

King Bell

Introduction

1. In November 2022, the Minister of State Katja Keul of the Federal Republic of Germany's Foreign Office visited Cameroon commemorating King Rudolf Manga Bell. She began her speech as follows: *“Colonialism led to unimaginable suffering. It destroyed the lives of many people in Africa. King Rudolf Manga Bell was one of them. We are standing today at the spot where he and his comrade-in-arms Ngoso Din were hanged in 1914. They were executed by the German colonial administration – in the name of the German people. This sentence was not an act of justice, but one of injustice.”*¹

2. Our case-study will focus on King Rudolf Manga Bell. Unless stated otherwise within this case-study, all events are historical. By contrast, the arbitrations were invented for purposes of the Moot. The participants are to assume that all sources of and authorities on international law as of 1 June 2024 applied throughout the below events, with the exception of Appendix II of the Arbitration Rules of the Stockholm Chamber of Commerce (“SCC”) Arbitration Institute which the participants should assume to have entered into force on 1 January 1900. Provisions from national laws will not be relevant for the purposes of the Moot unless they are quoted in *verbatim* in this case-study or concern Chapter 12 of the Federal Act on Private International Law Act of Switzerland (which in its form and translation uploaded to the Moot's homepage should also be assumed to have applied at the time of the events set out below).²

The Facts (Part I)

3. In 1884, the town of Douala, on the estuary of the Wouri River in Central Africa, was flourishing. There were shops. There were multi-storey buildings. There were wide streets. Douala was a trading town bringing together people from Africa and Europe. It was the town where the indigenous population traded goods such as rubber, palm products and ivory with the Germans. The main German trading houses facilitating this trade operated under the names of C. Woermann and Jantzen & Thormählen.

4. On 12 July 1884, the kings and chiefs of the Douala people and the representatives of the two German trading houses mentioned above signed an agreement. This agreement was concluded in the English language. It states:

¹ Speech by Minister of State Katja Keul on the occasion of a wreath-laying ceremony at the site of the execution of Rudolf Manga Bell in Cameroon, 2 November 2022, available at: Speech by Minister of State Katja Keul on the occasion of a wreath-laying ceremony at the site of the execution of Rudolf Manga Bell in Cameroon - Federal Foreign Office (auswaertiges-amt.de) (last accessed: 18 December 2023).

² Neither this introduction nor the sources referenced in the footnotes are part of the case-study. The historical sources and documents span many hundreds of pages given the detailed collection of the *Bundesarchiv* (federal archive) of the Federal Republic of Germany. For the purposes of the Moot, the chain of events has been summarized. Documents from the *Bundesarchiv* or other primary or secondary sources are not part of the case-study.

“We, the undersigned independent Kings and Chiefs of the country called ‘Cameroon’ situated on the Cameroon river, between the river Bimbina on the north side, the river Qua-Qua on the south side and up to 4°10’ North have in a meeting held today in the German Factory on King Aqua’s beach voluntarily concluded as follows:

We give this day our rights of Sovereignty, the legislation and the management of this our country entirely up to Mr. Eduard Schmidt acting for the firm C. Woerrmann and Mr. Johannes Voss acting for Messrs. Jantzen & Thormahlen, both in Hamburg and for many years trading in the river.

We have conveyed our rights of Sovereignty, the legislation of management of this our country to the firms mentioned above under the following reservations:

- 1) under reservations of the rights of third persons;
- 2) reserving that all friendship and commercial treaties made before with other foreign governments shall have full power;
- 3) that the land cultivated by us now and the places, the towns are built on shall be the property of the present owners and their successors;
- 4) the *Kumi* [tax paid by the German Factory] shall be paid annually as it has been paid to the Kings and Chiefs before;
- 5) that during the first time of establishing an administration here, our country fashions will be respected.”³

5. For the purposes of the Moot, the participants are to assume that this agreement also included the following (fictional) clause:

“If a dispute regarding this agreement arises and cannot be resolved any member of the Douala people may submit his or her claims a) to an ad hoc arbitration tribunal, established by special agreement between the parties to the dispute; or b) to any other arbitration institution or in compliance with any other arbitration rules. This agreement shall be governed by and interpreted in accordance with the principles of law of the German Empire common to the principles of international law, and in the absence of such common principles then by and in accordance with the general principles of law as may have been applied by international tribunals.”

