

CLARIFICATION QUESTIONS AND ANSWERS

TRANSLATION ISSUES:

1) In paragraph 8, the version in English states that the attacks of July 1 were perpetrated against the embassy of Belor in New Atria. However, the Spanish version indicates that the attacks were perpetrated against the embassy of New Atria in Belor.

RESPONSE: The version in English is correct. The Spanish version should read: “El día de junio de 2001 se produjeron simultáneamente devastadores atentados con bombas a la embajada de Belor en Nuevo Atria y a otras dos embajadas de estados que se consideraban aliados de Belor.”

2) In paragraph 12, the English version states, in the last sentence, that "Belor also indicated that the detainees were not entitled to the protections under the Third or Fourth Geneva Conventions of 1949 but that it would afford the detainees the basic protections applicable under CUSTOMARY INTERNATIONAL HUMANITARIAN LAW". However, the Spanish version indicates, in the last line of paragraph 12, the following: "*Señalo también que, si bien los detenidos gozaban de las protecciones de la Tercera y Cuarta Convención de Ginebra de 1949, les conferiría los derechos aplicables en virtud del DERECHO CONSUECUDINARIO INTERNACIONAL EN MATERIA DE DERECHOS HUMANOS*". Therefore, one version refers us to international humanitarian law while the other refers to the international law of human rights.

RESPONSE: The English version is correct, such that the relevant portion of paragraph 12 of the Spanish version should read "*les conferiría los derechos aplicables en virtud del DERECHO CONSUECUDINARIO INTERNACIONAL HUMANITARIO*.”

3) (This question has been edited from its original submission.) In the part that refers to the attack on the embassy, the English case refers to “an attack on the embassy of Belor in New Atria”, while the case in Spanish indicates that there had been an attack on the embassy of New Atria in Belor. Additionally, there is a discrepancy in the treatment of a term used in the text of section 1 of Article 32 of the Defense of Freedom Act. In paragraph 18, in the English version, it cites Article 32(1) as follows: “a) Authorizing the Minister to MONITOR, (...)” While in the Spanish version it states as follows: a) “*durante un plazo determinado, a CONTROLAR (...)*” Similarly, paragraph 23 states, in the English version, the following: "On October 20, 2001, the government of Belor brought a motion before the Belor General Court pursuant to section 32 of the Defense of Freedom Act, requesting an order permitting it to MONITOR the financial accounts (...) While the Spanish version, in paragraph 23, states as follows: "*El 20 de octubre de 2001 el gobierno de Belor presento una solicitud ante el Tribunal General del país en virtud del articulo 32 de la Ley de Defensa de la Libertad por la que requería que dictase una orden que le permitiese SUPERVISAR las cuentas (...)*" The reason for our concern is that the terms "monitorear", "supervisar" and "controlar" all imply differing levels of control, and the faculties for which give rise to distinct consequences.

RESPONSE TO FIRST PART: See response to translation clarification 1.

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RESPONSE TO SECOND PART: The English term MONITOR should be translated with the Spanish term MONITOREAR, such that the text of section 32 set out in paragraph 18 of the Spanish version should read “a) *durante un plazo determinado, a MONITOREAR las operaciones financieras de la persona física o jurídica individualizada;*” and the pertinent part of paragraph 23 in the Spanish version should read: “*El 20 de octubre de 2001 el gobierno de Belor presento una solicitud ante el Tribunal General del país en virtud del artículo 32 de la Ley de Defensa de la Libertad por la que requería que dictase una orden que le permitiese MONITOREAR las cuentas (...)*”.

4) By virtue of inconsistencies or errors in the presentation of the case in Spanish, please clarify: (a) the Commission requested “medidas cautelares” before the Court when the Court only has the competence to issue “medidas provisionales”; (b) in respect of the proceedings before the national courts, it is indicated that the first petition was filed on December 2, 2001 and the respective judgment is dated January 21, 2001, that is to say before the petition was filed?

RESPONSE TO FIRST PART: The reference in paragraph 34.1 of the Spanish version of the hypothetical should be to a request for “medidas provisionales”, not to “medidas cautelares”.

RESPONSE TO SECOND PART: The reference in paragraph 28 of the Spanish version should be: “En una sentencia dictada el 21 de enero de 2002”, NOT “el 21 de enero de 2001.”

GENERAL

1) Was a habeas corpus petition also presented before the courts in Belor on behalf of Laura Gray and Robert Suarez?

RESPONSE: No, only the constitutional action referred to in paragraph 29 of the hypothetical.

2) Does the indictment against Laura Gray and Robert Suarez regarding the crime of hostage-taking in connection with the abduction of a business leader in 1997 mention any connection between these events and the Scorpions?

RESPONSE: Yes, the indictment alleges that Laura Gray and Robert Suarez committed the hostage taking as members of the Scorpions.

