

HYPOTHETICAL QUESTIONS AND RESPONSES

1. Paragraph 18: Was Congress notified of the declaration within the prescribed amount of time as required by Article 101 of the Constitution of Liberte?

YES.

2. Paragraph 25: Is the Justice Party a majority or minority in the National Congress?

IT IS A MINORITY PARTY.

3. Paragraph 28: How did the election date of December 10 originate?

DECEMBER 10 IS THE ANNIVERSARY OF THE DATE ON WHICH LIBERTE GAINED ITS INDEPENDENCE.

4. What do the reports issued by the electoral observers sent to Liberté indicate?

IN GENERAL, THE REPORTS OF THE ELECTORAL OBSERVERS INDICATED THAT THE PROCESS WAS CARRIED OUT IN ORDER; HOWEVER, THEY HIGHLIGHTED THAT THE CHANGE IN THE TRADITIONAL DATE FOR THE ELECTIONS WAS NOT WELL RECEIVED BY THE CANDIDATES OR BY THE CITIZENRY, WHO FELT TO SOME EXTENT THAT THEIR RIGHT TO ELECT AND BE ELECTED HAD BEEN AFFECTED BY THE ACTION OF THE GOVERNMENT.

5. Were any legal proceedings initiated against those who were detained by virtue of the suspension of the right to personal liberty?

NO.

6. Were the elections actually held on January 10, 2002?

YES.

7. In addition to the instruments mentioned in the hypothetical case, what other human rights instruments has the State of Liberté signed?

LIBERTE HAS RATIFIED THE UNITED NATIONS CONVENTION ON THE RIGHTS OF THE CHILD. THE UNIVERSAL DECLARATION OF HUMAN RIGHTS AND THE AMERICAN DECLARATION OF THE RIGHTS AND DUTIES OF MAN ARE ALSO APPLICABLE.

8. Paragraph 20 of the hypothetical indicates that, having consulted with the State of Liberté, it was agreed that the OAS would send an electoral observation mission as soon as possible. What conclusions did the mission reach in its reports on its activities presented to the Permanent Council through the Secretary General?

SEE THE ANSWER TO QUESTION 4.

9. In addition to the filing of the challenge before the Constitutional Court, what other actions did the five dockworkers' unions take after the issuance of the November 7, 2001 decree ordering them to cease any collective labor actions?

NONE.

10. Was any individual petition filed with respect to the right to education?

NO.

11. Is Liberté party to ILO Conventions 87 and 98?

NO.

12. Did the State ratify the Convention on the Rights of the Child?

YES, ON FEBRUARY 21, 1998.

13. Were the elections held on the date set by the Government?

SEE RESPONSE TO QUESTION 6.

14. Is the mechanism of binding arbitration contemplated in the collective bargaining agreements of the dockworkers?

NO.

15. Is the Constitutional Court a tribunal of last instance?

IN LIBERTE THE CONSTITUTIONAL COURT IS A SINGLE INSTANCE OF JURISDICTION (IT IS NOT AN APPELLATE INSTANCE, AND NO APPEAL LIES FROM ITS DECISIONS).

16. Is the possibility of binding arbitration contemplated in the collective bargaining agreements of the dockworkers as a means of resolving worker-management conflicts, and if so, which arbitral tribunal has competence?

SEE THE RESPONSE TO QUESTION 14.

17. Were the elections held in January of 2002, and if so, who was elected, or if not, when were they held?

SEE THE RESPONSE TO QUESTION 6.

18. What did the massive work slowdown against the transport companies consist of, and what were the concrete effects?

WITH RESPECT TO PARA. 11, IT CONSISTED OF A PARTIAL STOPPAGE OF THE ACTIVITIES OF LOADING AND UNLOADING CARGO. THE IMMEDIATE

EFFECT WAS THE LOSS OF REVENUE FOR THE MARITIME TRANSPORT COMPANIES.

