



**THE CASE CONCERNING THE SECESSION
OF RACEL FROM BELLONA AND
SUBSEQUENT ECONOMIC MEASURES
IMPOSED BY RACEL ON ANLUSAN
(Federation of Anlusan / Republic of Racel)**

RECORD
Third Annual
Teehankee Center for the Rule of Law
Moot Court Competition
2017

**SPECIAL AGREEMENT
BETWEEN
THE FEDERATION OF ANLUSAN AND THE REPUBLIC OF RACEL
FOR SUBMISSION TO THE
INTERNATIONAL COURT OF JUSTICE
ON THE DIFFERENCES BETWEEN THEM CONCERNING
THE SECESSION OF RACEL FROM BELLONA AND SUBSEQUENT ECONOMIC
MEASURES IMPOSED BY RACEL ON ANLUSAN**

The Federation of Anlusan and the Republic of Racel (hereinafter referred to as “the Parties”),

Considering that differences have arisen between them concerning the secession referendum in the Racel region of Bellona and subsequent economic measures imposed by Racel on Anlusan;

Recognising that the Parties concerned have been unable to settle these differences by negotiation; and

Desiring to define the issues to be submitted to the International Court of Justice (“the Court”) for settling this dispute;

In furtherance thereof, the Parties have concluded the following Special Agreement:

Article 1

The Parties submit the question contained in the Special Agreement (together with Corrections and/or Clarifications to follow) (“the Case”) to the Court pursuant to Article 40 (1) of the Statute of the Court.

Article 2

It is agreed by the Parties that the Federation of Anlusan shall act as the Applicant and the Republic of Racel as the 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 general international law, as well as any applicable treaties.
- (b) The Court if 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) All questions of procedure and rules shall be regulated in accordance with the provisions of the Official Rules of the 2017 Teehankee Center for the Rule of Law 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 2017 Teehankee Center for the Rule of Law 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 authorized, have signed the present Special Agreement and have affixed thereto their respective seals of office.

Done in The Hague, The Netherlands, this first day of July in the year two thousand seventeen, in triplicate in the English language.

Rei Paz Varcena
Ambassador of the Federation
of Anlusan to the Kingdom of
The Netherlands

Deslor Cado Bruel
Ambassador of the Republic
of Racel to the Kingdom of
The Netherlands

Federation of Anlusan v. Republic of Racel

THE SECESSION OF RACEL FROM BELLONA AND SUBSEQUENT ECONOMIC MEASURES IMPOSED BY RACEL ON ANLUSAN

1. The Federation of Anlusan is the northernmost country in the continent of Exelsia and has a land area of 12 million square kilometers, stretching from the Taiga Sea to the Placido Ocean. It has a population of 150 million. It was once the seat of the Sephrino Empire which was dissolved in 1917 after the Great War of Exelsia. Its capital is Anjak. To its south is Lake Chernob, and to its southeast is Bellona.
2. Anlusan's government fully owns Satellite Corporation, which broadcasts news through television, radio, social media, and its own website. Activists from around the world accuse the corporation of being extremely sympathetic to the State.
3. Bellona is located southeast of Anlusan, bordered by Lake Chernob to the west, by Lerunic to the east, and by the Flovire to the south. It has a population of 30 million and has a land area of 3 million square kilometers. Bellona, Lerunic, and Flovire were formerly part of the Sephrino Empire but gained independence during the Great War of Exelsia. Its capital is Helan.
4. Bellona has grown wealthy after the discovery of nickel, platinum, and oil deposits in its Racel region near Lake Chernob. The Racel region produces the most steel in the whole Exelsia continent, together with Flovire and Lerunic. Bellona's mineral wealth has led Anlusan to cultivate a close relationship with it to supply its growing needs.
5. The Racel region has previously attempted to secede from Bellona on account of persecution of the indigenous Racelians who have been exploited by Anlusanian and Bellonese oil and steel magnates. A strike in 1925 by the Racelians against the oil corporations was violently dispersed, with 30 workers killed. It was followed by another bloody strike in 1941 which left 50 casualties. In 1961 and 1975, Racelians attempted to secede due to discrimination against indigenous Racelians and repeated violations of their right to peacefully assemble and strike. These were quickly suppressed.
6. Anlusan and Bellona are among 15 states in Exelsia once belonged to the Exelsia Free Trade Area. In 1990, the 17 States sought to become a fully integrated single market by 2020 (see Annex A). Among the sectors to be liberalized are media, telecommunications and energy. In line with this, the states have an Open Data Agreement to curb censorship and to enhance information sharing in the region (see Annex B). Further, up to 80% of equity can be owned by other Exelsian states in these sectors.