6. For purposes of the Moot, the participants should furthermore assume that any national provisions under German law with regard to ratification matters were complied with.

³ A scan of a duplicate of the original is shown in Museum am Rothenbaum (ed.), *Hey, kennst du Rudolf Manga Bell? Exhibit Catalogue* (Hamburg, 2022), p. 88-89.

7. Also on 12 July 1984, a second document was issued. It was concluded in the English language, but with few passages in German. It states in *verbatim* (with the comments in brackets being added by the authors of this case-study):

“*Wünsche der Kamerun Leute* [wishes of the Cameroon people]

[a.] Our wishes is that white men should not go up and trade with the bushmen, nothing to do with our markets, they must stay here in this river and they give us trust so that we will trade with our Bushmen.

[b.] We need no protection, we should like our country to annex with the government of any European power.

[c.] We need no alteration about our marriages, we shall marry as we are doing now.

[d.] Our cultivated [emphasis in original] ground must not be taken from us, for we are not able to buy and sell as other country.

[e.] We shall keep bulldogs, pigs, goats, cows as it is now and no duty on them.

[f.] No man shall take another man’s wife by force, or else a heavy.

[g.] We need no fighting and beating about fault and no impressions on paying the trusts without notice and no man shall be put to iron for the trust.

We are the chiefs Cameroons.

Dieses Dokument ist von dem Herrn Consul zum Zeichen seines Einverständnisses unterschrieben worden [This document was signed by the Consul as a sign of his consent].”⁴

8. The transcript of this document comprises one page. This page does not include anyone’s given name or signature.

9. In 1891, young Rudolf Manga Bell, the heir to King Bell of the Douala, travelled from Douala to Hamburg, Germany by ship. Already at the time, he was able to speak German. He also fancied European fashion. Rudolf Manga Bell was accompanied by the younger Tube Meetom.⁵ Their fathers were amongst the Kings and Chiefs that signed the agreement of 12 July 1884.

10. From 1891 until 1893, Rudolf Manga Bell received private lessons by the Oesterle family in Aalen, South-Western Germany.⁶

⁴ A scan of a duplicate of the original is shown in Museum am Rothenbaum (ed.), *Hey, kennst du Rudolf Manga Bell? Exhibit Catalogue* (Hamburg, 2022), p. 85.

⁵ For a picture presumably taken during the voyage see Museum am Rothenbaum (ed.), *Hey, kennst du Rudolf Manga Bell? Exhibit Catalogue* (Hamburg, 2022), p. 105.

⁶ For a picture presumably taken during these two years with the family see Museum am Rothenbaum (ed.), *Hey, kennst du Rudolf Manga Bell? Exhibit Catalogue* (Hamburg, 2022), p. 106-7.

17. On 30 November 1911, Rudolf Manga Bell sent a telegram to the German *Reichstag*. Therein, he asked for the *Reichstag*'s assistance in convincing the Imperial Chancellor to instruct the Colonial Office to halt the expropriation.¹¹
18. On 8 March 1912, the Douala chiefs sent a detailed written motion to the *Reichstag*, underlining their right to possess the coastal lands.¹²
19. On 24 November 1912, the German Governor for Cameroon Ebermaier held a meeting with the Douala chiefs. Governor Ebermaier stated: "*the Kaiser, the Reichstag, the Colonial Office have already decided. I am the governor and I must obey them. You will receive no other answer that I know.*"¹³
20. On 15 January 1913, the Head of the Colonial District in Douala issued a formal declaration that the 9 km² on the left side of the Douala river would be expropriated, reserving the compensation of the Douala to a later decision.¹⁴
21. On the same day, the Douala, through their named representative Rudolf Manga Bell, appealed to the German *Reichstag* by telegram.¹⁵
22. On 20 February 1913, the Douala, through their representative Rudolf Manga Bell, filed a twelve-page appeal before the Colonial District in Douala.¹⁶
23. On 12 September 1913, Governor Ebermaier dismissed the Douala's appeal.¹⁷
24. On 20 September 1913, the Douala, through their representative Rudolf Manga Bell requested that the Governor and/or the Colonial District refer the matter for decision by the Imperial Chancellor.¹⁸
25. On 22 September 1913, the Head of the Colonial District in Douala held a hearing with the Douala and rejected their application. He stated: "*The Secretary of State stated unequivocally that the expropriation will not be lifted. That is, he has already rejected the application. He does not have to be bothered to go into detail of every reason, all of which were already discussed with you.*"¹⁹

¹¹ W. Solf (*supra*, footnote 9), p. 9.