19. Is December 10 a traditional date or a legal date; if legal, is the norm that sets it inferior to the decree establishing the state of emergency?

THE NORM SET FORTH IN THE LAW OF ELECTIONS AND POLITICAL PARTIES ESTABLISHES THE FOLLOWING: "ART. 53. THE GENERAL ELECTIONS SHALL BE HELD ON DECEMBER 10, TO COINCIDE WITH THE ANNIVERSARY OF THE COUNTRY'S INDEPENDENCE."

20. Were the elections carried out on January 10, and under what circumstances?

SEE RESPONSE TO QUESTION 6 AND 4.

21. Is the time limit established by Article 101 of the Constitution of Liberté set in calendar days or working days?

CALENDAR DAYS.

22. What is the age of majority in Liberté?

18 YEARS OF AGE.

23. Are the presidential elections carried out in conjunction with parliamentary elections?

YES.

24. Were the children denied contact with their parents?

YES.

25. Were the persons arrested given the reasons for their arrests?

YES, DISTURBANCE OF PUBLIC ORDER.

26. What is the age of majority in Liberte?

SEE RESPONSE TO QUESTION 22.

27. Did President Claudia Reina notify the Congress of the declaration of the State of Emergency within 48 hours of its issuance?

SEE RESPONSE TO QUESTION 1.

28. Are "military recruits" part of the security forces?

YES.

29. On what date did the elections take place?

SEE RESPONSE TO QUESTION 6.

30. Please clarify the internal legal norms of Liberté, particularly those of constitutional rank.

THE RELEVANT NORMS OF INTERNAL LAW HAVE BEEN REFERRED TO IN THE HYPOTHETICAL AND IN THE RESPONSE TO QUESTION 19.

31. In order to analyze aspects of admissibility, please indicate which kinds of procedures exist in Liberté for the protection of individual rights?

SEE FACTS OF THE HYPOTHETICAL.

32. Point 17 of the hypothetical mentions disputes among political factions, provoking imminent violence in the protest. What is the nature of this violence (what concrete actions took place and is there legislation to detain the perpetrators of such acts) that gave rise to the intervention of the recruits?

THE VIOLENCE WOULD HAVE CONSISTED OF ACTS RANGING FROM VERBAL AND PHYSICAL AGGRESSION TO BATTERY. THE LEGISLATION OF LIBERTE AUTHORIZES DETENTION FOR THE PERPETRATORS.

33. Number 24 of the case in question indicates that the judge reported on the whereabouts of Joel Valencia and his classmates to their parents. Following the sequence of the case, Joel Valencia was released. What was the reason for the judge to reject the habeas corpus; did he have any intervention in the release of the detainees; once he learned of the detention of Joel Valencia, did he request that Joel be separated from the adults?

SEE FACTS OF THE HYPOTHETICAL.

34. Are there legal provisions in Liberté regulating that the right to strike shall be subject to limitations and restrictions with respect to companies of economic importance for the State or to maintain public order? In the same sense, is there any legal procedure to declare a strike legal in the State of Liberté?

THERE ARE NO LEGAL PROVISIONS THAT RESTRICT THE EXERCISE OF THE RIGHT TO STRIKE ON THE BASIS OF THE ECONOMIC ACTIVITY OR PUBLIC SERVICE AT ISSUE.

35. According to the internal juridical order of Liberté, does the Government have the possibility to prolong the state of emergency for more than 90 days?

NO. BUT IF THE EXCEPTIONAL SITUATION THAT GIVES RISE TO A DECLARATION OF EMERGENCY EXTENDS FOR MORE THAN 90 DAYS, THE GOVERNMENT CAN ISSUE A NEW DECREE DECLARING A STATE OF NATIONAL EMERGENCY.

36. Up to what age is a person considered a minor (child) according to the internal legal order of Liberté?

SEE RESPONSE TO QUESTION 22.

37. Were the elections carried out on January 10, 2002, and if not, when were they carried out?

SEE RESPONSE TO QUESTION 6.

