

INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA



YEAR 2022

15 November 2022

THE M/T “HEROIC IDUN” CASE

(MARSHALL ISLANDS v. EQUATORIAL GUINEA)

Prompt Release

ORDER

The President of the International Tribunal for the Law of the Sea,

Having regard to article 27 of the Statute of the Tribunal,

Having regard to article 106 of the Rules of the Tribunal (“the Rules”),

Having regard to the Order of the President of the Tribunal of 11 November 2022,

Makes the following Order:

1. Whereas, on 10 November 2022, the Republic of the Marshall Islands submitted an Application under article 292 of the United Nations Convention on the Law of the Sea (“the Convention”) to the Tribunal against the Republic of Equatorial Guinea concerning the prompt release of the vessel *M/T “Heroic Idun”* and its crew;

and whereas, the Application was accompanied by a letter dated 11 November 2022 from Mr Bernard J. Adiniwin, Attorney-General of the Marshall Islands, notifying the Registrar of the Tribunal of the appointment of Ms Meredith Kirby, Deputy Commissioner of Maritime Affairs, as Agent of the Marshall Islands;

2. Whereas a certified copy of the Application was notified to the Minister of Foreign Affairs and Cooperation of Equatorial Guinea by note verbale dated 10 November 2022, sent by post to the Counsellor of the Embassy of Equatorial Guinea in Berlin and also by email to the Permanent Mission of Equatorial Guinea to the United Nations in New York and the Embassy of Equatorial Guinea in Brussels;

3. Whereas, pursuant to the Order dated 11 November 2022, the President fixed 24 November 2022 as the date for the opening of the oral proceedings;

4. Whereas, by letter dated 11 November 2022, the Agent of the Marshall Islands requested that

the President of the Tribunal, relying on the Tribunal's inherent competence and *proprio motu* powers, exemplified but not confined by Article 90(4) of the Tribunal's Rules, call[] upon the Respondent to refrain from taking any steps that would aggravate the situation and risk prejudice to the safety, security and wellbeing of the crew and the safety and security of the Vessel;

5. Whereas, by letter of the same date, the Registrar informed the Agent of the Marshall Islands, at the request of the President, that her letter of 11 November 2022 had been transmitted to the Government of Equatorial Guinea on the same day and that the Tribunal would deal with the Application of the Marshall Islands in an urgent manner, as required under its Rules;

6. Whereas, by letter dated 14 November 2022, the Agent of the Marshall Islands informed the Tribunal "about developments concerning the *M/T "Heroic Idun"* and its crew over the past days" and stated that "Equatorial Guinea caused the

Vessel and her crew to be transferred into the jurisdiction, control and custody of Nigeria on 11 November 2022”;

7. Whereas, in the said letter, the Agent of the Marshall Islands further stated that, “[i]n consequence of these developments, the Vessel and crew are no longer within the jurisdiction, control and custody of Equatorial Guinea”, that “[t]hese developments have regrettably rendered moot the Marshall Islands’ Prompt Release Application” and that, “[a]s a result, the Marshall Islands is compelled to discontinue the proceedings”;

8. Whereas, in the said letter, the Agent of the Marshall Islands also requested the Tribunal to “take this correspondence as a formal notification of discontinuance of the proceedings in question under Article 106 (1) of the Rules of the Tribunal”;

9. Whereas a copy of the letter of 14 November 2022 from the Agent of the Marshall Islands was transmitted forthwith to the Government of Equatorial Guinea;

10. Whereas, at the time of filing of the letter of 14 November 2022 from the Agent of the Marshall Islands, the Government of Equatorial Guinea had not taken any steps in the proceedings;

THE PRESIDENT

Places on record the discontinuance of the proceedings initiated on 10 November 2022 by the Marshall Islands against Equatorial Guinea; and

Orders that the case be removed from the List of cases.

Done in English and in French, both texts being equally authoritative, in the Free and Hanseatic City of Hamburg, this fifteenth day of November, two thousand and twenty-two, in three copies, one of which will be placed in the archives of the Tribunal and the others transmitted each to the Government of the Marshall Islands and to the Government of Equatorial Guinea.



Albert HOFFMANN,
President



Ximena HINRICHS OYARCE,
Registrar