3) Can appeals be presented from orders issued by the General Court of Belor under Article 32(1) of the Defense of Freedom Act?

RESPONSE: No.

4) Has the State of Belor established the death penalty within its justice system before becoming a party to the American Convention? If so, for what crimes was the penalty stipulated?

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RESPONSE: To the extent that this and similar questions below relate to Article 4(2) and (3) of the American Convention, the Commission did not find violations of these provisions in its preliminary merits report and teams should not address possible violations of Article 4(2) or (3) of the Convention in their arguments before the Inter-American Court.

5) According to the Constitution of Belor, what are the restrictions that can be made to the rights guaranteed by the Convention, for reasons of national security and public order? (Case hypothetical, para. 30)

RESPONSE: Section 4 of the Constitution of Belor provides as follows: “The exercise of the rights under Subsections 3(b)-(j) of this Constitution shall be subject only to such restrictions established by law as may be necessary in a democratic society, in the interest of national security, public safety or public order, or to protect public health or morals or the rights and freedoms of others.”

6) What is the reason that Laura Gray and Robert Suarez have been taken to the Citadel, if this detention center, according to the bilateral agreement, was established only for persons suspected of having participated in the terrorist attacks and these two individuals have been charged by New Atria for different matters? (Case hypothetical, para. 24)

RESPONSE: Information available is limited to facts set out in the hypothetical.

7) In accordance with the facts set out in the final part of paragraph 27, in the Republic of Belor, does the remedy of habeas corpus include, in addition, a judgment on the legality of the conditions of detention within the prison centers and of the manner in which the investigation was conducted?

RESPONSE: Information available is limited to facts set out in the hypothetical.

8) Considering that the latest information provided in the case concerning Ferris Blanco’s judicial process was in the month of July 2004, [what] is the present status of this process?

RESPONSE: The hypothetical should indicate in paragraph 33 that, according to Belor, Mr. Blanco’s trial would start in JULY 2005 rather than JULY 2004.

9) Was it provided for in the bilateral agreement between Belor and New Atria that the Cabinet of Minister would order the establishment of the special Tribunal of New Atria and to define the crimes within the Tribunal’s competence?

RESPONSE: Information available is limited to facts set out in the hypothetical.

10) Considering that in the facts of the case it contemplates the existence of the special tribunal for New Atria before which would be tried those responsible for the terrorist attacks against the embassies, as well as those detained in the subsequent military confrontations, and, further, that it is established that these detainees will be tried before the courts in New Atria (para. 22), what

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is the role or participation of New Atria in the proceedings before the special tribunal that have been established for this state, in light of the bilateral agreement signed with the Republic of Belor?

RESPONSE: Information available is limited to facts set out in the hypothetical.

11) Taking into account that according to the facts of the case, paragraphs 29 and 30, the application of certain articles of the Defense of Freedom Act were challenged through the constitutional actions, including the detention and deportation of Laura Grey and Robert Suarez, does the pursuit of the constitutional action involve, necessarily, the questioning before the judicial organs the constitutionality or unconstitutionality of the norms upon which the above-mentioned acts are founded and motivated?

RESPONSE: Information available is limited to facts set out in the hypothetical.

12) What exceptions did the Republic of Belor raise before the Inter-American Commission on Human Rights?

RESPONSE: Information available is limited to facts set out in the hypothetical.

13) How is the death penalty regulated in Belor and New Atria?

RESPONSE: See response to question 4.

14) Taking into account that according to the facts of the case, the petition presented by Rights International before the Inter-American Commission on Human Rights is made in the name of, among other alleged victims, the unidentified detainees at the Citadel (para. 31), is additional information available concerning the identification of the other detainees in the Citadel?

RESPONSE: Information available is limited to facts set out in the hypothetical.

15) Considering that in the facts of the case (paragraphs 29 and 30) it is established that one of the constitutional actions brought by Rights International challenged the detention and deportation of Laura Gray and Robert Suarez on the basis of, among other arguments, their right to seek and receive asylum under the UN Convention for the Protection of Refugees, was any formal request for asylum presented in Belor by or in the names of Laura Gray and Robert Suarez?

RESPONSE: Information available is limited to facts set out in the hypothetical.

16) Regarding the closure of the Gir Temple, did the State of Belor offer facilities and, among these, means of transportation or alternative solutions to those congregation members affected in order to be able to attend other temples belonging to the same religion or ethnicity?

RESPONSE: Information available is limited to facts set out in the hypothetical.

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17) Do any constitutional remedies exist (habeas corpus, amparo, etc.) for the protection of human rights that can be presented before the special tribunal in the Citadel in favor of the detainees?

RESPONSE: Information available is limited to facts set out in the hypothetical.

18) With regard to the five persons who were released on August 13, 2001, were they freed by virtue of a process before the special tribunal located at the Citadel, through which the innocence of the detainees was established?

