

2025 China International Law of the Sea

Moot Court Competition

Case Concerning Cable Damages in the Sea of Birds and the Establishment of a Cable Protection Zone (The Kingdom of Novogradia v. The Republic of Letmark)

1. The Kingdom of Novogradia and the Republic of Letmark are both located on the continent of Chernavet. Despite sharing the same continent, they are separated by several thousand kilometers and do not have any land borders or maritime limits. As regional powers, their bilateral relations have historically fluctuated. At times, they maintained decades of stable and cooperative interactions; at others, longstanding rivalries and tensions have resurfaced and complicated their bilateral relationship. The past five years have been marked by frequent accusations of unlawful conduct by both states. Since the beginning of 2024, tensions between Novogradia and Letmark have continued to escalate, but the situation has remained peaceful.

2. In March 2024, a major submarine communication cable connecting to Letmark was damaged, resulting in significant disruptions to internet and banking services. Despite extensive investigations, the cause of the cable cutting remains unclear. However, some experts in Letmark have suggested that it may not have been accidental. The precise location of the break was identified in the Sea of Birds, approximately 40 nautical miles off the east coast of Letmark. A few months later, in July 2024, a similar incident occurred when another submarine cable was severed within Letmark's exclusive economic zone in the Sea of Birds. This incident led to significant internet services disruptions and communication interruptions in Letmark, persisting for almost ten days and resulting in substantial economic losses and widespread security concerns in the country.

3. Anti-Novogradian factions within Letmark's media and political organizations have raised concerns about potential malicious damage, with some commentators alleging that these incidents were part of an orchestrated action led by Novogradia's intelligence services. According to initial reports from Letmarkian experts, both cable cuts exhibited striking similarities and were very likely caused by the dropping or dragging of an anchor or a similar

instrument. The government of Novogradia has acknowledged that, at the time of both incidents, state-owned ships and other vessels flying its flag were navigating in the relevant areas of the Sea of Birds. However, it denied any involvement in the severing of the cables. Meanwhile, Letmark's naval authorities were not entirely satisfied with Novogradia's explanations and remained cautious.

4. In response to both incidents, the government of Letmark adopted two complementary approaches. First, it sought to enhance maritime surveillance and strengthen the protection of submarine cables located within its territorial sea, exclusive economic zone, and continental shelf. Second, it introduced specific legislation to protect submarine cables. On 22 September 2024, the Letmarkian Parliament enacted Law No. 463, which entered into force the following day. Law No. 463/2024 designated a submarine cable protection zone within areas under Letmarkian jurisdictional waters, prohibiting certain activities such as fishing, anchoring, and dredging.

5. The Letmarkian Cable Protection Zone (LCPZ) extends from the baselines used to measure the breadth of the territorial sea to the outer limit of Letmark's exclusive economic zone. For most of its length, the LCPZ is approximately eight kilometers wide, but narrows as the cables enter Letmark's territorial sea. Overall, the LCPZ covers only 5% of Letmarkian jurisdictional waters. The nautical charts and coordinates of the LCPZ have been deposited with the Secretary-General of the United Nations and have been duly publicized through relevant international organizations, including the International Maritime Organization.

6. Letmarkian authorities have justified the establishment of the LCPZ on the grounds that all submarine cables in this area remain unburied, with some sections suspended due to the irregular seabed profile. Although the cables are equipped with protective armor coatings designed to endure the seabed conditions for extended periods, they remain vulnerable to damage from external objects. Furthermore, the LCPZ is of particular significance within the global telecommunication network, given its role as a nexus for 12 submarine cables. It is estimated that approximately 7% of global internet traffic travels along these cables.

7. Law No. 463/2024 sets out that intentional disruption or damage to a submarine cable within Letmarkian jurisdictional waters constitutes a grave act of infrastructure damage and a criminal offense. It therefore authorizes enforcement measures against any vessel suspected of causing

damage to critical telecommunications infrastructure within Letmark's territorial sea, exclusive economic zone, or continental shelf. These measures include the right to board the vessel, conduct an inspection, and if deemed necessary, the arrest of the vessel and its crew, regardless of the vessel's flag. Furthermore, Law No. 463/2024 imposes penalties, including fines of up to US\$ 150,000 for fishing or anchoring in the LCPZ, fines of up to US\$ 300,000 for damaging a cable – whether willfully or negligently – and a forfeiture of a vessel, upon conviction by the Court.

