



**INTERNATIONAL INSTITUTE OF SPACE LAW
INSTITUT INTERNATIONAL DE DROIT SPATIAL**

THE 2010 MANFRED LACHS SPACE LAW MOOT COURT COMPETITION

INTERNATIONAL COURT OF JUSTICE

SPECIAL AGREEMENT

BETWEEN

REPUBLIC OF ASPIRANTIA
(APPLICANT)

AND

KINGDOM OF REPUBLICA
(RESPONDENT)

JOINTLY NOTIFIED TO THE COURT ON 11 NOVEMBER 2010

COUR INTERNATIONALE DE JUSTICE

COMPROMIS

ENTRE

RÉPUBLIQUE DE ASPIRANTIA
(DEMANDEUR)

ET

ROYAUME DE REPUBLICA
(DÉFENDEUR)

NOTIFIÉ CONJOINTEMENT À LA COUR LE 11 NOVEMBRE 2019

Case concerning Suborbital Tourism, Definition of Outer Space and Liability

Aspirantia v. Republica

STATEMENT OF AGREED FACTS

1. The Republic of Aspirantia is a rich and powerful islanded State. It is one of the world's largest economies but does not have a significant history or technical expertise in space exploration.
2. The neighbouring Kingdom of Republica is a continental State and has one of the largest domestic economies in the world with significant technological capabilities in space activities.
3. The space tourism company Startours, Inc. is incorporated in Aspirantia. The founders of Startours did so for two reasons: the favourable tax climate for start-up companies in that country and the fact that it has no national space licensing laws or regulations governing private or commercial space flights.
4. Startours has developed an experimental passenger spacecraft *Starflight-1*, a reusable space vehicle that is designed to take off from a specially-adapted and refurbished carrier-aircraft flying high above the high seas. The private charter airline whose aircraft is being adapted and used for this purpose is owned and controlled by private citizens of neighbouring Zerbica.
5. Startours offers suborbital flights on *Starflight-1* to an altitude of 112 km for three passengers per flight. Startours charges 100,000 Aspirantian pesetas per person and promises an "Astronaut Certificate" to all passengers upon completion of their flight.
6. The maiden flight of *Starflight-1* took place on 12 January 2009. After separation from the carrier aircraft, *Starflight-1* successfully blasted off and, after having reached an altitude of 93 km, returned to Earth using its wings for stabilisation, support and flight.
7. However, on its descent from high altitude during this maiden flight, *Starflight-1* was struck by a piece of metal, resulting in a gaping hole in the fuselage, loss of cabin pressure and the immediate death of the two of the three passengers and the co-pilot onboard *Starflight-1*. All of the victims wore the pressurised suits provided by Startours as required by the contract for carriage, but the co-pilot had taken off his cumbersome protective headgear to have a better look at the Earth underneath and the two passengers had done likewise. The captain had insufficient authority to compel the co-pilot and those two passengers to put their helmets back on, but him and the remaining female passenger did not remove their headgear. Consequently, the captain and the remaining passenger survived, though seriously injured, and landed by parachute in Aspirantia, together with the scattered remnants of *Starflight-1*.
8. After consultation with the International Institute of Space Law, Startours awarded an Astronaut Certificate to the surviving passenger and found the Minister of Science and Education of Aspirantia more than willing to hand her the certificate in person at the hospital before the assembled international media. During that bedside ceremony, the Minister praised the passenger as a "true astronautical hero" and a role model and announced his plans

to draft national space legislation to regulate space activities in Aspirantia, with particular attention to the problem of space debris that, he claimed, caused the accident on *Starflight-1*.

9. In the meantime, Startours began an investigation into the cause of the accident, after a lengthy search among the wreckage of *Starflight-1*, found a small, badly-damaged metal capsule with the inscription “father” and a serial number. By analysing data obtained from a foreign private space object tracking service “SpaceTrack”, the experts at Startours concluded that the capsule came from a separate launch that took place on the same day by Stationride Corporation, a private company licensed by Republica under its *Space Activities Act 2000* to operate flights to a permanent national space station orbiting the Earth at 350 km above mean sea level, crewed permanently by astronauts trained by the Republican Space Agency.
10. The *Space Activities Act* of Republica defines “space object” as:

space object means a thing consisting of:

 - (a) a launch vehicle;
 - (b) a payload (if any) that the launch vehicle is to carry into or back from an area beyond the altitude of 100 km above mean sea level;

or any part of such a thing, even if:

