International Court of Justice (ICJ):

Case 1: Jurisdictional immunities of the state (Germany vs. Italy)

Brief Description of the Case:

On December 23, 2008, Germany filed an application before the International Court of Justice (ICJ) against the Republic of Italy on the grounds that Italy had breached international law by allowing civil lawsuits against Germany to be heard in its courts without Germany's consent. These lawsuits were based on alleged atrocities committed by German troops during World War II, including slave labour, deportation, and other war crimes. Germany maintained that, despite the serious nature of the above-mentioned allegations, it was immune from suit under international customary law.

History of the case:

During World War II, Nazi Germany invaded vast areas of Europe, including Italy. During the course of the war, German troops committed numerous violations against Italian civilians and soldiers, such as the deportation of civilians and soldiers for forced labour, as well as mass killings. Following the war, several agreements were reached between Germany and other nations, such as Italy, regarding reparations and compensation for citizens affected by the war.

In the early 2000s, Italian courts entertained claims filed by survivors of the Nazi era against Germany. The most significant decision handed down by an Italian court regarding these cases was the 2004 Ferrini case, in which the Italian Court of Cassation ruled that Germany could be sued in Italian courts for war crimes. This ruling contradicted the principle of absolute sovereign immunity under international law.

Germany protested these lawsuits by arguing that it had been deprived of its right to sovereign immunity, as recognized under international law. Consequently, Germany requested that the ICJ address the matter through a preliminary ruling in 2008.

Facts of the Case:

Both councils may present various legal facts regarding the case, including those concerning events during World War II, international law, or the rulings of the Italian judiciary. The establishment of these facts could allow for a potential solution to the dispute at hand.

Possible Arguments for Prosecution (Germany):

It is alleged that Italy breached customary international law on state immunity as it allowed its courts to assert jurisdiction against Germany without Germany's consent. State immunity, according to Germany, derives from the concept of sovereign equality and applies regardless of the nature of the acts performed.

Moreover, it was emphasized that state immunity is procedural since it involves the determination of whether the court has jurisdiction or not before an international tribunal rather

than the legality of the act itself. Thus, even when the acts are extremely atrocious, such as war crimes, state immunity should still apply. Furthermore, it was stated that the issue of reparations had already been resolved during the post-war period, and allowing individual claims would create uncertainty within international law.

Possible Arguments for Defence (Italy):

According to Italy, there was no reason why the doctrine of sovereign immunity should not be applied to situations involving a violation of international humanitarian law, including war crimes and crimes against humanity. Italy held that denying people access to justice could not be justified when other means of seeking justice had failed.

Furthermore, Italy stated that the gravity of the cases involved meant that an exception to the established doctrine of immunity could be made. It said that there was a right to reparations, and national courts were supposed to offer such redress when international tribunals were unable to do so.

Conclusion:

The case of Germany vs. Italy holds an important place in international law, as it is not only a matter of legal debate but also moral debate. This case highlights the contradiction between the principle of state immunity that exists to preserve stability and equality in the international community and the necessity to ensure justice for the victims of severe human rights violations. Ultimately, the ICJ delivered its ruling in support of Germany and established that state immunity applies in cases involving the most serious crimes. However, the surrounding the case remains ongoing.

Case 2: Oil Platforms (United States vs. Iran)

Brief Description of the Case:

On November 2, 1992, the Islamic Republic of Iran filed a case against the United States in the International Court of Justice (ICJ) for violating the Treaty of Amity, Economic Relations, and Consular Rights signed in 1955 when the US attacked the oil platforms of Iran located in the Persian Gulf. According to Iran, such acts were detrimental to trade relations and violated international law, while the US argued that it was acting in self-defence against the attacks on its ships.

History of the case:

Tensions escalated within the Persian Gulf region amid the Iran-Iraq War in the late 1980s when several events took place concerning the attacks against oil tankers and warships. According to the US, it was Iran that attacked US-flagged ships, including the mining of the US warship USS Samuel B. Roberts.

In retaliation for this, US military operations began, such as Operation Praying Mantis (1988), when the United States destroyed oil installations owned by Iran. Iran contended that its oil platforms were purely civilian and economic facilities intended for the extraction of oil, rather than military installations.

Subsequently, Iran referred this dispute to the International Court of Justice in 1992.

Facts of the Case:

Both councils may present various legal facts regarding the case, including facts about the attack on ships, the involvement of oil platforms, and the content of the Treaty of Amity. Such legal facts will assist in establishing whether the United States was responsible for violating international law.

Possible Arguments for Prosecution (Iran):

Iran could argue that the destruction of its oil rigs breached the Treaty of Amity, in the sense that freedom of commerce had been interfered with. The country held that the oil rigs were mainly civilian in nature and should thus not have been subjected to attack.

In addition, Iran pointed out that the US had no evidence showing that Iran was the one behind the attacks on the American ships. Thus, the use of force was not only unnecessary but disproportionate.

Possible Arguments for Defence (United States):

The US cited its actions as acts of self-defence, arguing that Iran was endangering maritime navigation worldwide by attacking American ships. It further stated that the oil platforms were being used for military activities.

Additionally, the US contended that the attack was necessitated by the need to secure its vessels within the region. It further denied that the attack violated the terms of the Treaty of Amity since it was not directed against commercial activities.

Conclusion:

The Oil Platforms case emphasizes the limitations imposed by international law on the concepts of self-defence. In this case, the ICJ determined that the actions taken by the US did not justify the claims of self-defence. On the other hand, the Iranian government failed to prove the violation of the Treaty of Amity. Thus, this case is significant due to its complex nature.