

INTERNATIONAL COURT OF JUSTICE

SPECIAL AGREEMENT

BETWEEN ERCOLA AND FILOVA FOR SUBMISSION TO THE INTERNATIONAL
COURT OF JUSTICE OF THE DIFFERENCES BETWEEN THEM CONCERNING THE
PROTECTION OF THE MILITARY PERSONNEL DATABASE

jointly notified to the Court on 4 August 1995

COUR INTERNATIONALE DE JUSTICE

COMPROMIS

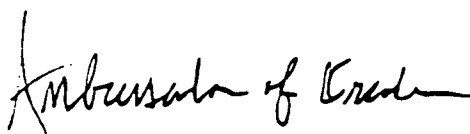
ENTRE ERCOLA ET FILOVA VISANT A SOUMETTRE A LA COUR INTERNATIONALE
DE JUSTICE LES CONTESTATIONS QUI LES OPPOSENT CONCERNANT LA
PROTECTION DE LA BASE DES DONNÉES DU PERSONNEL MILITAIRE

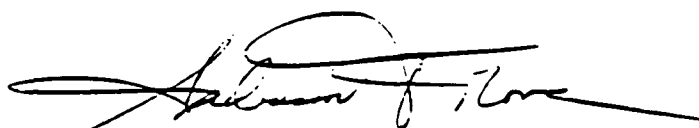
notifié conjointement à la Cour le 4 août 1995

JOINT NOTIFICATION, DATED 4 AUGUST 1995, ADDRESSED TO THE
REGISTRAR OF THE COURT

The Hague, 4 August 1995.

On behalf of Ercola and Filova, and in accordance with Article 40, paragraph 1, of the Statute of the International Court of Justice, we have the honour to transmit to you an original copy of the Special Agreement for Submission to the International Court of Justice of the Differences between Ercola and Filova concerning the Protection of the Military Personnel Database, signed at Washington, D.C. on 10 May 1995.


Ambassador of Ercola
to the Kingdom of the Netherlands.


Ambassador of Filova
to the Kingdom of the Netherlands.

SPECIAL AGREEMENT
FOR SUBMISSION TO THE INTERNATIONAL COURT OF JUSTICE
OF THE DIFFERENCES BETWEEN ERCOLA AND FILOVA CONCERNING THE
PROTECTION OF THE MILITARY PERSONNEL DATABASE

Ercola and Filova,

Considering that differences have arisen between Ercola and Filova regarding the protection of a military personnel database and certain other matters;

Recognizing that the Parties concerned have been unable to settle these differences by negotiations;

Desiring that these differences should be settled by the International Court of Justice;

Desiring further to define issues to be submitted to the International Court of Justice,

Have agreed as follows:

Article 1

The Parties submit the questions contained in the Statement of Facts to the International Court of Justice pursuant to Article 40, paragraph 1, of the Statute of the Court.

Article 2

(1) The Court is requested to decide on the basis of the rules and principles of general international law, as well as any applicable treaties.

(2) The Court is also requested to determine the legal consequences, including the rights and obligations for the Parties, arising from its Judgment on the questions presented in the Case.

Article 3

(1) All questions of procedure and rules shall be regulated in accordance with the provisions of the Official Rules of the 1996 Philip C. Jessup International Law Moot Court Competition.

(2) However, the Parties request the Court to order that the written proceedings should consist of memorials presented by each of the parties not later than 16 January 1996.

Article 4

(1) The Parties shall accept the Judgment of the Court as final and binding upon them and shall execute it in its entirety and in good faith.

(2) Immediately after the transmission of the Judgment the Parties shall enter into negotiations on the modalities for its execution.

In witness whereof the undersigned, being duly authorized thereto, have signed the present Special Agreement and have affixed thereto their seals.

Done in Washington, D.C., this 10th day of May 1995, in triplicate in the English language.

