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Clarification Q&A on the Hypothetical Case for the 30th Inter-American Human Rights Moot Court Competition of 2025

A.A. and Nine other Women v. Republic of Aravania

1. What was the situation of M.A. and F.A. after leaving the Finca El Dorado complex?

After A.A.'s trip to Aravania, on January 12, 2012, M.A. and F.A. left Finca El Dorado, returned to Aravania, and have since been living with A.A. in Campo de Santana. A.A. never informed the Aravanian authorities of any violation of their rights.

2. What reparation measures did the State of Aravania offer the victims and what did they specifically consist of?

See paragraph 55 of the hypothetical case.

3. Is there any information available on the whereabouts of the other nine women involved in the case?

After A.A. reported the facts to the Velora Police, the police made efforts to determine the identity and whereabouts of the nine women. In particular, A.A. was asked if she had any additional information that might help locate them. A.A. said that she did not know their full names, but she remembered that one of them was named María, and that another, named Sofía, was traveling with her sister, Emma. She did not remember the names of the others, but she stated unequivocally that nine other women had been traveling with her. The police requested the immigration records for entries between January 5 and January 15 of that year. However, they considered that, due to the sheer number of migrants at the Campo de Santana border crossing, and the lack of information about their identity, it was impossible to identify each one of them, let alone locate them.

4. If possible, please clarify the content of the State's reiteration of its preliminary objection (mentioned in paragraph 60 of the case) and the procedure that was followed.

See paragraphs 57, 58, 59, and 60 of the hypothetical case.

5. If possible, please clarify the period of validity of the agreement between the States, especially when it came into force, in order to determine individual or State responsibility for unlawful acts based on the agreement's validity.

Article 123 of the cooperation agreement provides as follows: "*Article 123. Entry into force. This Cooperation Agreement will enter into force upon signature by both parties.*"



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Aravania and Lusaria signed the agreement on July 2, 2012. The Agreement was in force until July 1, 2015, in accordance with Article 4.1 thereof.

6. Please clarify the nature of the Trafficking Victims Support and Reintegration Clinic and the nationality of other victims, if possible.

The Support Clinic is a legally recognized nongovernmental organization in the State of Aravania, a member state of the OAS. It is a civil society organization created by people who self-identify as survivors of human trafficking in Aravania.

7. What is the extent of Aravania's jurisdiction over activities carried out in Lusaria under the cooperation agreement?

This question does not relate to a clarification of the facts; it should be answered by the teams as part of the exercise.

8. Did Aravania implement policies after the incident to prevent similar situations from occurring in the future?

After the arbitration panel's ruling, the Ministry of Foreign Affairs of Aravania issued Resolution 2020, which states that before Aravania can establish any kind of commercial relationship involving the transfer of goods or services produced in another State, it must ensure that the labor rights recognized by the International Labor Organization are recognized in that State. It must also ensure that effective mechanisms are in place in that State to enable the filing of employment-related claims.

9. What responsibility do the companies have for the alleged human rights violations in the case?

This is part of the analysis that each team must carry out. However, no disputes related to companies and human rights were raised at the domestic level. Under the terms of the agreement, it was understood that the company EcoUrban Solution, accountable to the Lusarian Ministry of Economy and Development, acted as a State entity.

10. Did the unannounced inspections provided for in Article 3.3 of the cooperation agreement take place? If so, how often did the Aravanian authorities exercise that right and what were their findings?

The Aravanian authorities reviewed the construction of the special mission in Primelia and visited the site several times before the women were taken to transplant the *Aerisfloras*. The Aravanian authorities were able to enter the premises with the consent of the Lusarian security authorities and Hugo Maldini, head of the mission.



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Following the complaint filed on October 25, 2013, Aravana requested a new report on El Dorado's working conditions on October 30, 2013. On December 10, the State of Lusaria presented a report describing the working conditions that applied to people who signed a contract to work at the *Aerisflora* cultivation site. Those conditions were as follows: (ii) they planted and cultivated *Aerisflora* during a 48-hour work week, with one day off per week; (iii) they worked regardless of the weather conditions due to the nature of the activity; (iv) the wage offered was paid per square meter (m²) of *Aerisflora* planting or transplanting; (v) they had access to social security programs, which included health insurance, daycare, and education for their dependents; (vi) Lusaria provided housing for the people working on the *Aerisflora* transplant project and had paid travel costs for each person and their dependents and provided special work permits. With regard to what happened in Primelia, Lusaria reported that it had informed the Prosecutor's Office of the facts so that the appropriate investigations could be carried out. After receiving this report, the Aravanian authorities decided that there was no need to undertake a visit to Lusaria given that the conditions described did not contravene the cooperation agreement. They also noted that, in any case, any disputes that arose in relation to the implementation and interpretation of the agreement would be resolved through arbitration, which they decided to initiate.

