

Procedural Order No. 3

Clarifications Sought from the Problem Setter

1) Kindly clarify who does "Mr. Olively" refers to on page no 26. Is it supposed to be Mr. Panicos?

Yes, the reference is to Mr. Panicos.

2) With respect to the shareholding in Bhangi Bank, who are the "another 9 Olive Garden Shareholders"? This line in the moot proposition seems comparable to the press release issued by Marfin Investment Group in relation to its investments in Laiki Bank.

The foreign shareholding structure of Bhangi Bank in 2006 was follows: Olively S.A., a company incorporated in Olive Garden, with 9 Olive Garden citizens acquired 20.2% of Bhangi Bank's shares in the aggregate. For the purposes of this problem, treat them as operating as one unit.

3) Are we to argue, from the Claimants' side, on behalf of Olively SA, 9 separe Olive Garden Shareholders and Depositholders, or only on behalf of "Olively S.A."

Olively, S.A. and 9 Olive Garden citizens holding shares of Bhangi Bank are presenting a common, consolidated claim. You are their attorney.

4) Whether all the laws of the Mythland and Olive Garden are *pari materia* with the laws of India?

Yes. But argue from common law principles.

5) Do the banks of Mythland have any domestic depositors and shareholders, and if any, in what percentage?

Yes, different banks have various domestic depositors and shareholders in varying levels. The domestic shareholding pattern of Lucky Bank and Bhangi Bank have already been set out in the problem.

6) Which other nationalities (apart from Big Bear, Little Bear and Olive Garden) have made any kind of deposits, investments and share purchases in the banks of Mythland and what is their individual proportion(s)?

Not relevant. Mythland banks were open to all without geographical restriction. However, the major nationalities involved were only Big Bear, Little Bear and Olive Garden (and Mythland, of course).

7) Page 16 of the Problem says that Olive Garden's share in Bhangi is 25.2% while Page 5 says it's 20.2%; which is correct?

The reference at page 5 is the correct one. Olive Garden shareholding in Bhangi Bank from 2006 until 20 June 2012 was 20.2%.

8) Page 20 says that Mythland's financial necessity is 16 Billion Euros (10 from ESM and 6 to be raised by Mythland), whereas Page 22 says that the "new and improved agreement reached" is for 14 Billion (10 from ESM and 4 to be raised by the State; which is the correct total amount?

Both are correct. The amount changed over time, downwards.

9) Who has received the 250 Billion dispersed by EFSF prior to the state of Mythland?

Various European countries including Olive Garden.

10) Do we need to address the issues of Admissibility and Jurisdiction independently or together?

Up to you to frame your case as you see fit.

11) Result of June 13, 2012 Court proceedings initiated in Olive Garden by Bhangi Bank against Olive Garden seeking temporary injunction is not specified/mentioned in the problem.

Case remains pending.

12) It is stated in the problem that Mythland requested for ESM assistance on June 25, 2012 even though ESM came into force on September 16, 2012.

Yes, Myhtland made a pre-application for ESM. The ESM Treaty was signed in February 2012 and all EFSF operations were being rolled up into ESM and new applications were being similarly channeled.

13) On Page 26, criminal charges have been filed against “Mr. Olively” in Case No.420/2013 but no individual by the name “Mr. Olively” is mentioned in the problem. Is this a reference to Mr. Panicos?

Yes, it refers to Mr. Panicos.

14) On page 7 of the problem, "In July 2011, the EU Troika agreed a program with Olive Garden to provide financing “together with voluntary contributions from the private sector”. At this time, the EU countries expanded the powers of the EFSF: by enabling it to make short-term loans and provide funds specifically to recapitalize banks, and even directly buy debt owned by a country’s private financial institutions in exceptional circumstances. The EU program entered into with Olive Garden provided it with EFSF financing subject to the private sector holders of Olive Garden debt participating by taking a loss – proposed at 21% of the face value of their debt."

Does this mean that funding was provided after the EFSF had bought the debt instruments held by the private financial institutions at half the value, as its expanded powers allowed it to do?

Not relevant.

15) On page 5, "In 2006, a group of 10 Olive Garden nationals acquired 20.2% of Bhangi Bank’s shares both individually as well as jointly through their investment vehicle Olively S.A. (Olively), a company incorporated in Olive Garden."

On page 26, "On 5 July 2013, the National Financial Fraud Bureau of the Mythland Ministry of Interior filed criminal charges against Mr. Olively and nine co-conspirators accusing them of insider dealing, mismanagement, tax evasion and siphoning off monies. The High Court of Mythland registered these cases as Case No. 420 of 2013"

On page 27, "On 6 July 2013, Olively and another nine Olive Garden shareholders and depositors in Bhangi Bank initiated a process of international protection against the Republic

of Mythland in accordance with the procedure provisioned by the bilateral treaty regarding the protection of investments between Olive Garden and Mythland".

Was the process of arbitration initiated by the ten individuals constituting the company 'Olively' plus 9 other unconnected individuals?

OR

Is 'Olively' also the name of one of the natural persons?

Olively, S.A. and 9 Olive Garden citizens holding shares of Bhangi Bank are presenting a common, consolidated claim. You are their attorney.

16) Please clarify by whom the arbitration proceedings were initiated and whether Mr. Panickos was involved the initiation.

Olively, S.A. and 9 Olive Garden citizens holding shares of Bhangi Bank are presenting a common, consolidated claim. You are their attorney. This group includes Mr. Panicos.

17) On page no 26 Second Last paragraph:

On 5th July 2013against ***Mr. Olively and nine co-conspirators*** accusing them.....

But on page no 27:

On 1 December 2013,.....***Mr Panicos and members*** of his group requiring them to appear and provide testimony. At this time warrants of arrest against ***Mr Panicos*** were outstanding in Case No. 420.

Is it Mr Panicos or Mr Olively?

Mr. Panicos.

18) Page no 8 First Paragraph Last forth line:

This meant all the accounts present in the Olive Garden books of the banks' Olive garden subsidiary. Kindly clarify what this means.

Mythlandic banks operated in Mythland and abroad, including Olive Garden. The Olive Garden accounts were in the name of their wholly owned subsidiary banking companies incorporated in Olive Garden. By Decree No. 59/2011, these accounts were transferred by operation of law onto the books of the Mythland parent banking companies. In effect,

Olive Garden wholly owned subsidiary companies were converted into foreign branch operations.

19) On page no 16 Second Paragraph:

On 20th JuneOlive garden investors group's combined shareholding of 25.2%.....

But earlier on Page no 5 the share of olive garden is 20.2%. Please Clarify.

The reference at page 5 is the correct one. Olive Garden shareholding in Bhangi Bank from 2006 until 20 June 2012 was 20.2%.

20) On page no 21 Second Last paragraph:

On the evening of 21st March 2013,.....Repaying Bhangi Banks € 8 Billion outstanding ELA.....

But on Page no 17 Second Last paragraph:

In accordance with itsThe MCB increased Bhangi Banks ELA to € 7 Billion. Please Clarify.

Both figures are correct. On 25 June 2012, Bhangi Bank's total credit available under the ELA was 8 billion. As of 21 March 2013, Bhangi Bank was actually utilizing 7 billion of this credit line.

21) On page no 27 the amounts mentioned in the prayer (€ 750 million relates to the value of their shares.....) do we have to justify them because the facts are missing.

No. The present phase is limited to threshold and merits issues only.

22) Do we have to stick to the moot problem when it comes to the functions of EU Troika and other commissions or institutions *or* do we have to go beyond the moot problem in discovering their purposes?

Please use your common sense and good judgment.