8. On the night of 20 December 2024, internet service in Letmark and neighboring countries was almost completely disrupted. Letmarkian telecom companies rapidly reported the incident to local authorities, who in turn immediately alerted the Navy and intelligence services. Given the magnitude of the disruption, Letmarkian authorities and experts were able to swiftly ascertain that the incident had occurred within the LCPZ.

9. In response, Letmarkian naval forces stationed in the proximity to the LCPZ were promptly dispatched to the area. At that time, only a few vessels were in the vicinity, one of which was the *Blue Jay*, a fishing vessel flying Novogradia's flag. The *Blue Jay* was identified as the primary suspect in causing the major outage by *Admiral No. 2*, the first Letmarkian Navy ship to arrive at the scene.

10. Subsequently, *Admiral No. 2* initiated a pursuit of the *Blue Jay*, issuing auditory and visual signals to demand the vessel's immediate cessation of movement. This demand was initially disregarded by the master of the *Blue Jay*. After around 20 minutes of pursuit, armed personnel from *Admiral No. 2* boarded the *Blue Jay* and aggressively confronted the crew. In the end, three crew members sustained severe injuries and the *Blue Jay* suffered minor damage from gunfire.

11. After boarding and inspecting the *Blue Jay*, Letmarkian officials noticed that the trawl gear had not been stowed. Additionally, when the officials boarded the vessel, the chain was found to be still in the water, and upon lifting it completely, it was discovered that the main anchor was missing. Given these circumstances, the Letmarkian authorities deemed it necessary to escort the *Blue Jay* to Bruma, the nearest port in Letmark for further investigation.

12. A thorough inspection of the vessel by Letmarkian experts revealed that the tracking data on the *Blue Jay* exhibited atypical behavior for a fishing vessel, characterized by a meandering and erratic path of the vessel. Moreover, it was also found that the *Blue Jay* was using two different positioning system numbers, a practice that experts deem to be highly unusual for a fishing vessel.

13. At a press conference convened two days after the *Blue Jay* incident, the spokesperson for Letmark's Ministry of Foreign Affairs stated that the measures taken by the *Admiral No. 2* "were absolutely necessary for the protection of critical seabed infrastructure beyond the limits of the territorial sea". The spokesperson further emphasized: "No one believes that these cables were severed accidentally. Such attacks could no longer be ignored. It was an act of piracy".

14. In a similar manner, Letmark's Defense Minister, Ms. Kristine Mistorius, made the following statement: "Our critical infrastructure has been deliberately damaged, and we cannot remain passive in such a situation. Moreover, the boarding, inspection, and arrest of the *Blue Jay* were carried out in strict accordance with Law No. 463/2024, the Cable Convention [1884 Convention for the Protection of Submarine Telegraph Cables] and the UNCLOS [1982 United Nations Convention on the Law of the Sea]. Furthermore, the documented pattern and frequency of cable cuttings within our jurisdictional waters, in conjunction with the undeniable intent to instill terror and intimidate the Letmarkian population, substantiates the reasonable suspicion that the *Blue Jay* was engaged in – or likely to engage in – a terrorist attack".

15. In response to these allegations, the spokesperson for Novogradia's Ministry of External Relations firmly denied any direct or indirect involvement in the cable damages within Letmark's jurisdictional waters. The spokesperson also made the following statement: "There is no concrete evidence linking the *Blue Jay* to the incident that caused the internet blackout in Letmark. Had our rights been duly respected, Novogradian experts would have been willing to assist Letmarkian authorities in elucidating what happened during the night of 20 December 2024. However, given that our government was neither consulted nor granted consent to board and inspect the *Blue Jay*, we refuse to take part in the investigation of the incident. Further speculation about piracy or terrorism is unwarranted and unacceptable". Finally, the spokesperson indicated that the Ministry of External Relations is giving serious consideration to requesting the prompt release of the *Blue Jay* before the International Tribunal for the Law of the Sea as soon as possible.