Case Concerning the Military Personnel Database

Ercola v. Filova

Ercola is a newly industrialized country that has been independent since 1960. At the time Ercola achieved independence, a civil war erupted between its two significant ethnic groups, the Nicastrians and the Yttics, which represent respectively 72% and 22% of the total population. The fighting ended within three years, and between 1963 and 1992 there were few incidents of violence attributable to organized or systematic hostility between the two groups.

The Constitution of Ercola provides for freedom of religion, speech, and association. There have been regular claims, since independence, however, that the Yttics' freedom to worship according to their traditions has not been respected, mainly concerning observance of Yttic religious holidays: public employers refuse to permit paid leave for such occasions, and most private employers in Nicastrian areas follow their lead. Yttics have even more frequently protested the provisions of statutory law in Ercola that declare the Nicastrian language to be "the official language of Ercola," and forbid "the conduct of public business in any foreign language."

The Yttics' culture and language are centered in Filova, which does not share a land border with Ercola, but which is in the same general geographical region. Ercola does have a common land border with Salutia, with whom its relations since independence have been consistently unfriendly. Ercola and Salutia assert numerous claims against each other, each claiming territory occupied by the other, and each denying the other diplomatic recognition. The border between Ercola and Salutia is heavily fortified, and the United Nations Security Council has had to send forces to preserve the peace three times. In all three cases, UN troops were

able to put down minor skirmishes, re-establish an acceptable level of calm, and leave within 12 months.

In order to keep up what its Government considers to be a necessary level of military preparedness to deal with potential threats from Salutia, Ercola maintains, counting active-duty reserves, a standing military (Army, Navy and Air Patrol) consisting of 1.2 million persons under arms. The total population of Ercola (1990 census) is 46 million. Ercola has a system of conscription, under which all citizens are required to serve in the military for two years between ages 18 and 22, unless exempted (*e.g.*, for religious reasons or hardship) under domestic law. Over 80% of the adult citizens of Ercola are serving or have served in the armed forces.

Ercola provides its enlisted men and women with extensive educational and vocational benefits, such as language and technology training. The military is engaged in many more activities than guarding the border with Salutia. The Ercolan Army, for example, has an active civil engineering division that builds and maintains public works (dams, harbors, and river projects), while the Air Patrol provides air traffic controllers for civilian as well as military airports.

In 1985, the Ercolan Ministry of Military Preparedness put into place a new computer database, for the purpose of profiling and tracking every active or reserve member of the forces, from the date of enlistment until retirement or discharge. Everyone on active duty on January 1 of that year, and every new recruit thereafter, has been required to complete Standard Form 1812. Updates must be filed when there is any substantial change to any of the information provided. Failure to fill out the Form promptly and honestly is considered to be a breach of

discipline, and while there have been a few prosecutions for this offense (mainly of self-described pranksters), the accurate completion of the Form has been generally acknowledged as a part of the routine of every military person, from entering cadet to four-star admiral.

Military superiors may also enter information for inclusion in a member's profile. In addition, medical and psychological test results are recorded, as well as any other personal information deemed relevant by the authorities.

Standard Form 1812 is reproduced in an Annex to this Compromis.

It is routine operating procedure for Ercolan military personnel to be tested for all known major diseases, including sexually-transmitted diseases and HIV, as well as drug and alcohol use. They are regularly asked to take psychological, educational, and aptitude tests, whose results are used for such purposes as determining eligibility or suitability for assignments, or for high-level security clearances.

Data collection in the field is assigned to specially-trained officers. Rigorous controls are in place to ensure that the forms, once filled out, are not compromised before they are received at the highly secure data entry facility located underground in Ercola's principal domestic military installation. All answers to questions on the Form 1812 are entered into the Ercolan Standard Personnel Record Index (ESPRI), and are encrypted by computer. There are two levels of access-restriction: any officer above the rank of lieutenant may obtain the "above-the-line" data for personnel in his or her command (although records are kept each time a file is opened, and superior officers reserve the right to interrogate anyone seeking the data as to her or his reasons for doing so). "Below-the-line" data may be obtained only upon the written

authorization of a Military Security Officer (MSO) with high security clearance, after satisfactory demonstration of legitimate need.