7. Feznote is a social media site where one can create an online profile and post photos, videos and documents. It has 900 million users. Chirper is a micro-blogging site where one can post “Chirps,” or messages of less than 200 characters. The site has 500 million users. Both networks, with confidence in the integration of the Exelsian states and in the competitiveness of Anlusan, set up their Exelsia headquarters in the city. International and regional news outlets such as CMN, BSC, and Jal-El have offices in Anlusan.
8. The Racel region of Bellona has been restive in the past few years, due to its residents’ discontent with the national government’s profit-sharing scheme from the extraction of minerals and oil. The extracting corporations receive 50% of all revenues from extraction and sale of the minerals. The national government receives 30% of the revenues. The region of Racel only receives 20% of the revenue.
9. In August 2015, Racelian residents staged protests in front of the Bellona Parliament, demanding more infrastructure and development projects to enhance their lives. Bellonese police officers dispersed the protestors with tear gas and water cannons. The Bellonese government refused to change the profit-sharing system, claiming that it was the best way to apportion the revenues from mining.
10. The protests were led by Eline Myragi, a twenty-five year old lawyer and daughter of indigenous Racelian nickel miners. She wrote to community leaders in Racel and criticized the Bellonese mineral and oil extraction policy through fiery public speeches, streamed on Feznote and Chirper. She also reminded the people of the bloody strikes of 1925 and 1941 which killed Racelian workers and Racel’s failed attempts to secede from Bellona. This led to residents of Racel to clamor for secession.
11. After receiving thousands of letters, videos, and Chirps, Racel’s representatives passed a bill in February 2016 calling for a secession referendum in Racel. Under Bellona’s Constitution, a call for such referendum requires 2/3 of the Parliament to approve it.
12. After several debates, three-fourths of the Parliament approved the bill in May 2016, owing to several factors: the declining popularity of the President, the non-stop protests of the Racelians, pressure from international NGOs, and reports that steel and oil companies have begun dealing with community leaders in Racel instead of the Bellona government. The day of the referendum was set on November 8, 2016.
13. Anlusan and other Exelsian states expressed their concerns over the growing violence in Bellona and exhorted its government to hold a fair and free referendum. Anlusan’s foreign affairs minister, Faril Garcha, said in an interview that he would prefer that Racel remain in Bellona on account of Anlusan and Bellona’s good trading relationship.

14. On November 5, 2016, 9:15 P.M., several social media users of Chirper and Feznote in Bellona, especially in Racel, complained that they were bombarded with messages saying that Racel would be in danger should they secede from Bellona. Some posts also tried to discredit Myragi by releasing leaked emails and personal messages, alleging that she was conspiring with certain states in Exelsia to grant them preferential trading rights to Racelian steel and oil. Throughout the night, the hostile messages multiplied. A Racelian Chirper user submitted a screenshot of some Chirps pertaining to the secession:

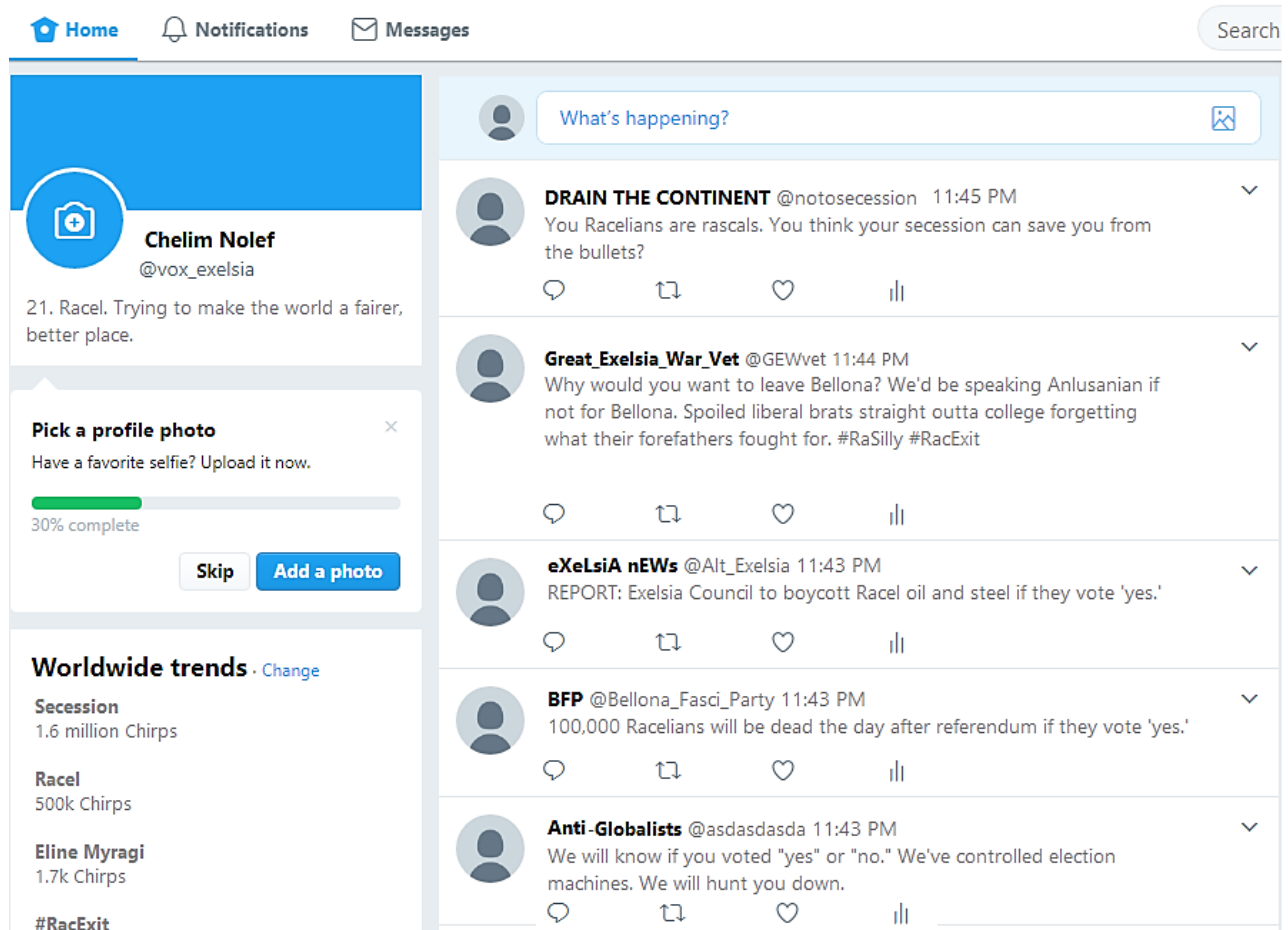


Figure 1. Chirper messages received by a Racelian Chirper User

15. In addition to these posts, videos featuring masked assailants threatening armed attacks against the people of Racel interrupted the regular programming of Satellite's broadcasts. Such videos found themselves livestreamed in Satellite's social media pages. International networks with their Exelsia headquarters in Anlusan like CBN, BSC, and Jal-El also carried the news.

16. The President of Bellona, Anzi Olandes, ordered a media blackout to prevent the broadcast of such messages and to protect the integrity of the referendum. However, the

order did not cover social media since the President of Bellona was wary of violating the Open Data Agreement of the Exelsia economic community. Satellite, the social media companies, and the international news companies continued to broadcast the videos.

17. On November 8, 2016, a fisherman saw army tanks without markings and armed men with sniper rifles lined up on the Anlusanian side of Lake Chernobyl, all pointing to the direction of Racel. At 4:00 A.M., three hours before the opening of polls, residents were informed of this development through the news.
18. Because of the news, many people from Racel shuttered their houses in fear of the mysterious militants on the shores of Lake Chernobyl. At 5:00 A.M., Anlusanian navy patrol boats sailed towards the Bellonese side of the lake, initially driving away the tanks.
19. Voting started at 7:30 A.M. The turnout only reached 30% or 4.5 million voters at the close of the polls due to people fearing for their security. Even when the unidentified forces had disappeared, the Anlusanian navy patrol remained on the Bellonese side of the lake, drawing the ire of some secessionists. The patrol boats left at 4:45 P.M.
20. The polls closed at 5:00 P.M. On November 15, 2016, the Parliament announced that 90% of Racelians chose to remain in Bellona, while only 10% wanted to secede. During the exit polls, 70% of “remain” voters chose such because they were disturbed by the Chirps and the videos broadcast on both Satellite and the international news channels.
21. Flovire and Lerunic, Bellona’s neighbors, denounced the actions of the Anlusanian navy. Flovire’s President, Bakar Bamo, and Lerunic’s Prime Minister, Ella Kelmer, issued a joint statement claiming that the referendum was a sham because the navy was sent to intimidate Racelians into remaining in Bellona so that Anlusan can keep its cheap steel.
22. Anlusan denied that the presence of the military was to intimidate Racel into staying with Bellona. Anlusan claimed that its military intervened after receiving reports of unidentified tanks. It also said that the Anlusanian military did not threaten Racelians in any way but protected them from the unidentified tanks instead.
23. Seventy-two hours later, an independent analysis done by Exelsia security experts traced the Chirps to computers from Anlusan. One of the IP addresses was similar to the addresses of computers of the Anlusanian intelligence service. Another IP address indicated the servers of Satellite. However, most of the IP addresses showed mixed origins in the Exelsia economic area. Flovirien’s cybersecurity head, Luen Croman, reported that 10% of the videos were from Anlusanian government computers, 10% were from private Bellonese computers, and 80% were unidentified.