38. Article 101 of the Constitution of Liberté indicates that a state of emergency shall lapse automatically at the end of 90 days from the date of issuance of the corresponding decree. In the case at issue, did the state of emergency lapse automatically at the end of 90 days?

SEE PARA. 18 OF THE HYPOTHETICAL, AT SUBSECTION 4.

39. By way of the decree declaring a state of emergency, President Reina postponed the elections until January 10, 2002. Were the elections held on the date indicated?

SEE RESPONSE TO QUESTION 6.

40. Does the expression "joint patrols" also indicate the transfer of competences of the judicial police to the members of the armed forces?

SEE THE DECLARATION OF EMERGENCY, PARA. 18, SUBSECTION 1 OF THE HYPOTHETICAL.

41. President Reina requested that the OAS send an electoral observer mission for the national elections. Was this done?

YES, SEE PARA. 20 OF THE HYPOTHETICAL.

42. Was the dockworkers' strike halted at some point on the basis of the decisions of the President and the Constitutional Court?

Yes, on November 7, 2001.

43. Apart from the ballistics issue, what other results have been produced in the investigations with respect to the deaths during the protests?

SEE THE FACTS OF THE HYPOTHETICAL.

44. Can the right to submit preliminary exceptions be renounced; and if so, can it be recovered once it has been renounced?

THIS IS A QUESTION FOR THE PARTICIPANTS TO RESEARCH.

45. Can the support given by the Organization of American States to the Government of Liberté -- in sending an electoral observer mission and in calling upon public institutions to ensure the electoral process -- be interpreted as supporting the postponement of the elections in Liberté?

THIS IS AN ISSUE WITH RESPECT TO WHICH THE PARTICIPANTS MAY DEVELOP THEIR OWN ARGUMENTS.

46. Can the remedy of habeas corpus be suspended in a state of emergency?

THIS IS A QUESTION FOR THE PARTICIPANTS TO RESEARCH.

47. What did the partial strike consist of – that is, what functions did the workers of the dockworkers' unions stop carrying out?

SEE RESPONSE TO QUESTION 18.

48. Were the OAS observers sent for the electoral process, and if so, what conclusions did they draw in this regard?

SEE RESPONSE TO QUESTIONS 4 AND 41.

49. Were the elections finally carried out on the established day?

SEE RESPONSE TO QUESTION 6.

50. What is the youngest age at which a person can be judged as an adult in Liberté?

18 YEARS OF AGE.

51. The facts indicate that during some protests there were many injuries including death, but were any of the student protestors responsible for causing harm to another person?

THERE IS NO EVIDENCE POINTING TO SUCH RESPONSIBILITY.

52. Could you clarify the age of majority in Liberte?

SEE RESPONSE TO QUESTION 22.

53. Did President Reina notify the Congress of Liberté?

SEE RESPONSE TO QUESTION 1.

54. What were the circumstances under which Joel Valencia was released, who ordered his release, and for what reasons?

SEE PARA. 23 OF THE HYPOTHETICAL.

55. a) Should the protest of July be understood as, in effect, a call to strike? And b) Was the call to strike effectively carried out in October of 2001?

THE ACTION OF JULY WAS A WORK SLOWDOWN (A PARTIAL STRIKE), WHILE THE ACTION OF OCTOBER WAS A GENERAL STRIKE.

56. According to the norms in effect in Liberté on November 17, 2001, was it legal for the recruits to carry out these kinds of arrests once they were assigned to respond to the protest referred to in para. 22?

THIS IS AN ISSUE FOR THE PARTICIPANTS TO DEVELOP, WITH REFERENCE TO THE DECLARATION OF EMERGENCY.

57. What time frame is intended with the reference to “recent” in para. 22?

THE REFERENCE IS TO NEW RECRUITS STILL IN TRAINING.

58. How many of Joel Valencia’s classmates mentioned in para. 23 were minors as of the day they were arrested?

ALL.