¹² *Duala Häuptlinge an den Reichstag*, 8 March 1912, Attachment 4 to W. Solf (*supra*, footnote 9), p. 75.

¹³ *Aufzeichnung über die Versammlung der Duala*, 24 November 1912, Attachment 8 to W. Solf (*supra*, footnote 9), p. 90. Translation according to Matthew P. Fitzpatrick, *The Kaiser and the Colonies* (Oxford, 2022), p. 355.

¹⁴ *Beschluss des Bezirksamtmanns*, 15 January 1913, Attachment 12 to W. Solf (*supra*, footnote 9), p. 99. See also *Schreiben der Duala an den Reichstag*, 7 February 1913, Attachment 13 to W. Solf (*supra*, footnote 9), p. 114.

¹⁵ *Beschwerde an den Reichstag*, 15 January 1913, Attachment 14 to W. Solf (*supra*, footnote 9), p. 108.

¹⁶ *Beschwerde gegen den Enteignungsbeschluss des Kaiserlichen Bezirksamt Duala*, 20 February 1913, Attachment 16 to W. Solf (*supra*, footnote 9), p. 115.

¹⁷ *Beschluss des Gouverneurs*, 12 September 1913, Attachment 20 to W. Solf (*supra*, footnote 9), p. 143.

¹⁸ *Eingabe der Duala*, 20 September 1913, Attachment 21 to W. Solf (*supra*, footnote 9), p. 150.

¹⁹ *Aufzeichnung über die Versammlung der Duala*, 20 September 1913, Attachment 22 to W. Solf (*supra*, footnote 9), p. 152. Translation of the authors.

26. On 24 November 1913, the Governor rejected a separate application of Rudolf Manga Bell to emigrate to the German Empire in territorial Europe.²⁰

27. Before the end of 1913, a German *Rechtsanwalt* (attorney-at-law) engaged by the Douala put forward a written petition against the expropriation of the Douala's land to the *Reichstag*. He argued that under the 1903 Colonial Expropriation Regulation, the Imperial Chancellor could and should reinstate the Douala's property because the wording of the law provided for such reinstatement.²¹ This petition caused significant debates in the *Reichstag*. The relevant sect. 32 of the Regulation states:

“The Imperial Chancellor is empowered [...] to permit the reinstatement to natives of property that has passed out of the rule or possession of natives and into the possession of non-natives, insofar as the expropriation in the estimation of officials is necessary to secure for the natives the possibility for their economic existence and in particular their right to a homeland.”²²

28. On 8 April 1914, Rudolf Manga Bell's emissary Ngoso Din (who would later be hanged together with Rudolf Manga Bell) gave an interview to the national daily newspaper *Berliner Tagblatt*. At the time, this newspaper had the highest circulation of all daily newspapers in the German Empire. In the interview, Ngoso Din stated: “*In 1884, we entered into an agreement with the government that secured the land that we own as our property for all eternity, and we believe that we are still secure for all time. Then came the expropriation process, which claims that our land should be taken from us for the public good. The territory offered to us lies two to three kilometres from the coast, in the middle of a swampy region that is unfit for cultivation. [...] If we were now truly forced to move into this land, that would amount to our complete demise.*”²³ The interview intensified the debates in the *Reichstag*.

29. The debates in the *Reichstag* prompted Secretary of State Solf from the Colonial Office to file an extensive *Denkschrift* (memorandum) on the matter. He argued that the 1884 document could not hinder expropriations. “*If their interpretation would be correct, the Douala would practically be in a position to hinder every development in the locality of Douala. [...] [T]he development of the protectorate of Cameroon would be brought to a halt.*”²⁴

30. On 28 April 1914, another king in Cameroon, Njoya of Bamum, gave testimony before the German administration. He claimed to have been approached by a messenger of Rudolf Manga Bell and that the latter intended to have the Douala's case heard in Great Britain.