24. Some Bellonese politicians accused Anlusan of spreading misinformation and committing acts of terror through social media while the others chastised their colleagues, saying that no link was been established by investigators. Racelian parliamentary representatives accused the latter of being traitors to the sovereignty of Bellona.
25. Anlusan denied any intervention, saying that such was the work of rogue elements. It showed an official report that its Press Office was hacked. On February 14, 2017, some Anlusanian patrol boats were seen scouting Lake Cherno near its Bellonese side for 3 hours. Hostile Chirps continued to be sent to Racelian social media users.
26. Deeply angered by the failure of the referendum, some residents of Racel, led by Eline Myragi, took up arms. They drove away Bellonese government officials, overran the military camp in the area, and posted armed men at the borders of Racel.
27. On February 28, 2017, Myragi declared Racel's independence after President Olandes agreed to pull out all police, military and administrative presence in the region. The new Republic of Racel sent diplomatic correspondences to other countries within the Exelsia free trade area. All Exelsian states except Anlusan sent diplomatic personnel. On March 1, 2017, Myragi was inaugurated as President of Racel.
28. Racel's Revolutionary Congress was quickly formed. On March 15, 2017, it passed laws aimed to impose sanctions on Anlusan. It disallowed foreign ownership of media and employed government security experts to put up a firewall against any Internet content originating from Anlusan.
29. Anlusan's Prime Minister, Valdi Primut, denounced the practice, citing it as a breach of the Open Data Agreement signed by Anlusan and Bellona as part of the integrated economic community and free trade area. He also reminded Racel that as successor state to Bellona, it was bound by all the agreements signed by its predecessor.
30. President Myragi answered Prime Minister Primut through a televised interview. She said that World Trade Organization rules allow derogations in case of emergencies. She further went on a tirade about how Anlusan violated the right of the Racelians to self-determination by harassing them before and on the day of the referendum.
31. On March 29, 2017, the Revolutionary Congress passed additional sanctions, resolving to cut off all shipments of nickel and oil to Anlusan. All mining and oil corporations of Anlusanian origin were told to leave Racel or their facilities be expropriated by the Racelian government. Meanwhile, Chirps from those who disapproved of the secession continued to flood the social media accounts of Racelian citizens.

32. The loss of a stable oil and nickel supply led to massive fluctuations in the price of basic commodities. Further, the banishment of Anlusanian mining and oil companies led to the loss of at least 10,000,000 jobs. In April, the unemployment rate was pegged at 15%, the first time that Anlusan ever had double digit unemployment. GDP growth fell from 5% in March to 0.5% in April.
33. In order to save its industries, the Prime Minister of Anlusan ordered the state's top diplomats to hold talks with President Myragi and the leaders of the Revolutionary Congress. Talks started in May of 2017 but broke down in July 2017 due to Racel's accusations that Anlusan funded the sudden influx of Chirps and military presence.
34. With both states unable to settle their differences, the Federation of Anlusan and the Republic of Racel agreed to submit the case to the International Court of Justice through a special agreement pursuant to Article 40 of the ICJ Statute.
35. The Federation of Anlusan prays that the Court lift the sanctions imposed by the Republic of Racel. It argues that these violated the Open Data Agreement signed by Bellona, Racel's predecessor state. All the agreements signed by Bellona bind Racel.
36. The Republic of Racel said that preparatory treaty for the formation of the Exelsia economic community provides that the only way by which a state can become part of the economic community is by application. Racel also cites the need to preserve the State from destabilizing elements as an exemption from fulfilling its treaty obligations. Further, Racel stated that Anlusan and the media companies violated its self-determination by posting armed men in the area during the secession referendum and by allowing the menacing videos to be streamed despite the blackout ordered by President Olandes.
37. Anlusan disowned the hacking incident and claimed that the intelligence services suffered a massive hack of its own computers. Such was the work of rogue hackers and not the State. It further stated that Racel had no proof of any act of intervention.
38. The Federation of Anlusan and the Republic of Racel have both ratified the following treaties and conventions:
 - Charter of the United Nations
 - Vienna Convention on the Law of Treaties
 - International Covenant on Civil and Political Rights
 - International Covenant on Economic, Social and Cultural Rights
 - The Four Geneva Conventions and the Additional Protocols
 - Agreement Establishing the WTO
 - General Agreement on Tariffs and Trade

