may not arbitrarily expropriate the property of foreign investors.

Legal Basis: Bilateral Investment Treaties (BITs) - International Investment Law

13. The Debate on "Jus Cogens" in International Law

Rule: Certain norms are absolutely binding (jus cogens)

Legal Basis: General doctrine of international law

INTERNATIONAL COURT OF JUSTICE

RULES OF PROCEDURE

A. GENERAL PROVISIONS

Article 1: Scope

- *Rules of Procedure* have been accepted prior to the court hearing and cannot appeal.
- *Rules of Procedure* apply throughout the conference. However, The Secretariat and The President of the Court have the right to interpret the Rules of Procedure in accordance with their purpose and spirit and to exercise initiative when necessary.

Article 2: Official Language

- The official language of the conference is English, and no other languages will be accepted.

Article 3: Dress Code

- Formal attire is required throughout the conference.

Article 4: Electronic Devices

- The President Judge may allow participants to use electronic devices.
- Electronic devices may only be used for research purposes.

Article 5: Rules of Courtesy and Discipline

- Participants are required to show diplomatic courtesy throughout the conference.
- If a participant consistently behaves in a manner contrary to the Rules of Procedure, the President of the Court may issue a formal warning.

Article 6: Note Passing

- Communication between participants can only be established through message papers. No other ways of communication are permitted.
- Communication between opposing parties, between parties and Judges is strictly prohibited.

Article 7: Quorum

- The quorum is achieved with a simple majority of Judges and one Counsel for each party.

- Confirmation of the quorum is done by roll-call.
- Participants who arrive late to the session are expected to send a message paper to the President Judge.
- The quorum for a decision is determined by a simple majority of the judges.

Article 8: Roll-Call

- At the beginning of each session, the President Judge reads out the surnames of the participants.
- Participants who indicate that they are "present" may participate in the hearing and voting.
- Participants who arrive late for roll-call should notify the President Judge via message paper.

B. COMPOSITION OF THE COURT

Article 9: Members of the Court

- The court consists of a President Judge, 14 Judges and two Counsels for each party.

Article 10: President Judge

- The President Judge is the moderator of the hearings and the representative of the Secretariat. She/ He is responsible for the application of procedural rules.
- Must remain impartial throughout the conference.
- Her/ His vote is equal to the votes of the other judges.
- Compliance with procedural rules is ensured.

Article 11: Judges

- Judges are obliged to determine the relevant facts of the case and apply the relevant ruling accordingly.
- Judges' statements must be based on legal grounds.
- Judges must remain impartial throughout the proceedings. Otherwise, an official warning will be issued.
- The confidentiality of hearings must be maintained. Judges who violate the principle of confidentiality will be warned.
- Judges may ask questions to Counsels during oral proceedings.
- All judges' votes are equal.
- Compliance with procedural rules is ensured.

Article 12: Counsels

- Advocates are representatives of their party.

- The Advocates are required to serve in the best interests in all actions relating to the proceedings.
- The Applicant Party shall submit a *memorial* and the Respondent Party submit a *counter-memorial* in designated deadlines before the oral proceedings take place.
- Memorials and counter-memorials are submissions made by the Applicant and Respondent, respectively. They shall contain relevant facts, legal principles, and a concluding submission.
- Advocates are not eligible to vote.
- Advocates will be excluded during the deliberations.
- Compliance with procedural rules is ensured.

C. ORAL PROCEEDINGS BEFORE THE COURT

Article 13: Oaths

- All participants shall give their oaths before starting to perform their duties. Oaths shall be taken by The President Judge.
- The oath to be taken by Judges and President Judge is as follows:

"I solemnly declare that I will exercise my functions as a judge honorably, independently and impartially and that I will keep secret all deliberations."

- The oath to be taken by Advocates is as follows:

I solemnly declare upon my conscious and my honor that

I will speak the truth, the whole truth, and nothing but the truth.

Article 14: Opening Statements

- Opening statements should highlight and explain the arguments put forward in the parties' written memorials. It is strongly recommended that statements be made orally rather than in written text.
- First, Applicant Party gives their speech and then Respondent Party follows.
- Statements cannot divided into two. Only one Counsel can give their party's speech.
- Judges cannot ask question while Counsels giving their speeches.
- The duration of statements shall be announced by The Presidency and the duration is equal to both parties.

Article 15: Evidence Presentations

- First, the Applicant Party presents their evidence and then Respondent Party presents their evidence.

- The parties may submit any evidence supporting the case, such as legal sources, reports, decisions of international organizations, news articles, maps, graphs, videos, photographs and written statements from experts.
- After presenting an evidence, the Counsels explains its context.
- Each piece of evidence must be submitted to the Court before it is presented.
- The Court may freely evaluate all evidence presented, within its discretion, to determine its relevance or admissibility.
- Judges will be allowed to ask any type of questions (which is relevant) after the presentation.
- The other party's objections will be accepted during the presentation of evidence by the opposing party.
- Objections may interrupt the speaker.