 - (c) the part is to go only some of the way towards or back from an area beyond the altitude of 100 km above mean sea level; or
 - (d) the part results from the separation of a payload or payloads from a launch vehicle after the launch.
11. Stationride, which uses the very reliable *Stationferry* to carry scientists and supplies to the Republican space station, recently obtained permission from the Government of Republica to offer unique but expensive rides to wealthy private individuals. In return for extra fees, even an extra-vehicular space walk can be arranged. Of course, before the flight, the individual is required to undergo extensive astronaut training and has to sign a number of contracts, statements and declarations concerning his or her behaviour onboard. In particular, any activity that may endanger or interfere with the integrity and success of a *Stationferry* mission is strictly forbidden and the flight participant is required to indemnify Stationride for any loss, damage or liability sustained as a result of the participant’s acts or omissions while in space.
12. Stationrider recently contracted with Ashes Corporation, a funeral services company incorporated in Republica, to carry a small container containing lipstick-sized capsules each filled with 5 grams of human ashes (the “cremains”), to be placed into low earth orbit. Although environmentalists, astronomers and space scientists in Republica and elsewhere have protested against this way of using and polluting orbital space, the Republican Space Agency saw no reason to forbid this one-off launch and, further, did not inform other nations about this particular payload and its destination. Its reasoning was that the low “graveyard orbit” used for this purpose guaranteed that the container with the capsules would not interfere with any active space objects in orbit and would, through atmospheric drag, fall back to earth within 15 years and disintegrate in the atmosphere, causing no harm to the Earth or pose a risk to orbital space activities.

13. Timothy L. Ash, the wealthy owner of Ashes, was onboard *Stationferry* on the day *Starflight-1* was launched, along with the cremains. He had also made extra payments for an extra-vehicular spacewalk for himself. With permission from Captain Alfons Linke, the captain of the *Stationferry* to whom Mr Ash paid a handsome amount of money, Mr Ash hid one of the cremain capsules in his spacesuit that contained the ashes of his father-in-law that, as a token of his and his wife's love for him, he intended to personally release into space. This capsule that was discreetly released during his spacewalk shot away at high speed and impacted on the descending *Starflight-1*, with the dramatic consequences as discussed above.
14. Startours, on behalf of itself, the crew of *Starflight-1* and the flight participants, including those who died in the accident, began a lawsuit against Stationrider under the *Space Activities Act* and against the Republican Space Agency under administrative law in the Federal Court of Republica, claiming full compensation from both, jointly and severally, for the destruction of *Starflight-1* and the death and injuries to the crew and flight participants onboard.
15. While the proceedings were in the Federal Court of Republica, a return flight of the *Stationferry* from the Republican space station to the Earth suffered a malfunction during its descent through the atmosphere. With no engine thrust, navigation or guidance systems onboard available after the malfunction, the spacecraft was forced to declare an emergency and land the spacecraft at the nearest aerodrome with a long enough runway, which turned out to be an air force base in Aspirantia. As a safety precaution, the *Stationferry* released the fuel into a large lake that Captain Linke mistook for the ocean and then the *Stationferry* landed safely with only minor injuries sustained by the crew and the passengers onboard. The fuel that was spilled into the lake caused serious environmental damage to some protected natural habitats of rare animals, with cleanup costs in the millions of Aspirantian pesetas.
16. When the Aspirantian authorities reviewed the identity documents of those onboard the *Stationferry*, it was revealed that Captain Linke was piloting the spacecraft and Dr François Vienet, the Director-General of the Republican Space Agency, was onboard as a private space flight participant. As a result of the domestic and international media attention surrounding the accident involving *Starflight-1*, the Government of Aspirantia arrested Dr Vienet and Captain Linke on charges of manslaughter of the victims onboard *Starflight-1* and breaches of the environmental laws of Aspirantia but released the *Stationferry* and all other crew and passengers onboard to the Government of Republica.
17. Significant costs were incurred by the Aspirantian Government in relation to the care and repatriation of the remaining crew and passengers of *Stationferry* and the return of the spacecraft itself. Dr Vienet and Captain Linke remain in custody in Aspirantia awaiting trial.
18. Eventually, the Federal Court of Republica dismissed the claims against both defendants on the basis that:
 - (i) the Republican Space Agency has fulfilled its obligations as the licensing authority for the Government of Republica and cannot be blamed for any subsequent behaviour on the part of Stationrider; and
 - (ii) after hearing testimony from an independent aerospace engineer, the Court accepted his evidence that the technical specifications of *Starflight-1* and its carrier-aircraft showed that *Starflight-1* was not sufficiently powerful or advanced to ever reach an altitude of 100 km.

19. Startours and the Government of Aspirantia protested the verdict and the latter decided to bring a claim against the Government of Republica. The two countries agreed to submit their dispute to the International Court of Justice for a final and binding resolution.
20. Aspirantia contends that:
 - (i) Republica is responsible for the acts and omissions of Stationrider and is liable for the loss and damage suffered by Aspirantia in relation to the loss of *Starflight-1*;
 - (ii) Republica is liable to pay the cleanup, recovery and return costs incurred by Aspirantia as a result of the emergency landing by *Stationferry*;
 - (iii) Aspirantia acted lawfully in arresting and charging Captain Linke and Dr Vienet.
21. Republica contends that:
 - (i) Aspirantia acted unlawfully in arresting and charging Captain Linke and Dr Vienet and must withdraw the charges against them and return them immediately to Republica;
 - (ii) Republica is not liable for the damage sustained by *Starflight-1*; and
 - (iii) Republica is not liable to pay Aspirantia for cleanup, recovery and return costs of the *Stationferry*, its passengers and its crew.
22. Aspirantia and Republica are both members of the United Nations and are both parties to the Outer Space Treaty, the Rescue Agreement and the Liability Convention. Neither Aspirantia nor Republica are parties to the Registration Convention. Republica signed and ratified the Vienna Convention on the Law of Treaties, while Aspirantia has not signed it.