²⁰ *Beschluss des Gouverneurs*, 24 November 1913, Attachment 24 to W. Solf (*supra*, footnote 9), p. 157.

²¹ *Petition an den Reichstag*, undated, Attachment 27 to W. Solf (*supra*, footnote 9), p. 167.

²² Verordnung über die Enteignung von Grundeigentum in den Schutzgebieten Afrikas und der Südsee, RGBI. 1903, No. 5, p. 27. Translation according to Matthew P. Fitzpatrick, *The Kaiser and the Colonies* (Oxford, 2022), p. 355.

²³ Translation according to Matthew P. Fitzpatrick, *The Kaiser and the Colonies* (Oxford, 2022), p. 360, with the exception of the German word *Vertrag* which Mr. Fitzpatrick translated as “contract” even though the German term may refer to both a contract and a treaty.

²⁴ W. Solf (*supra*, footnote 9), p. 7. Translation according to Matthew P. Fitzpatrick, *The Kaiser and the Colonies* (Oxford, 2022), p. 365.

According to Njoya of Bamum, should the British government decide to support the Douala's case, Rudolf Manga Bell intended to place the Douala under the rule of King George V.²⁵

31. On 10 May 1914, Rudolf Manga Bell was charged with treason, brought before and heard by the German Empire's Colonial Court in Douala. He denied any conspiracies with the British government.²⁶ However, the court ordered that Rudolf Manga Bell be kept in custody.²⁷

32. On 28 May 1914, lawyers based in Berlin reported to the Colonial Office that they were retained as counsel by Rudolf Manga Bell. They requested that notice of a hearing held in Douala should be given sufficiently in advance so that they could travel there.²⁸

33. On 19 July 1914, the judge in charge of the investigations at the Colonial Court decided to extend the charges to founding an entire grouping with the purpose of committing treason against the German Empire.²⁹

The Dispute (Part I)

34. On 21 July 1914, Rudolf Manga Bell's counsel filed an Application for the Appointment of an Emergency Arbitrator and for an Emergency Decision on Interim Measures against the German Empire with the Arbitration Institute of the Stockholm Chamber of Commerce ("SCC"). The applicant relied on the agreement of 12 July 1884. According to the applicant, this agreement guarantees the property of the Douala. Therefore, this agreement would also obligate the German Empire not to assassinate one of their kings in order to prevent the exposure of the German Empire violating the agreement of 12 July 1884.

35. On 22 July 1914, the SCC appointed Mr. Frederik Beichmann as emergency arbitrator.

36. On 29 July 1914, the emergency arbitrator held an oral hearing. The German Empire objected to the jurisdiction of the emergency arbitrator. It stated that the short time frame of the procedure constituted a violation of due process and argued that, in any case, applicant has no claims under the agreement of 12 July 1884.

37. On 31 July 1914, the emergency arbitrator rendered his Emergency Decision. The emergency arbitrator concluded that he had jurisdiction. In the operative part, the Emergency Decision reads:

“For the foregoing reasons, I ORDER that the Respondent release Mr. Rudolf Manga Bell. This decision will cease to be binding in the cases set out in Article 9(4) of Appendix II of the SCC Rules.”

²⁵ *Schreiben des Missionars Gepräge über Schreiben des Hauptlings Toya von Bonum*, 28 April 1914 (Bundesarchiv, Folder R 1001/4330, invenio p. 370-374).

²⁶ *Vermehrungsprotokoll*, 10 May 1914 (Bundesarchiv, Folder R 1001/4330, invenio pp. 396-400).

²⁷ *Haftbefehl*, 10 May 1914 (Bundesarchiv, Folder R 1001/4330, invenio p. 402).

²⁸ *Kurt Rosenfeld und Heinrich Rieger an Staatssekretär Solf*, 28 May 1914 (Bundesarchiv, Folder R 1001/4330, invenio p. 338).

²⁹ *Bericht des Assessors Niedermeyer*, 18 July 1914 (Bundesarchiv, Folder R 1001/4330, invenio p. 580 *et seq.*).