Once the data are entered into ESPRI, all original records (including the Forms 1812 themselves and medical and other observation records used in compilation of the "below-the-line" information) are destroyed under the supervision of MSOs. The only medium for retention of the data is the ESPRI database. Unauthorized disclosure or use of information obtained from ESPRI is a criminal offense in the municipal law of Ercola, and may also give rise to civil liability for invasion of privacy, pursuant to the ESPRI Act, Ercolan Code § 1-040.

In February, 1993, by-elections were held in the Province of West Firland, which is the Ercolan province with the highest concentration of people identifying themselves as of Yttic ethnic origin. A new organization calling itself the Yttic Liberation Solidarity Association (YLSA) for the first time submitted a slate of candidates. YLSA's electoral platform called for the repeal of Ercola's official language law, an immediate and significant increase in the autonomy exercised by the Yttic-majority provinces of Ercola, including West Firland, the creation of a national Department of Yttic Affairs, and the appointment of a commission to draft the constitution of a future independent Yttic republic. Unofficially, YLSA established relations with a number of "national liberation movements" around the world, some of which were extensively publicized in Ercola and Filova.

The YLSA slate of candidates was rejected by the Ercolan National Electoral Commission, however, on the grounds that the Association reflected "separatist" ideology, and was therefore ineligible to field candidates for public office under the express language of Article 19 of the 1960 Constitution ("No political party shall promote by word or deed the division of

the territory of the Motherland . . ."). A judicial challenge against the decision was unsuccessful. There were sporadic but bloody street demonstrations in the principal cities of West Firland in the immediate aftermath of the Electoral Commission's decision. A daily newspaper in the Ercolan capital reported that YLSA was establishing armed encampments in remote parts of West Firland, although there was no official confirmation of this. Invoking emergency powers granted to him by the 1960 Constitution, the President of Ercola on April 25, 1993, declared YLSA "an illegal militia," a declaration having the effect of making membership a punishable offense, and permitting the police and the military to seize property belonging to YLSA members without prior judicial authorization.

Two major non-governmental human rights organizations conducted monitoring visits to Ercola, and concluded that the crackdown on YLSA was "unwarranted," although one of them described YLSA's own actions and positions as "provocative." Filova's Ambassador delivered a note to the Foreign Ministry seeking "an explanation" of the Electoral Commission decision, and the Ambassador herself was recalled to Filova for a period of one month, "for consultations."

On August 20, 1993, during the traditional summer holidays when few people were at work in the urban areas, there was a massive explosion directly outside the Stock Exchange in the capital city of Ercola. Major damage was done to the building itself (which has still not been reopened) and to surrounding buildings. Fires broke out, but they were contained without additional consequence. Several homeless people, who had established unnoticed makeshift accommodations in the rear portico of the Stock Exchange, lost their lives following the

explosion. Had August 20 been a work day, there is no doubt that casualties would have run to the hundreds, if not thousands.

The Amalgamated Press office in Ercola received an English-language message later that afternoon. It was opened by the single reporter then on duty. It read exactly as follows:

YLSA OPERATIONAL COMMUNIQUE NO. 1

THIS IS THE VOICE OF YTTIC LIBERATION, YLSA. WE REGRET THE NEED TO TAKE THE LAW INTO OUR OWN HANDS IN ORDER TO ACHIEVE JUSTICES IN THIS COUNTRY. BUT WE WILL DO WHAT WE HAVE TO DO. WHAT HAPPENED TODAY AT THE STOCK EXCHANGE IS JUST THE BEGINING.

WE CALL UPON ALL WHO LOVE FREEDOM TO JOIN WITH US IN OUR STRUGGLE. GO INTO THE STREETS! DO NOT LET THE NICASTRIAN OPPRESSORS REST!

WE WILL BE FREE. WE WILL BE LIBERATED FROM NICASTRIAN TYRANNY WITH THE HELP OF OUR FRIENDS IN THE FILOVAN INTELIGENCE SERVICE.

