

**Written Exam Public International Law
12 August 2020**

a.Univ.-Prof. Dr.
Sigmar Stadlmeier, LL.M.
Head of the Institute of
Public International Law,
Air Law and
International Relations

Part I: Knowledge Test (MC)

1. Which one of the following statement/s is/are correct?
 - Multilateral treaties become binding when approved by a majority of two-thirds.
 - The wording of a multilateral treaty usually has to be approved by a majority of two-thirds.
 - Multilateral treaties require a depositary.
 - Bilateral treaties require a depositary.

2. Which one of the following statement/s is/are correct?
 - The nationality of a ship is determined by national law only.
 - The nationality of an aircraft is determined by national law only.
 - The nationality of a spacecraft is determined by the launching state.
 - Spacecraft with two launching states will have dual nationality.

3. The prohibition on the threat or use of force
 - ... does not preclude self-defence of a state against armed attack.
 - ... does not preclude enforcement action authorised by the UN Security Council.
 - ... without doubt does not preclude humanitarian interventions.
 - ... prevents the application of physical force by police or military forces of a state against foreign nationals.

Part II: Knowledge Test (free answer)

“[E]ach ship and aircraft is the sovereign territory of the owning country...” (*Tom Clancy, “Carrier”, New York 1999, p. 7*). Discuss.

Part III: Legal Problem

Absurdistan and *Bazaristan* are two former federal republics of the now defunct Soviet Union. They became independent States in 1991 and joined the UN in 1992. In 1995 they concluded a bilateral “**Friendship Treaty**”, the only authentic language of which is English. It provides, *inter alia*,

Art 42: There shall be free movement of persons of either nationality between the High Contracting Parties.

Art 43: Free movement of persons under Art 42 shall only be restricted on grounds of public health, safety or security.

Art 100: Any dispute arising from this treaty shall be decided by the International Court of Justice.

Following the 2019 CoViD-19-outbreak, *Absurdistan* requires everyone wishing to enter *Absurdistan* to either show a negative CoViD-19-medical test or to accept a 2-week quarantine at his/her own cost. In order to enforce these rules, *Absurdistan* mobilises part of her military reserve forces and puts them on border control duties.

Bazaristan claims that these measures

1. violate the provisions of the 1995 Friendship Treaty, and
2. amount to an unlawful threat of force under the UN Charter, since military units are being deployed by *Absurdistan* at the border with *Bazaristan*, and brings a case against *Absurdistan* before the International Court of Justice.

Absurdistan immediately nominates the Head of the Institute of Public International Law of JKU Linz a *Judge ad hoc*, since there is no *Absurdian* Judge on the bench of the ICJ. The *Bazarian* President immediately questions this step at a press conference and jokes, “hey, this guy has not even turned sixty yet! What can he possibly know about International Law, eh...?”

What is the legal situation under Public International Law?