The Facts (Part II)

38. On 8 August 1914, Rudolf Manga Bell was executed in Douala according to the testimony of a missionary.³⁰ The execution was ordered by the German colonial administration.³¹

39. On 20 February 1916, the last German troops in Cameroon surrendered to the Belgian, British and French forces. The latter forces took effective control over the German colony with French forces administering the territory of Douala.

40. On 11 November 1918, World War I ended through the armistice of Compiègne.

41. On 28 June 1919, the Treaty of Versailles was signed. Under its Article 119, Germany renounced all rights and titles over overseas possessions. Under Article 22, the former colony in Cameroon should become a League of Nations mandate.

42. On 10 July 1919, the Franco-British Declaration on the Cameroons was signed.

43. On 20 July 1922, the French Republic received a mandate from the League of Nations for the administration of a part of the former German territory in Cameroon which included the Douala's land.

The Dispute (Part II)

44. On 9 February 1920, Rudolf Manga Bell's son and successor as king, Alexandre Manga Bell ("**Claimant**"), filed a Notice of Arbitration against the French Republic ("**Respondent**") to the Permanent Court of Arbitration ("**PCA**") under the agreement of 12 July 1884 and the PCA Arbitration Rules.³² Claimant proposed the appointment of three arbitrators and nominated Dr. Max Huber as arbitrator. While the Claimant reserved his claims against Germany, Claimant raised these claims against the French Republic as the mandatory now exercising control over Cameroon. The Claimant requested:

“that the arbitral tribunal to be constituted render an AWARD (i) declaring that by executing Rudolf Manga Bell, the predecessor of the French Republic in exercising effective control over the territory of Douala violated its obligations under the agreement between the Douala and the German Empire of 12 July 1884, the emergency arbitrator's decision of 31 July 1914 and/or international law; (ii) ordering the French

³⁰ Philipp Hecklinger, *Tagesbuchblätter über Krieg und Kriegsgefangenschaft in Kamerun und England* (Stuttgart, 1915), p. 4-5.

³¹ Speech by Minister of State Katja Keul on the occasion of a wreath-laying ceremony at the site of the execution of Rudolf Manga Bell in Cameroon, 2 November 2022, available at: Speech by Minister of State Katja Keul on the occasion of a wreath-laying ceremony at the site of the execution of Rudolf Manga Bell in Cameroon - Federal Foreign Office (auswaertiges-amt.de) (last accessed: 18 December 2023).

³² The participants are to assume that the PCA Arbitration Rules 2012 were effective at the time, *see* para. 2 of the case-study.

Republic to rehabilitate Rudolf Manga Bell; and (iii) ordering the French Republic to pay moral damages in an amount in the discretion of the arbitral tribunal.”

45. On the same day, Alexandre Manga Bell filed a second notice of arbitration under the PCA Rules. It was directed against Germany. The request for relief corresponded to the first notice filed to the PCA, albeit now against Germany.

46. On 10 March 1920, the French Republic filed its Response to the Notice of Arbitration. The French Republic submitted the following preliminary objections. Each of these grounds was raised independently of each other:

“i. The French Republic never consented to the agreement of 12 July 1884 or the arbitration clause contained therein. For the avoidance of doubt, the French Republic is not bound by virtue of the rules of State accession either. Cameroon is not part of the French Republic. France is only providing preliminary tutelage in accordance with the Treaty of Versailles.

“ii. Under Article 257 of the Treaty of Versailles, the French Republic did not become liable for any debts of the German Empire when becoming the mandatory for Cameroon. Even taking Claimant’s case at its highest, this provision will exempt the French Republic from any liability. In particular, Rudolf Manga Bell had been executed before the German Empire lost control over Cameroon.

iii. The arbitration clause does not provide for arbitration under the PCA Rules. It would be absurd to assume that a sovereign State submitted itself to arbitration under whatever arbitral rules may exist. If the Tribunal holds otherwise (*quod non*), at least the emergency arbitrator exceeded his jurisdiction. Indeed, on 12 July 1884, the SCC Rules did not even include emergency arbitration provisions.

iv. There is no agreement to resolve the disputes regarding Mr. Rudolf Manga Bell’s imprisonment under the PCA Rules. In 1914, Claimant made the binding decision to refer disputes regarding Mr. Rudolf Manga Bell’s imprisonment to the SCC Rules. Claimant cannot pick one set of rules for an emergency arbitration and another set of rules for follow-up arbitrations.