WE HAVE UNLOCKED THE KEY TO THE ERCOLAN MILITARY MACHINE. WE KNOW THEIR SECRETS. AND WE WILL DISCLOSE THEM.

LATER, YOU WILL RECEIVE A MASSAGE FROM OUR COMRADES IN FILOVA. THEY ARE OUR BROTHERS IN REVOLUTION. WE WILL BE WITH THEM AS FREE MEN OR WE WILL DIE AS MARTYRS!

LONG LIVE FREEDOM!! LONG LIVE DEMOCRACY!! LONG LIVE THE YTTIC STATE!!!

The message was promptly delivered to the municipal police, who verified its authenticity. A copy was also delivered to the Filovan Ambassador, who was spending the week at a beach resort with her family. She hurried back to the capital, and with the approval of her Government prepared a diplomatic note for the Foreign Ministry. The note read:

The Filovan Government, along with all civilized people, abhors the destruction of property that occurred on August 20. While Filova does not condone violence in any form, the Embassy takes this opportunity to remind the Foreign Ministry of the legitimate aspirations of the Yttic minority in certain areas of Ercola to organize political parties of their own, which continue to

be thwarted. In that connection, the Government of Filova takes this opportunity to reiterate its long-standing offer of shelter and support to any Yttic seeking nothing more than the chance to live in the Yttic way in justice and peace. The Filovan Intelligence Agencies are fully authorized to pursue these ends. We encourage the representatives of the Yttic minority in Ercola in defense of their right of self-determination.

The Foreign Minister was away, as was his Deputy. The officer of the watch accepted delivery of the note without comment or reaction.

During the months of September and October, four consecutively-numbered "Operational Communiqués" were received by local police stations in different parts of Ercola. Each was written in the Yttic language, and predicted that an explosion would take place at a train station later on the day of delivery. In each case, the authorities evacuated the stations. On September 22, an incendiary device was found, and it exploded as it was being defused by a police bomb expert. Four uniformed officers were killed. A second device also detonated, causing minor property damage, while a third was found and neutralized. On each of those three occasions, the location of the explosive was exactly as predicted in the "Operational Communiqué." The police concluded that the fourth threat, received on October 29, was a hoax.

On November 4, the Amalgamated Press received another message in English, by fax, and promptly handed it over to the Foreign Ministry and the police of Ercola. The message was traced to a number at the Filovan Intelligence Service Center (FISC), a government agency. The following is the text:

YLSA OPERATIONAL COMMUNIQUE NO. 6

YOU WILL NOT STOP THE CORSE OF HISTORY. YOU WILL NOT STOP THE CORSE OF YTTIC LIBERATION. YLSA'S MARTYRS HAVE REACHED THE SAFETY OF OUR HOMELAND IN FILOVA.

OUR BROTHERS HAVE WELCOMED US AND PROMISE US THE HELP WE NEED.

THANKS TO THEM WE HAVE CRAKED THE CODE OF ESPRI. WE KNOW ALL ABOUT YOUR SOLDIERS. WE DO NOT FEAR ERCOLA'S FEEBLE NICASTRIAN MILITARY.

WE KNOW THAT CORPORAL JOHANN M. BATTISTA (#312-40-613) IS GAY. WE KNOW THAT PRIVATE PATRIZIA FLEISCHER (#687-11-004) IS HIV-POSITIVE. WE KNOW THAT GENERAL N.G. CURRY (#951-77-186) HAS BEEN TREATED FOR SYPHILIS. AND WE KNOW MUCH, MUCH MORE ABOUT THE MEMBERS OF YOUR SO-CALLED ARMED FORCES.

WE DEMAND THE IMMEDIATE REMOVAL OF THE ELECTORAL COMMISSION AND THE PUPPET MEMBERS OF PARLIAMENT "ELECTED" FROM WEST FIRLAND IN FEBRUARY. WE DEMAND NEW ELECTIONS FOR A FREE AND INDEPENDENT GOVERNMENT. WE DEMAND THE RIGHT TO VOTE FOR THE LEGITIMATE ASPIRATIONS OF THE YTTIC PEOPLE.