RESPONSE: Information available is limited to facts set out in the hypothetical.

19) With regard to the "criminal investigation" of Blanco under Claim 1, are we to assume that "criminal investigation" includes criminal proceedings?

RESPONSE: Information available is limited to facts set out in the hypothetical.

20) Does the domestic legislation of Belor include the death penalty?

RESPONSE: See response to question 4.

21) Apart from the treaties ratified by Belor identified in the case, do other applicable international conventions exist to which Belor is a party?

RESPONSE: Information available is limited to facts set out in the hypothetical.

22) (The original question contained two parts. One part was answered in the translation section above, and the other part is answered here.) Regarding Laura Gray and Robert Suarez, *Rights International* invoked the right to seek and receive asylum under the UN Convention on the Status of Refugees, where the asylum and the Refugee are concepts of a distinct nature.

RESPONSE: Information available is limited to facts set out in the hypothetical.

23) Did the peaceful negotiations between New Atria and Belor result in any type of final declaration of independence?

RESPONSE: Information available is limited to facts set out in the hypothetical.

24) Was the measure of the Defense of Freedom Act approved by the Parliament of Belor issued under a State of Exception? And if so, was this State of Exception (Emergency) formally notified to the OAS?

RESPONSE: The Republic of Belor did not declare a state of exception or emergency at any time relevant to the facts in the hypothetical.

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25) What arguments did the Commission have for ruling out a violation of Article 4 of the Convention?

RESPONSE: Information available is limited to facts set out in the hypothetical.

26) Under what authority or convention did Belor intervene in the armed conflict, days after the attacks (point 10), when on a reading of point 11 it is understood that the agreement with New Atria was later?

RESPONSE: Information available is limited to facts set out in the hypothetical.

27) When the reports of the ICRC are revealed, does their non-publication constitute a violation of the constitutional right to freedom of the press?

RESPONSE: improper question.

28) What are the living conditions of the children and/or juveniles detained at the Citadel with regard to minimum conditions of hygiene and health? What body specialized in the protection of children and juveniles support the response?

RESPONSE: Information available is limited to facts set out in the hypothetical.

29) Has the Inter-American Commission on Human Rights conducted any visits *in loco* to the Citadel?

RESPONSE: No.

30) What level of subordination does the Special Tribunal at the Citadel have respecting the state of New Atria?

RESPONSE: Information available is limited to facts set out in the hypothetical.

31) Do the detainees at the Citadel have the possibility of retaining a private attorney separate from the military attorneys that are assigned to them?

RESPONSE: No.

32) According to paragraph 13, on June 27, 2001 Belor's Cabinet of Ministers created a special tribunal establishing crimes and sanctions within their competence, what was the maximum sanction contemplated within the criminal justice system of Belor prior to this date and to what cases did it apply?

RESPONSE: See response to question 4.

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33) A difference exists between the English and Spanish versions concerning the facts set out in paragraph 25, and therefore it is necessary to clarify the reasons for the detention of Laura Gray and Robert Suarez at the national airport in Kawori.

RESPONSE: Laura Gray and Robert Suarez were arrested upon their arrival at the national airport in Kawori based upon the indictment against them relating to the 1997 hostage-taking.

34) According to paragraph 19, the names of six countries are included in Annex I to the Defense of Freedom Act. What factors were taken into consideration in determining the countries to be included in the list?

RESPONSE: Information available is limited to facts set out in the hypothetical.

35) Did Belor communicate the state of exception (emergency) to the Secretary of the OAS in accordance with Article 27 of the American Convention on Human Rights?

RESPONSE: See response to question 24

36) Do the Scorpions form part of an organized armed group, with an internal military hierarchy and a unified command, with a distinct sign and carrying their arms openly?

RESPONSE: Information available is limited to facts set out in the hypothetical.

37) Has the State of Belor prescribed within its internal legislation, and provided adequate sanctions for, the crimes contemplated by the terrorism conventions that it has ratified?

RESPONSE: Information available is limited to facts set out in the hypothetical.

38) On what basis has Belor decided not to apply the 1949 Geneva Conventions to the detainees in the Citadel?

RESPONSE: Information available is limited to facts set out in the hypothetical.

39) Since what date has Belor provided incentives such as food and access to books, and has executed the coercive interrogation techniques described in paragraph 15?

RESPONSE: Information available is limited to facts set out in the hypothetical.

40) Have Robert Suarez and Laura Gray been detained in order to try them for the crime of hostage taking committed against the business leader in New Atria in 1997 or for crimes set out in the order of June 27, 2001 for belonging to the Scorpions?

RESPONSE: See response to questions 2 and 33.