11. Does A.A. have information about the current situation of M.A. and F.A.?

Please see the answer to question 1.

12. A.A. stated in her complaint to police that there were at least 59 other women in similar circumstances in Lusaria, in addition to the nine women with whom she travelled to Aravana. Furthermore, we read about the disappearance of at least one worker and her daughter. What steps, if any, did the Aravanian or Lusarian authorities take in order to locate any of those people?

Please see the answer to question 3.

13. Regarding the migration process between Aravana and Lusaria, was the departure of those 60 women from Lusaria and the entry of A.A. and the other nine women into Aravana recorded?

The immigration authorities at the borders of Aravana and Lusaria are responsible for registering all persons entering or leaving either country. People present their passports and the authorities register their information. A.A. and the nine women presented their passports as well as the special work permits provided for in the cooperation agreement.

14. According to paragraph 49 of the case, the Velora Police did not find any of the nine women mentioned by A.A. Are these women still missing?



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Please see the answer to question 3.

15. **Under Article 3.3 of the cooperation agreement, the Republic of Aravania is authorized to make unannounced site visits to monitor activities. Did Aravania make any such visits to El Dorado or to the *Aerisflora* transplant site in Aravania?**

Please see the answer to question 10.

16. **Has Aravania been represented at all of the conferences of the American Convention on Human Rights (1985) and the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women (1996)?**

See paragraph 10 of the hypothetical case.

17. **Why has Aravania neglected to ratify the U.N. treaties mentioned in No. 10 of the hypothetical case? Is there any legislative history there?**

See paragraph 10 of the hypothetical case. No additional information is available.

18. **In paragraph 21 of the hypothetical case, the Aravanian delegation noted that the working conditions in Lusaria were “not as favorable” as those in Aravania. What were those conditions?**

The difference observed by the State of Aravania lay, above all, in the fact that, under the laws of that State, wages were established on an hourly or working time basis, whereas in Lusaria workers’ wages could be set based on the number of “pieces” or “products” delivered. Notwithstanding this, Aravania noted that Lusaria has a robust social security service for the protection of workers and their families.

19. **Did the State of Aravania initiate other proceedings or investigations against other participants in the events in Aravania described by A.A., besides Hugo Maldini?**

No.

20. **Has the State of Aravania carried out investigations to locate the nine victims described by A.A., as well as A.A.’s relatives?**

Please see the answer to question 3.

21. **Can the events that occurred in the State of Lusaria be subsumed under the events that occurred in the State of Aravania?**

This question does not relate to a clarification of the facts.



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- 22. What was the specific content of the periodic reports that Lusaria sent to Aravania, including, among other details, a description of working conditions and the existence of a register of workers and their dependents, and what mechanisms did Aravania put in place to verify the accuracy of these reports?**

Please see the answer to question 10.

It should also be noted that Aravania received reports from the State of Lusaria under the terms of the agreement. These reports included the status of the *Aerisflora* planting, the growth and development of the plant, the number of meters planted, and transplant-related forecasts. With regard to working conditions, Lusaria sent copies of the contracts signed with the workers and reported that no labor lawsuits or complaints had been filed. In July 2013, Lusaria informed Aravania that it was going to make some modifications to the El Dorado site to ensure safety and productivity in the *Aerisflora* fields, outlining the schedule of activities and the infrastructure changes that would be implemented starting in September 2013. During the arbitration panel proceedings, Aravania stated that, fundamentally, based on these reports and the fact that the activity took place in another jurisdiction, it would have no reason to carry out any of the visits provided for in the agreement.

- 23. What checks did the Aravanian immigration authorities perform when the 10 women (A.A. and the other nine women) returned to Aravania through the Campo de Santana border crossing on January 5, 2014, and were these checks adequate to identify possible victims of human trafficking?**

Please see the answers to questions 3 and 13.