TO SHOW THAT WE ARE SERIOUS, AND BECAUSE OUR AIM IS THE LIBERATION OF OUR PEOPLE AND NOT HARM TO INDIVIDUAL CITIZENS OF ERCOLA, WE WILL DELIVER TO THE GOVERNMENT OF FILOVA OUR ONLY DECODED COPY OF THE INFORMATION CONTAINED IN THE ESPRI DATABASE, AS WELL AS THE ENCRYPTION CODE.

LONG LIVE THE CAUSE OF YTTIC LIBERATION! LONG LIVE THE FRIENDSHIP OF THE YTTIC PEOPLE OF ERCOLA WITH THEIR BLOOD BROTHERS IN FILOVA!

Ercola acknowledged that the specific references to military personnel in the message were accurate.

Five days later, four individuals who appeared to be of Yttic ethnic origin presented themselves at a police station in the capital of Filova. They asked to speak with the chief of police, and told her that they were responsible for manufacturing the bombs used at the Ercolan Stock Exchange. They also delivered to the police a carton of compact discs and other computer media, which the authorities have determined contain the ESPRI database and encryption code.

The four were detained, and their homes searched. Unregistered weapons were found, and all four were charged with misdemeanor firearms offenses. These charges carry a maximum

penalty of six months imprisonment and a fine equivalent to U.S. \$1,000. The four issued a statement to the press, through their attorney, confessing to the charges, claiming to be the "high command" of YLSA, defending their actions as "patriotic necessity," and affirming that the ESPRI material delivered to the police was the only copy in YLSA's possession.

The Foreign Ministry of Ercola immediately addressed a demarche to the Filovan Embassy. It demanded that the Government of Filova:

- a. ban the so-called "YLSA" as a terrorist organization, and declare that it is not welcome on Filovan territory;
- b. agree to prosecute the Stock Exchange bombers and the perpetrators of the other offenses in Ercola, for murder, for the other acts of violence, and for stealing Ercolan Government secrets, or to extradite them to Ercola immediately to stand trial for those crimes;
- c. return to Ercola, sealed and uncopied, all media containing the ESPRI database and the encryption code, as well as any hard copies of materials downloaded from them; and
- d. assist Ercolan authorities in ascertaining whether the ESPRI database and encryption code were copied prior to their delivery to the Filovan police, and, if they were, assist in locating and taking possession of any copies.

Accompanying the demarche was a formal request for extradition of the four Yttic prisoners, for the crimes of murder (the homeless people on August 20 and the police officers on September 22), destruction of property relating to the bombing campaign in Ercola, and violation of Ercolan Code § 1-040.

On the following day, the Foreign Minister handed this message to the Ambassador from Ercola, in response to the demarche of November 4:

- a. YLSA is not an illegal organization in Filova. The Government of Filova rejects the notion that a political organization can be illegal by virtue of the contents of its speech alone, or because acts of revolution perpetrated by individual members have resulted in damage to property.

b. Filova has apprehended persons it believes to be responsible for the explosions at the Stock Exchange and other locations in Ercola. They are also, however, accused of possession of unregistered firearms in Filova, and they will be tried for that crime forthwith. Furthermore, upon examination of the extradition request, Filova has determined that the facts cited give rise to the political offense exception set out in our treaty. It therefore intends to decline the request.

c. Filova considers itself to be under no obligation to hand over the ESPRI database or materials derived from it to Ercola, absent some demonstration that they were obtained in violation of international law.

d. Filova is not required to cooperate with Ercola's investigation of the break-in to the ESPRI database, or with agencies of the Ercolan Government in the repression of a political point of view with which the majority of citizens of Filova find themselves in sympathy.

Meanwhile, in recent months, approximately 200 parents of Ercolan military officers -- all of them of Nicastrian ethnicity -- have received packages from a Filovan source, enclosing the contents of their son's or daughter's Standard Form 1812. Each envelope has also contained a political pamphlet espousing the cause of Yttic independence. Ercolan newspapers claim to have evidence that the mailings were sent from an address previously used by FISC.