16. In the following days, Letmarkian authorities decided to release the *Blue Jay* and its crew. However, before doing so, state officials froze the assets of METS Inc. – a Novogradian company that is alleged to be the owner of the *Blue Jay* – up to an amount of US\$ 3,000,000. According to the Ministry of Communications of Letmark, this sum “will be immediately used to cover the initial costs of cable repairs”. Simultaneously, Letmark initiated legal proceedings in domestic courts against METS Inc. and its shareholders for damages related to the 20 December 2024 cable cuttings.

17. The allegations of a terrorist attack involving the *Blue Jay* and Letmark’s decision to freeze assets of METS Inc. have been described by high-level Novogradian authorities as “a point of no return” and evidence of Letmark’s lack of interest in opening any path for bilateral talks.

18. Therefore, on 10 February 2025, Novogradia initiated proceedings against Letmark before the International Tribunal for the Law of the Sea (ITLOS). Novogradia requests the Tribunal to adjudge and declare that:

First, Letmark has breached its international obligations under UNCLOS by establishing the Letmarkian Cable Protection Zone (LCPZ) within its exclusive economic zone and continental shelf;

Second, Letmark has violated its international obligations by enacting domestic legislation for the prosecution of offenses related to damage to submarine cables within its exclusive economic zone and continental shelf;

Third, Letmark has infringed Novogradia’s rights as a flag state and incurred state responsibility as a result of the violent acts perpetrated by Letmarkian naval agents when they pursued, boarded, inspected, and arrested the *Blue Jay*, subsequently escorting it to the port of Bruma;

Fourth, Letmark has violated its international obligations by wrongfully accusing the *Blue Jay* and its crew of piracy and by unjustifiably alleging that the vessel perpetrated a terrorist attack.

19. Letmark respectfully requests the ITLOS to adjudge and declare that:

First, the Tribunal does not have jurisdiction over the case; or

Second, none of the four submissions made by Novogradia is admissible; or

Third, each of the four submissions made by Novogradia shall be rejected.

Annex 1: Relevant Treaties and Conventions

Besides the 1982 United Nations Convention on the Law of the Sea (UNCLOS), the Kingdom of Novogradia and the Republic of Letmark are also parties to the following treaties:

- The 1884 Convention for the Protection of Submarine Telegraph Cables (“Cable Convention”);
- The 1969 Vienna Convention on the Law of Treaties (VCLT);
- The 1988 Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation (“SUA Convention”);
- The 1988 Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf;
- The 2005 Protocol to the 1988 Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (“SUA Protocol”);
- Protocol of 2005 to the Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf.

Annex 2: Declarations

Declaration of the Kingdom of Novogradia (upon ratification of the UNCLOS)

“With regard to Article 287 of the United Nations Convention on the Law of the Sea, the Kingdom of Novogradia hereby chooses the International Tribunal for the Law of the Sea as a means for the settlement of disputes concerning the interpretation or application of the Convention”.

Declaration of the Republic of Letmark (upon signature and ratification of the UNCLOS)

“The Republic of Letmark pursuant to article 287 of the United Nations Convention on the Law of the Sea declares that it accepts, in order of preference, the following means for the settlement of disputes concerning the interpretation or application of the Convention: (i) the International Tribunal for the Law of the Sea established in accordance with annex VI; and, (ii) the International Court of Justice.

With regard to Article 298, paragraph 1, of the United Nations Convention on the Law of the Sea, Letmark does not accept any of the procedures provided for in Part XV, section 2, with respect to the following disputes:

- Disputes concerning the interpretation or application of articles 15, 74 and 83 relating to sea boundary delimitations, or those involving historic bays or titles;
- Disputes concerning military activities, including military activities by government vessels and aircraft engaged in non-commercial service, and disputes concerning law enforcement activities in regard to the exercise of sovereign rights or jurisdiction excluded from the jurisdiction of a court or tribunal under article 297, paragraph 2 or 3;
- Disputes in respect of which the Security Council of the United Nations is exercising the functions assigned to it by the Charter of the United Nations, unless the Security Council decides to remove the matter from its agenda or calls upon the parties to settle it by the means provided for in the Convention.”