- 24. Paragraph 35 of the hypothetical case states that A.A. received a job offer and special work permit. Were the documents granted to A.A. and the other nine women registered with any labor authority in Lusaria? Were there, or are there, any legal or administrative complaints before the Lusarian authorities regarding the working conditions at El Dorado?**

The employment authorization documents for the cooperation agreement activities carried out in Lusaria were issued jointly by the Lusarian Ministry of Foreign Affairs and Ministry of Labor. Labor and criminal actions were brought in Lusaria as a result of what happened at El Dorado, including the case brought against Hugo Maldini. The elements of the crime of human trafficking were not considered to have been met in any of these cases.

- 25. According to paragraph 57 of the facts of the case, Aravania alleged that A.A. had received full reparation for the harm alleged. What was the scope of this reparation?**

See paragraph 55 of the hypothetical case.



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26. **According to paragraph 52 of the facts of the case, Aravania has a comprehensive policy for the prevention and punishment of human trafficking. What are they, and what measures are included in this policy?**

Please see the answer to question 8.

27. **Has Aravania conducted any kind of investigation to locate the other nine missing women?**

Please see the answer to question 3.

28. **What were the criteria for selecting Finca El Dorado to produce and transplant the *Aerisflora* to Aravania?**

Finca El Dorado was the first farm selected by the company EcoUrban Solution to produce and transplant *Aerisflora* due to its proven expertise and good results in recent years.

29. **Is the Trafficking Victims Support and Reintegration Clinic a nongovernmental organization legally recognized under Article 44 of the ACHR?**

Please see the answer to question 6.

30. **Was any kind of sexual violence committed against A.A. or the nine women during their time in Aravania?**

No information is available on this subject.

31. **What standards and evidence led the arbitration panel to determine the amount of compensation and, if applicable, what other sources of international law did it rely on for its decision?**

The arbitration panel assessed the dispute based on the terms of the cooperation agreement, as well as on the Convention on the Recognition and Enforcement of Foreign Arbitral Awards and the Mauritius Convention on Transparency in Treaty-based Investor-State Arbitration, both ratified by Aravania and Lusaria. The arbitration panel noted that labor rights are human rights that give rise to obligations for both States based on the treaties they have ratified, such as the American Convention, which form part of general international law and should guide Lusaria's actions. The panel found a breach of Article 23 of the agreement and set the amount of compensation based on the principle of equity.

32. **Further to paragraph 39, did any incidents occur in which women seeking to leave the premises were stopped or discouraged from doing so by guards, any other person, or by the physical layout of the facility?**



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In connection with what is stated in paragraph 39, there is no information on the existence of any such incidents. A.A. told the Aravanian police when she was interviewed that “once they were there, they had no way of leaving, as everything was designed to pressure them into staying.”

- 33. What was the content of the monthly reports that Lusaria provided to Aravana, particularly with regard to the factors considered in determining that working conditions were “in compliance with the agreement”?**

Please see the answers to questions 10 and 22.

- 34. What level of detail does the Inter-American case provide with regard to the identification of the alleged victims? Does the Support and Reintegration Clinic have any contact with the alleged victims?**

The petition filed by the Support and Reintegration Clinic contains A.A.’s full details (requesting that initials be used to keep her name and identification confidential). As for the other nine women, the petition states that they ranged in age from 23 to 35, that they were Aravanian nationals, and that their families lived in Campo de Santana at the time of the events. It also stated that they worked at Finca El Dorado and were transported on January 5, 2014, together with A.A., in a bus with tinted windows to Aravana. It also indicated that, besides A.A., one of them was named María, and that another, named Sofía, was traveling with her sister, Emma.

- 35. Is the situation of M.A. and F.A. known?**

Please see the answer to question 1.

- 36. Paragraph 17 of the facts refers to impunity in connection with the *Aerisflora* plant. What alleged crimes or acts were committed with impunity?**

The acts of impunity were those connected to allegations of corruption and the unjust enrichment of government employees whose work was related to *Aerisflora*.

- 37. If there are nine women included in the complaint filed with the Commission and subsequently with the Court, can we presume that the violations committed against the other nine women are based on similar facts to those experienced by A.A.? If not, is the context described sufficient for us, as representatives of the victims or the State, to support the alleged violations?**

The nine women had the same working and living conditions as A.A.



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38. What is the status of international human rights treaties and other international treaties in the legal system of the Republic of Aravania?

All treaties have constitutional status according to Article 2 of the Constitution of Aravania.

39. After A.A. informed the Velora Police that M.A. and F.A. were still in Lusaria (§48), what measures did the Republic of Aravania take to repatriate M.A. and F.A.?

