Clarification Questions and Answers for the Nineteenth Inter-American Human Rights Moot Court Competition of the Academy on Human Rights and Humanitarian Law

1. What were the female residents at La Casita told they were being injected with at paragraph 26 of the hypothetical?

They were told

7. Is Exclutia a party to the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (Protocol of San Salvador) and if so, when did it become a party?

Yes, it was ratified on January 29, 2001.

8. Is La Casita a state-run organization or a private organization?

La Casita is a state-run organization.

9. Was the school that Cristal Tovar attended, as described in Paragraph 8 of the facts of the case, a public or private institution?

It was a public institution.

10. As a State entity, are the existence and budget of La Casita provided by law?

Yes.

11. Is the management of La Casita autonomous/independent from the State, with its own directors/ managers?

See answer 8.

12. What is the court of last resort in Exclutia?

Supreme Court of Justice of Exclutia.

13. Did the judge who issued the declaration of incompetency schedule one or several time periods for its review?

See answer 24.

14. At page 7, paragraph 33 of the hypothetical case, the Court of Appeals denied the motion to vacate filed by the NGO ODNEI. Is there any other remedy under the laws of EXCLUTIA and, if so, why did the NGO not make use of this remedy?

See paragraph 33 of the facts of the case.

15. The judge who ruled on the motion to vacate filed by ODNEI found it inadmissible for lack of standing. Once ODNE appealed that decision, the Court of Appeals decided to deny the motion for appeal, insofar as "there had been no abuse on the "Why did the Court make that assertion on the merits,"

29. According to the domestic laws of the State of Exclutia, what are the medical requirements for a diagnosis of mental deficiency and what is the procedure that the health professionals should use to make and review such a diagnosis?

This information is not relevant to the analysis of the case.

30. Paragraph 5 states that the 2008-

35. Besides changes made to Article 41 of Exclutia's Civil Code, is there any other action taken by the Exclutian State to comply with the Commission's Merits Report?

In its two communications subsequent to the adoption of the merits report, the State provided information on the draft bill, on the improvements made at "La Casita," and on the implementation of the policies adopted in 2009.

36. If the proceeding for the declaration of incompetency is regulated in Article 41 of the Civil Code, which provides only for petitions for the review and/or revocation of the declaration of incompetency, motion to vacate explained and how are motions to vacate incompetency proceedings regulated in Exclutia?

Under the laws of the State of Exclutia, motions to vacate may be filed against any court decision.

37. In declaring Cristal Tovar incompetent, what provisions did the judge make with respect to the limits of guardianship and review periods (provided for in Article 41 of the Civil Code)?

See answer 24.

38. According to

building requirements such as separate shower stalls, lockers for storing personal items, privacy screens between each bed, etc.?

No.

41.

of Exclutia?

In general terms, the IACHR requested that the State of Exclutia take measures designed to provide reparations to the victim and adopt measures of non-repetition.

42. What changes has the State of Exclutia made with respect to the conditions at La Casita since the judgment on the petition for a constitutional remedy?

See answer 16.

43. Are the provisional measures requested by Cristal's representatives limited only to the grounds of the involuntary isolation, or [do they pertain] to all the alleged violations?

They are limited to the grounds of involuntary isolation.

44. Are the provisional measures requested by Cristal's representatives limited to Cristal alone, or do they extend to all the persons in La Casita?

They concern the residents of La Casita who may be subject to involuntary isolation.

45. What rehabilitation measures were taken at La Casita with respect to Cristal Tovar blindness?

See paragraph 16 of the facts of the case.

46. What programs or measures have been taken within the public policy framework focusing on persons with disabilities in Exclutia?

See answer 30.

47. What measures have been taken in Exclutia to strengthen the decision support systems for persons with disabilities?

See answer 30 and paragraph 37 of the facts of the case.

48. What were the limits to the guardianship appointment made by the VI Civil Court of the city Inclutiarán in view of the declaration of Cristal in 2006?

See answer 24.

49. What were the precautionary measures granted by the IACHR with which the State of Exclutia failed to comply?

The precautionary measures are in force, and the IACHR continues to monitor compliance with them.

62. How is the constitutional remedy of habeas corpus provided for under Exclutian law?

See answer 61.

63. Did the residential center mentioned in paragraphs 11 and 12 of the hypothetical case require payment, or was it free of charge? Did Cristal refuse to go to the center because she did not have the financial ability, or simply because she did not want to go?

La Casita is a free, public entity. With respect to the second part of the question, see paragraph 12 of the facts of the case.

64. Was the victim taken to La Casita by force, or could she have opted not to go?

See answer 28.

65. Did Cristal Tovar give her consent to be taken to La Casita?

See answer 28.

66. Did the police officer restrain Cristal Tovar or arrest her before taking her to La Casita?

See answer 28.

67. Did the State effectively comply with the judgment of the Constitutional Court?

See answer 16.

68. Could the victim waive the guardianship if her clinical symptoms improved?

According to the laws currently in force in Exclutia, the revocation must be ordered by the judge.