Objection types which are in order:

- *Irrelevant*
- *Immaterial*
- *Prejudicial*
- *Improper*
- *Badgering the Witness*
- Evidence ruled Immaterial shall not be considered by the Court. The Judges cannot refer to an evidence ruled Immaterial in the Verdict.
- The presentation phase may be split between the Counsels; however, no Counsel may be granted the floor twice during the evidence presentation phase.

- The Presidency shall announce the duration of presentations and the duration is equal to both parties.

Article 16: Rebuttals and Surrebuttals

- This stage is carried out in order to refute the arguments presented by the other party in previous sessions and to address one's own shortcomings.
- Rebuttals may include previous evidence, questions from Judges, witness and expert statements.
- First, the Applicant submits its response, followed by the Respondent submitting its second response.
- The second answer should be limited to the content included in the answer.
- The parties may divide this phase between two Counsels.
- Objections is perfectly in order in this phase.
- Presenting new arguments is in this phase is prohibited.
- The Presidency shall announce the duration of this phase and the duration is equal to both parties.

Article 17: Questioning Parties by the Judges

- Each Judge shall ask one question at a time, but the number of questions per Judge shall not be limited. But based on time, The President Judge may limit the number of the questions.

- Presidency may allow follow-up questions if the Judge whose question has just been answered raises the request. The Presidency shall have the discretion about allowing follow- up questions or do not.
- The President Judge will ask the counsels "Are you accepting this question or not."
- Questions that are not accepted will be considered unasked.
- The Judges cannot ask leading questions, they only may ask questions that are clearing the case.

Article 18: Closing Statements

- In this phase, parties shall briefly summarize what they have proven and discussed on the previous phases.
- First Applicant Party start with their statements and then Respondent Party follows.
- Only one Counsel is allowed to make their speech, it cannot be divided into two.
- Judges are not allowed to ask any type of questions during the closing statements.
- Duration time will announce by the Presidency, and it will be equal for both parties.

D. RULES GOVERNING THE DELIBERATIONS OF THE JUDGES

Article 19: Deliberations of the Judges

- After each oral hearing, the Judges deliberate on the arguments, evidence and testimony presented.
- Confidentiality is strictly maintained during and after the deliberation process.
- During the deliberation process, Judges speak in order and may not interrupt each other. There is no time limit, but care must be taken to ensure that speeches do not extend the process.
- Motions shall be taken by the President Judge and Judges shall be bound to follow this order.
- The duration time will be announced by the Presidency.
- The Presidency may terminate the deliberation phase when they decide that the discussion is exhausted etc.

Article 20: Tour de Table

- Each deliberation process starts with Tour de Table.
- In this process each Judge must give a speech.
- The order of speaking will proceed according to the order of the Court.
- Duration time will announce by the president judge and equal for the all judges.

Article 21: Witness Testimony

- Before closing statements, parties may present their witnesses.

- Each party may present 2 witnesses.
- The list of the witnesses should be submitted during the Written Proceedings stating their names, professions and their relevancy to the case.
- At the beginning Applicant Party will present their first witness, after testimony the right to ask question belongs to Applicant Party. Then Respondent Party may ask after Applicant Party finishes their interrogation. At the end Judges have right to ask questions to witness.
- It will be the same process for the Respondent's witness. (Witness gives the speech, Respondent Party interrogate, Applicant Party interrogate, Judges interrogate.)
- Objections while other party interrogating their witness is in order.
- Parties cannot give objection to the Judges' questions.

E. POINTS

1. **Point of Parliamentary Inquiry:** This point may rise directly to the President Judge if there is a question regarding the Rules of Procedure. The President Judge shall clarify the matter.

2. **Point of Personal Privilege:** Members of the Court may request the President to intervene provided that a situation prevents their ability to participate in the proceedings through a "Point of Personal Privilege". (Participants may use message papers.)

3. **Point of Order:** If a court member notices an incorrect application of the Rules Procedure may raise a Point of Order directly to the Presidency. The President Judge considers the point and evaluates the implementation. The President Judge gives the final decision.

F. JUDGEMENT

1. The Judgement is the final document of The Court.
2. Judges are expected to write a Judgement on the merits of the case.
3. The Judgment shall include the following elements, where applicable:

• Heading (Name of the Case)

• Date

• Name of the Advocates for the Applicant Party

• Name of the Advocates for the Respondent Party

• Procedural History of the Case

• Submissions of the Applicant Party

• Submissions of the Respondent Part

• Statement of Facts

• The Applied Law

• The Decision

• Concurring Opinions

• Dissenting Opinions

• Declaration

4. Judges who are in the minority may submit their dissenting opinions in groups or individually.

5. Judges who are in the majority but have concluded on different and/or additional legal grounds may submit their concurring opinions in groups or individually.

6. A Judgement shall pass with the simple majority of Judges.

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