- General Agreement on Trade in Services
- Comprehensive Convention on International Terrorism
- Convention Against Corruption
- United Nations Convention on the Use of Electronic Communications in International Contracts
- Convention on Transnational Organized Crime

39. The following are the issues to be resolved:

- I. Whether or not the ICJ has jurisdiction over the case
- II. Whether or not Anlusan can be held responsible for committing an internationally wrongful act for the supposed intervention in the elections
- III. Whether or not Satellite, Feznote, Chirper, and the international media companies can be held responsible under international law for the spread of the videos and hostile messages before the election
- IV. Whether or not the sanctions imposed by Racel are justified under international law

ANNEX A
Selected Provisions of the
Charter Creating the Exelsia Economic Community

The Parties to this Agreement,

REAFFIRMING the commitment of the Parties to promote regional co-operation in Exelsia in the spirit of equality and partnership and thereby contribute towards peace, progress and prosperity in the region,

RECOGNISING the need to remove barriers in the trade of goods and services pursuant to the aims of the global trade regime and to promote growth for all States in Exelsia to achieve regional co-operation,

CONVINCED that an essential means to achieve such collective action is the conclusion and effective implementation of an Agreement, Have agreed as follows:

PART I. GENERAL PROVISIONS

x x x

Article 5
Membership

1. All original signatories of this Agreement are admitted into the Exelsia Economic Community. States which elect to enter the Exelsia Economic Community after the entry into force of this Agreement must comply with the following requirements:
 - a. Submission of an application form to the Secretariat
 - b. Undertaking to Abide by the Charter of the Exelsia Economic Community
 - c. Five-Year Report on Trade Liberalization Activities
 - d. Conference with the Exelsia Trade Ministry to be scheduled by the Secretariat

ANNEX B
Selected Provisions of the
Exelsia Open Data Agreement

The Parties to this Agreement,

REAFFIRMING the commitment of the Parties to promote the right to free speech of its citizens through the removal of repressive and / or unnecessary regulations on content in the Internet and new media arising therefrom

RECOGNISING the need to remove barriers in the flow of information for all Parties to achieve greater fulfilment of the rights to free speech and freedom of information, and to assist in regional development

CONVINCED that an essential means to achieve such collective action is the conclusion and effective implementation of an Agreement, Have agreed as follows:

x x x

Article 20
Prohibitions

The following are prohibited acts under the Agreement:

1. Creation of government-sponsored firewalls
2. Government intervention in social networks
3. Censorship of content addressing political, social, and economic issues
4. Unauthorized access, surveillance, or use of public and private computer systems
5. Internet blackouts

Article 21
Exceptions

States undertake voluntarily to adhere to the provisions of this Agreement but may derogate therefrom in the following cases:

1. When the acts of the State are authorized by the decisions or resolutions of a duly constituted, competent, and impartial court
2. In times of war, invasion, or rebellion, following domestic legislation on the declaration of such;

3. When the content incites rebellion, sedition, treason, and other high crimes;
4. When the content encourages the commission of crimes punishable under domestic and international law, including, but not limited to:
 - a. Kidnapping or abduction
 - b. Money laundering
 - c. Bribery
 - d. Corruption
 - e. Terrorism
 - f. Homicide or Murder
 - g. Robbery
 - h. Destruction of Public Property
5. When the content incites hate or violence against certain groups on account of their race, ethnicity, sex, gender, religion, or political affiliation;
6. When malware or viruses are included in software and messages; and
7. When persons or software illegally engage in cyber-surveillance or illegal access of computer systems