The parties have agreed *ad hoc* to submit their dispute to the International Court of Justice. Ercola seeks an order of the Court:

-- declaring that Filova's support for YLSA's activities causing harm to Ercola and Ercolan citizens, and its refusal to declare YLSA illegal, are violations of international law;

-- requiring that Filova immediately extradite those who confessed to the Stock Exchange bombing, and their accomplices;

-- compelling Filova to deliver to Ercola all copies of the ESPRI database and code, and to refrain from making any use whatsoever of those materials; and

-- awarding damages for injuries suffered by the Ercolan Government, measured *inter alia* by: (1) the cost of having to create an entirely new system for encrypting and retaining military personnel files, and (2) the injuries suffered as a result of the breach of privacy of every Ercolan citizen whose confidential and

personal information contained in the ESPRI database has been or may be released.

Filova opposes Ercola's claims, and seeks an order of the Court:

- rejecting the cited requests for relief;
- declaring that YLSA's actions and Filova's involvement in them are consistent with the right of the Yttic people to seek self-determination and with the right of Filova to assist in that struggle;
- declaring that Ercola's treatment of its Yttic minority violates binding international legal norms; and
- declaring that no right to damages for invasion of privacy is known in international law, or, in the alternative, denying Ercola's allegation that its citizens have been injured by the retention of the discs containing the ESPRI database.

The two nations are members of the United Nations, and both are parties to the Vienna Convention on the Law of Treaties. Filova is a party to the International Covenant on Civil and Political Rights, as well as the International Covenant on Economic, Social and Cultural Rights. Ercola signed both of those instruments in 1986, but has not ratified them. There is an extradition treaty between Ercola and Filova, requiring extradition when properly requested in all cases of acts criminal in both jurisdictions, with a standard exception for political offenses. There are no other bilateral treaties between Ercola and Filova relevant to this action.

The 1996 Jessup Problem is a result of a cooperative effort between the International Law Students Association, American Society of International Law, and Friends of the Jessup. The Problem was conceived by Steven Schneebaum. Primary Authors/Reviewers were Prof. Carlos Vasquez, Prof. David Wippman, Prof. Harry Almond, Angelina Chen, David Anderson, Charlene Cabral, Jennifer Krieger, and Prof. Paul Zarrins. Assistance was also provided by Eduardo Valencia-Ospina, Prof. Morad Eghbal, George Summerfield, and Prof. Trotter Hardy.

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ANNEX

STANDARD FORM 1812
BIODATA OF MILITARY PERSONNEL

Date: ___/___/___

REPUBLIC OF ERCOLA MINISTRY OF MILITARY PREPAREDNESS

Name: _____

Identification Number: _____

Current Address: _____

Date of Birth: _____ Location of Birth: _____

Date of Enlistment or Conscription: _____ [] Enlisted [] Conscripted

Service: _____ Entering Rank: _____

Current Rank: _____ Commanding Officer: _____

Next of Kin: _____ Relationship: _____

Address: _____

Health Status (Including Psychological Evaluations): _____

Prescription Medication: _____

Immunizations: _____

Educational Achievement (Years or Degrees): _____

Language Skills: _____

Level of Speaking Skill Level of Writing Skill

1. _____

2. _____

3. _____

4. _____

FOR OFFICIAL USE ONLY: DO NOT WRITE BELOW THIS LINE

Results of Observations or Tests:

Ethnic Group: _____ Height: _____ Weight: _____

Demeanor: _____ Sexual Orientation: _____

Alcohol: _____ Non-prescription drugs: _____

HIV: _____ Other Sexually Transmitted Diseases: _____

Other: _____

**1996 Philip C. Jessup
International Law Moot Court Competition**

ERCOLA

v.