v. Under Article 9(4) of Appendix II of the SCC Rules, the Emergency Decision is no longer binding. Claimant failed to initiate any arbitration on the merits within the time limits prescribed in this provision.

vi. The emergency arbitrator’s decision was erroneous on the merits. The agreement of 12 July 1884 did not contain any restriction on the German Empire’s jurisdiction in criminal matters and police powers. At best, the emergency arbitrator’s jurisdiction included a non-aggravation of the main dispute (*i.e.* the expropriation itself). This Arbitral Tribunal is not bound to the emergency arbitrator’s findings on the merits and must re-assess them.

vii. There is no legal basis for Claimant's claim. The agreement of 12 July 1884 is governed by German law. Even assuming *arguendo* the execution of Rudolf Manga Bell were not justified, German law allows his adult successor only to claim the costs for the funeral, not moral damages. Under the agreement of 12 July 1884, international law can only restrict German law. International law cannot provide additional causes of actions. In other words, international law is a *shield*, not a *sword*. Even if international law were applicable (*quod non*), moral damages are not awarded in international investment law.

viii. The French Republic learned that Claimant filed an almost-identical request for arbitration against Germany. Claimant seeks either double-compensation or two bites at the same cherry. Either way, the claim before this Tribunal should be dismissed as abuse of process and, in any case, stayed under international principles of *lis pendens*. It is appropriate to focus on the claim, if any, against Germany because Germany adopted the alleged measures."

47. For purposes of the Moot, the participants are to assume that Respondent's comment on German law as in force at the time of the events in the case-study in para. viii. above is correct.

48. In its Response, the French Republic requested that these preliminary objections be bifurcated and nominated Mr. Henri Fromageot as its arbitrator.

49. On 9 April 1920, the party-appointed arbitrators Dr. Max Huber and Mr. Henri Fromageot agreed on Mr. Gregers Gram as president of the Tribunal.

50. On 14 April 1920, the Tribunal invited the Claimant to provide its observations on the French Republic's request for bifurcation.

51. On 14 May 1920, the Claimant replied as follows:

"i. The French Republic is bound by the agreement of 12 July 1884. France has been exercising effective control since 1916. In the declaration of 10 July 1919, France itself spoke of its "*frontier*". Moreover, France is bound by the principles of State succession as they have been applied by the Permanent Court of Justice in the *Mavrommatis* decision.³³ These principles must apply to the 'mandate' construct in which French exercises control over Cameroon, enjoys the benefits of the expropriations undertaken by the Germans, and, under Article 122 of the Treaty of Versailles, has the power to exercise diplomatic protection for the people of Cameroon.

³³ With regard to the date of this decision, which, in reality, was later, the participants' attention is drawn to para. 2 of the case-study.

ii. Claimant's claims are not "*financial*" debts under Article 257 of the Treaty of Versailles. Claimant claims moral damages. At least, this clause cannot prevent the Tribunal from rendering a declaratory decision or ordering rehabilitation.

ii. This Tribunal has jurisdiction and the emergency arbitrator had jurisdiction. The agreement of 12 July 1884 enables Claimant to submit the dispute "*to any other arbitration institution or in compliance with any other arbitration rules*". This must at least allow for arbitration under established rules of renowned arbitral institutions. Otherwise, the arbitration clause would be effectively-pathological even though the signatories have shown their clear intention to arbitrate. Further, contrary to Respondent, the applicable version of the arbitral rules is the version as of the time of the introduction of arbitration, not as of 12 July 1884.

iv. Respondent's assertion that the choice of the SCC Rules for the emergency arbitration would also be a binding choice of the arbitral rules for the merits is incorrect. There is no legal provision to which Respondent can refer in this regard.

v. Article 9(4) of Appendix II of the SCC Rules is inapposite. Once Mr. Rudolf Manga Bell was executed unlawfully, it would be illogical to require Claimants to initiate another arbitration for his release. Further, Claimant required further time to secure funding for this arbitration. It took until after the end of World War I, that the Hope Bridges Adams Lehmann Foundation agreed to pay the Claimant's advances on costs, legal fees and expenses.