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41) In addition to the constitutional actions mentioned in paragraph 29, what are the domestic remedies (legal and constitutional) available in Belor and New Atria for protecting the fundamental guarantees of their inhabitants?

RESPONSE: Information available is limited to facts set out in the hypothetical.

42) The agreement reached between New Atria and Belor authorized Belor to enact, adjudicate and enforce laws for the administration and maintenance of the facility “The Citadel” and its inmates. What other authority was given to Belor in the terms of this agreement and on what date was it signed?

RESPONSE TO FIRST PART: Information available is limited to facts set out in the hypothetical.

RESPONSE TO SECOND PART: New Atria and Belor entered into their agreement on June 10, 2001.

43) What recommendations were made by the Commission in its preliminary merits report of October 5, 2003?

RESPONSE: Information available is limited to facts set out in the hypothetical.

44) Was it necessary to bring the case of Ferris Blanco before the General Court of Belor before proceeding to deport him, or, to the contrary, could the Minister of National Defense of Belor give the order directly?

RESPONSE: Information available is limited to facts set out in the hypothetical.

45) Did Article 32 of the Defense of Freedom Act authorize the Government of Belor to request the General Court of Belor to grant an order to monitor the accounts and financial transactions of each member of the congregation of the Gir Temple, or does this organization possess a juridical personality?

RESPONSE: Information available is limited to facts set out in the hypothetical.

46) When was the agreement signed between New Atria and the State of Belor in which Belor was given the authority to act in the State of New Atria with immunity from civil and criminal process?

RESPONSE: See response to second part of question 42.

47) Was Belor given adequate notice of the charges brought before the Commission so that it would be able to raise its preliminary objections before the Commission?

RESPONSE: Information available is limited to facts set out in the hypothetical.

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48) Upon their detention, were Ferris Blanco, Laura Grey, Robert Suarez and the unnamed detainees informed of the possible charges to be brought against them?

RESPONSE: Information available is limited to facts set out in the hypothetical.

49) Has Belor informed the other State Parties through the Secretary General of the OAS of a temporary suspension of specified guarantees and accompanying reasons as provided under Article 27?

RESPONSE: See response to question 24.

50) On what basis does Belor consider the victims in this case to be unprivileged combatants?

RESPONSE: Information available is limited to facts set out in the hypothetical.

51) With regard to the crimes committed by Laura Gray and Robert Suarez in 1997, were these connected directly with the group of the Scorpions?

RESPONSE: See response to question 2.

52) What are the attributes of the visits of the Red Cross in the Citadel in the event that these visits are even in effect?

RESPONSE: Information available is limited to facts set out in the hypothetical.

53) What is the present status of the criminal process against Mr. Ferris Blanco before the special tribunal in New Atria?

RESPONSE: See response to question 8.

54) With regard to the basis for the declarations of President Anna Martin (paragraph 17 Hypothetical case) in the face of the grave threat to national security and public order, was a state of exception (emergency) decreed legally within Belor?

RESPONSE: See response to question 24.

55) Is the death penalty provided for in the internal legislation of Belor and New Atria?

RESPONSE: See response to question 4.

56) Paragraph 35 sets forth the preliminary objections that Belor has raised. The only preliminary objection stated relates to geographic limitation of jurisdiction. Does the State plan to raise preliminary objections relating to the issue of exhaustion of domestic remedies?

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RESPONSE: Information available is limited to facts set out in the hypothetical.

57) Under paragraph 13, the crime of terrorism is defined. In section (c) of the Terrorism provision, does the language "under an anti-terrorism treaty to which Belor is a party" include the Inter-American Treaty Against Terrorism, which was ratified by Belor after the enactment of the Order setting forth this provision?

RESPONSE: Yes.

58) In paragraph 10 of the case, when it refers to the night following the bombings, does it mean the night of June 1, 2001 or of June 2, 2001?

RESPONSE: June 1, 2001.

59) In Article 3 of the Constitution of Belor, it provides that the right to life exists and will continue to exist at all times. Does this mean that the death penalty has never existed and does not exist at the moment of the facts in Belor?

RESPONSE: See response to question 4.

60) In the two last lines of paragraph 28 when it says that the Supreme Court of Belor dismissed the final appeal from the habeas corpus petition, does this mean that they did not process the remedy for procedural reasons, or that after reviewing it anew it simply decided not to change the decision of the General Court?

RESPONSE: Information available is limited to facts set out in the hypothetical.

61) Does Belor recognize New Atria's status as an occupying force?

RESPONSE: Information available is limited to facts set out in the hypothetical.

62) What are the evidences and the signs that suggest that the bomb attack against the stock market in Haladonia was made by the Scorpions?

RESPONSE: Information available is limited to facts set out in the hypothetical.

63) The bilateral agreement signed between New Atria and the Republic of Belor was made before or after the conflicts in Venzaar?

RESPONSE: See response to second part of question 42.