FILOVA

***The Case Concerning
The Military Personnel Database***

CLARIFICATIONS

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INTERNATIONAL LAW
MOOT COURT COMPETITION
CONFERENCE OF
INTERNATIONAL LAW JOURNALS

1996 PHILIP C. JESSUP INTERNATIONAL LAW MOOT COURT COMPETITION

CORRECTIONS AND CLARIFICATIONS TO THE COMPROMIS

The following corrections and clarifications are submitted by the parties in response to many requests of Jessup Competitors, and the Compromis should be considered amended accordingly. In offering these, the parties remind all participants of the following:

- a. The Compromis is, in essence, a stipulation of facts. Its words have been carefully chosen, and are the results of extensive negotiation. The parties decline to "clarify" the facts by providing conclusory characterizations, *e.g.* of the nature of their political systems. Obviously, the parties will not stipulate as to what arguments are acceptable or unacceptable.
- b. Any request for a clarification that is not addressed in the following paragraphs has been considered inappropriate or insignificant, or the parties were unable to reach agreement on a mutually acceptable answer.
- c. Except to the extent that corrections are set out below, all participants are to assume that the Compromis is accurate in all respects. In particular, reproductions of record documents (such as communiqués) should be presumed to be literal, including apparent errors of spelling and grammar.
- d. Neither Ercola nor Filova is a signatory or a party to any treaty relevant to this dispute except those listed on page 11. There are no potentially relevant declarations or reservations to those treaties.

Corrections

1. There is a typographical error in the transcription of YLSA Operational Communique No. 1, set out in the Compromis at page 6. The third and fourth paragraphs should read as follows:

WE WILL BE FREE. WE WILL BE LIBERATED FROM NICASTRIAN
TYRANNY.
WITH THE HELP OF OUR FRIENDS IN THE FILOVAN INTELLIGENCE
SERVICE, WE HAVE UNLOCKED THE KEY TO THE ERCOLAN MILITARY
MACHINE. WE KNOW THEIR SECRETS. AND WE WILL DISCLOSE THEM.

2. At the bottom of page 9, the reference to "the demarche of November 4" should read "the demarche of November 10." The demarche is the one paraphrased in the middle of page 9.

Clarifications

1. The Ercolan Stock Exchange referenced on page 5 of the Compromis was not a public building. The railway stations referenced on page 7, however, were public buildings.

2. The data in the ESPRI database included information about former as well as active members of the Ercolan military forces.

3. YLSA has never sought, nor has it ever been offered, observer status before any agency of the United Nations.

4. The individual senders of the YLSA Operational Communiques have never been conclusively identified.

5. The four individuals who surrendered to the Filovan capital police are Ercolan citizens of Yttic ethnic origin. They were residents of Filova, although they have refused to account for all of their travels between the two countries. As of the date of the Compromis, they had not yet been tried in Filova for the firearms offenses with which they were charged: they remained in administrative detention. No other criminal or civil charges are pending against them in Filova.

6. Prior to its independence, Ercola was a colony of a continental Western European power. It has patterned its judicial system on the features of its former colonial system: it has trial and appellate courts, and provides for discretionary review of appellate decisions. Its courts are open to the citizens of other states. Filova's legal system is organized along similar lines.

Yttics born in Ercola are Ercolan citizens. Other than the issues raised in the Compromis, there have been no substantiated allegations that basic freedoms have been denied to any group of people within Ercola.

7. The Extradition Treaty between Ercola and Filova became effective after ratification by both governments in 1963. It has not been modified or altered since that time. It is silent on the extradition of nationals of the requested state.

The provision of the Treaty governing the political offense exception reads as follows:

"5. Extradition shall be refused in the following circumstances:

* * * * *

e) when the crime for which extradition is requested is of a political character."

Another clause of the Treaty provides as follows:

"12. Extradition shall be granted only if the charge against the person sought describes an act that would be criminal if it had been committed in the territory of the requested state."

8. In the second clause of its prayer of relief, Ercola's demand for extradition of the four suspects is based upon the reasons stated in the demarche of November 10.

9. Neither party's criminal code provides for the death penalty for any offense.