Please see the answer to question 1.

40. On March 19, 2015, the Federal Court of Canindé sentenced Hugo Maldini to nine months in prison and barred him from holding public office (§53). Considering this decision and the diplomatic immunity previously granted to Maldini under the cooperation agreement, what impact did this conviction have on the criminal proceedings brought in Aravania?

We suggest reviewing paragraph 53 of the hypothetical case.

41. Why wasn't the State of Lusaria sued?

The State of Lusaria is a party to the American Convention and has recognized the contentious jurisdiction of the Inter-American Court. On September 1, 2015, the Trafficking Victims Support and Reintegration Clinic filed a complaint against Lusaria for the acts for which it can be held internationally responsible. This petition was registered as Petition No. 437-2015. Due to the State's failure to respond and the application of IACHR Resolution 1/16, it is currently at the merits stage.

42. Were the other nine women also from Aravania?

A.A. said she recalls that they were from different areas of Aravania.

43. What happened to A.A.'s daughter and mother?

Please see the answer to question 1.

44. Did the Republic of Aravania ever carry out unannounced activity supervision visits pursuant to its authority under Article 3.3 of the cooperation agreement?

Please see the answer to question 10.

45. What measures did the States implement to protect workers under Articles 23.2 and 23.3 of the cooperation agreement?



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In Lusaria, the labor laws require regular workplace inspections. El Dorado was inspected in January 2013, when the designated inspector determined that the workers' contracts and working conditions were in compliance with the country's labor laws. It was also noted that some of the people interviewed noted how beneficial the work was for their families' social security coverage. During this visit, brochures were handed out to the workers informing them of their labor rights, the prohibition of workplace discrimination, and how to file an employment-related complaint in the State of Lusaria. Aravania was informed of the inspector's report as part of the monthly reports that were presented in keeping with the agreement.

46. Were the victims—including the nine other women petitioners besides A.A.—identified in the criminal proceedings against Maldini in Lusaria and in the arbitration proceedings under the cooperation agreement?

In the criminal proceedings in Lusaria, seven women were identified as victims of the crime of abuse of authority. The judgment, which is public in view of the request to keep their identities confidential, only identifies them as S.F., E.F, M.B., J.J, A.M., R.S, and J.C. The judgment stated that these victims left El Dorado and went into hiding in Lusaria, and that they were able to report the crime thanks to the support they received from the Trafficking Victims Support and Reintegration Clinic.

The identity of the workers who performed the activities stipulated in the agreement was not discussed in the arbitration proceedings, which focused on determining compliance with Article 23 of the agreement. It was found that (i) Lusaria had not carried out inspections with the expected frequency; (ii) based on various testimonies, payments were not made on time, particularly during the period when the *Aerisflora* was transferred to Primelia; (iii) the contracts made reference to payment for the planting of *Aerisflora*, but the work activities later changed to the preparation and transplanting of the plant, without the contract being amended accordingly; and (iv) this situation had affected the rights of the workers at El Dorado, the vast majority of whom were migrant women heads of household, in such a way that the failure to ensure the requisite working conditions had a specific impact and amounted to a form of discrimination.

47. At any time did the State of Aravania carry out supervision visits or activities to inspect the conditions of Finca El Dorado in keeping with Article 3.3 of the agreement?

Please see the answer to question 10.

48. What information is currently available about the women working at Finca El Dorado and their dependents, especially about their whereabouts and their relationship with the Trafficking Victims Support and Reintegration Clinic?



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Please see the answer to question 3.

49. **In view of the complaint filed by A.A., did the States of Lusaria and Aravania investigate the other people in charge of the *Aerisflora* production organization, such as Isabel Torres?**

No.

50. **Is there a constitutional rule or a high court decision that grants international treaties constitutional status in the State of Aravania?**

Please see the answer to question 38.

51. **The hypothetical case mentions that the women continued to perform work-related activities on a daily basis after the end of their working day. In these cases, was it verified that they received overtime pay in accordance with the labor laws in force? Is there any law in the State of Aravania that provides for weekly time off?**

Payment for overtime hours was not verified. Lusarian labor law allows piecework contracts or payment per finished product, where the work schedule to complete those tasks depends on the worker. See paragraph 18 of the hypothetical case.

52. **How is the representation of collective or group interests regulated under the laws of the defendant State? Could you provide the text of the relevant article of the code or procedural law in force?**

This information is not necessary for purposes of debating the case.



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