vi. The emergency arbitrator's decision was correct. The guarantee of property under the agreement of 12 July 1884 does include *a fortiori* the implied obligation not to execute a king who objects against expropriations.

vii. Respondent's comments on German law are inapposite. Claimant does not base its claim on domestic law, but on international law. Given that the agreement of 12 July 1884 concerns to transfer of sovereignty, it must be seen as a treaty. Every treaty is embodied in international law. In any case, the language of the agreement of 12 July 1884's choice-of-law clause is comparable to so-called 'internationalized contracts'. Hence, international law applies in full. In cases of unlawful execution – in violation of an emergency order under the SCC Rules on top of this – international law must provide for moral damages.

viii. Claimant herewith OFFERS Respondent to consolidate the present arbitration with the pending arbitration against Germany. In this regard, counsel for Germany has already confirmed to Counsel for Claimant that Germany would be amenable to a consolidation. Therefore, Respondent's abuse-of-process or *lis pendens* objection is moot."

52. In the same reply, the Claimant consented to bifurcation, maintaining that the French Republic's preliminary objections should be dismissed.

53. On 28 May 1920, the Tribunal invited Respondent to comment on Claimant's offer in para. viii. of its reply.

54. On 25 June 1920, Respondent commented as follows:

“viii. Respondent rejects Claimant's offer for consolidation. *First*, under the PCA Rules, Respondent now has a right to appoint one out of three arbitrators. *Second*, Claimant's offer is belated because it was Claimant's choice not to file one notice of arbitration against two parties under the PCA Rules. *Third*, the French Republic cannot be made co-defendant with Germany this shortly after the two countries had been at war.”

55. Furthermore, on the same day, Respondent filed the following application:

“ix. Through Claimant's reply, Respondent learned that a third-party funder finances Claimant's alleged claims. Therefore, Respondent requests that Claimant provides either a binding commitment of this third-party funder to pay an adverse cost award against Claimant or, in the alternative, a security of costs in the discretion of the Tribunal. In particular, Respondent understands that the funder at issue is a non-profit organization without any rigorous intake procedure. Further, it should be held as aggravating circumstances against Claimant that it did not disclose this third-party funder in the Notice of Arbitration as required by a growing body of international law.”

56. On 2 July 1920, the Tribunal invited Claimant to provide its comments on the two issues addressed by the Respondent.

57. On 30 July 1920, Claimant commented as follows:

“viii. Since Respondent rejected Claimant's offer to consolidate, there cannot be an abuse of process by Claimant. As to Respondent's stay application, the alleged principles of *lis pendens* do not warrant a multi-year delay of this arbitration against the very State now exercising control over the expropriated territory.

ix. Claimant confirms that the Hope Bridges Adams Lehmann Foundation does not and cannot bear further costs related to this arbitration. The Foundation already went to its limits by agreeing to bearing Claimant's advances, fees, and expenses. It did so because of the gravity of the matter. Claimant does not have the means to provide any security for costs. Respondent's application must be rejected as it would force Claimant to withdraw the application, thereby, pre-judge the merits and undermine Claimant's right to be heard. In this regard, Claimant also underlines that the present arbitration concerns human rights.”

58. On 30 August 1920, the Tribunal held a procedural session in the Peace Palace in The Hague, Netherlands.

59. On 13 September 1920, the Tribunal, having heard the Parties on this matter, decided that its seat be in Geneva, Switzerland, the seat of the League of Nations. With regard to the Respondent's application for security for costs, Tribunal reserved its decision until after having heard the Parties' written and oral arguments on the preliminary objections.

60. Afterwards, the Parties exchanged their memorials on the preliminary objections. These do not form part of the case-study.

61. From 1 April 1921 until 30 September 1921, the arbitration was suspended by the agreement of the Parties for the purpose of undertaking settlement negotiations. These were not successful.

62. On 31 October 1921, the Tribunal directed that an oral hearing on the preliminary objections and the Respondent's application for security for costs be held on 27 July 1922.

63. On 27 July 1922, the oral hearing on the preliminary objections and the Respondent's application for security for costs began. At this time, the arbitral tribunal in the Claimant's case against Germany has not yet held an oral hearing.