

A.A. AND NINE OTHER WOMEN

PETITIONER

v.

REPUBLIC OF ARAVANIA

RESPONDENT

MEMORIAL FOR THE REPUBLIC

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STATEMENT OF FACTS

The Republic of Aravania and its legal instruments for a prosperous and honorable society

The Republic of *Aravania* (hereinafter “Aravania” or “Republic”) is a developing country that strives to progress the quality of life for its citizens. At its core, Aravania maintains its citizens’ “right to life, honor, liberty, security, work, and property,”¹ as declared in its founding Constitution of 1967. Additionally, Article 51 of Aravania’s constitution provides that workers are entitled to a *decent* standard of living under Article 102, providing that State authorities comply, enforce, and respect human rights, particularly economic, social, and environmental rights.²

Aravania acknowledges the constitutional status of various international human rights treaties that it has ratified. As a member of the Organization of American States (OAS), it has ratified the 1996 Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women and the 1985 American Convention on Human Rights (ACHR).³ As a founding member of the United Nations, it has also ratified the 1952 United Nations Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others along with the 1981 United Nations Protocol to Prevent, Suppress, and Punish Trafficking in Persons, especially Women and Children.⁴ Additionally, under 105 of the 1960 International Labor Organization, the Republic, through its 1943 Criminal Code, criminalizes Human Trafficking (Article 145) and Forced Labor (237).⁵ Article 145 of this criminal code subjects penal punishment to individuals who recruit, transport, live, or harbor individuals who may be vulnerable through

¹ Hypothetical, ¶8.

² *Id.*

³ *Id.* ¶10.

⁴ *Id.*

⁵ *Id.*

coercion or physical violence.⁶ Article 237 protects against subjecting individuals to work or services without voluntary consent under the “threat of penalty.”⁷

The scope of the Republic of Aravania and the State of Lusaria’s relationship

Surviving one of the most treacherous floods in their country’s history, Aravania sought solutions for their displaced citizens and destroyed infrastructure.⁸ Within a month of the natural disaster, Aravania collaborated with Lusaria to gain insights into *Aerisflora* to combat climate change and future floods. To harvest sufficient *Aerisflora*, both countries created a bilateral cooperation agreement with working conditions that were “compatible with the dignity of the individual and the observance of human rights,” strictly prohibited child labor, were cost-effective, and acknowledged the importance of promoting and protecting women workers in the workforce discrimination.⁹ Aravanian authorities also visited Primelia before the workers were taken there to transplant the *Aerisflora*.¹⁰ Given the time constraints and the need to implement disaster relief measures, the cooperation agreement bound both countries from July 2012 to July 2015.¹¹

Petitioner’s employment with EcoUrban and her time working on Aerisflora farms

A.A. is the sole identified petitioner in this case. As a local Aravanian, she supports her household as the primary income generator.¹² In her search for employment, A.A. discovered videos of *Aerisflora* jobs in Lusaria, which she shared, liked, and expressed interest in through messaging.¹³ Eventually, A.A. reached out to apply and understand the employment contract terms, including but not limited to benefits, work permits, healthcare, working hours, and wages.¹⁴

⁶ *Id.* ¶9.

⁷ *Id.*

⁸ *Id.* ¶20.

⁹ *Id.* ¶24-25.

¹⁰ Questions, ¶10.

¹¹ Questions, ¶5.

¹² *Id.* ¶32-33.

¹³ *Id.* ¶33-35.

¹⁴ *Id.*

Once in Lusaria, A.A. resided at El Dorado and worked alongside men and women, preparing the land and harvesting the plants.¹⁵ Although the work was labor-intensive, it meant sending her daughter to daycare, not paying for housing, being able to afford her mother’s costly medical treatment, and earning wages per finished product or piecework.¹⁶ When work deadlines approached, A.A. and her family slept on the farm, where they were provided with housing, restrooms, personal care supplies, food for three meals a day, and access to the worker’s cafeteria and other amenities bathrooms.¹⁷ A.A. voluntarily departed on January 14, 2014.¹⁸

Regarding the other nine women, A.A. reported allegations about their treatment, and it remains unclear whether these women are the same petitioners involved in this lawsuit. A.A. heard from workers about a woman who had been a victim of violence, another worker, either male or female, who was “severely repressed” after inquiring about working conditions, two women waiting to receive identity documents and another woman who was no longer seen at the residence.¹⁹ Lastly, before going on the women’s trip to Aravania, A.A. heard of a sexually violent incident involving a male guard and a female worker. All nine women who went to Aravania with A.A. had children who benefited from education and childcare.

A.A. chose to leave Primelia and filed a complaint with Velora Police in Aravania

On January 14, 2014, A.A. departed from Primelia and filed a complaint with the police.²⁰ The police investigated, spoke to the appropriate authorities, and discovered it was “impossible to identify” the other petitioners, let alone locate them.²¹ Hugo Maldini was arrested, had immunity under the cooperation agreement, and had his case dismissed by the Second

¹⁵ *Id.* ¶37.

¹⁶ *Id.* ¶38; Questions, ¶51.

¹⁷ *Id.* ¶39-40.

¹⁸ *Id.* ¶43-48.

¹⁹ *Id.* ¶43-44.

²⁰ *Id.*, ¶ 48.

²¹ *Id.*; Questions, ¶3.

Criminal Court Judge.²² The Federal Prosecutor's Office of Lusaria investigated and prosecuted Maldini, issuing a final judgment on March 31, 2015.²³ The Republic of Aravana initiated dispute resolutions, and the Special Arbitration Panel ruled unanimously in favor of Aravana, which distributed an equitable portion to A.A.²⁴

Proceedings before the Inter-American Commission on Human Rights

The Trafficking Victims Support and Reintegration Clinic, representing petitioners, filed a petition with the IACHR on October 1, 2014, alleging violations under Articles 3, 5, 6, 7, 8, 25, and 26 of the ACHR, in conjunction with Articles 1.1 and 7 of the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women (Convention of Belém do Pará). On February 12, 2024, the IACHR notified the parties that the case was deemed admissible, and violations had been identified under each article. Aravana filed a preliminary exception, claiming a breach of the principle of subsidiarity, stating that A.A. received full reparation for the alleged harm and denied international responsibility.²⁵ On June 10, 2024, the Commission presented the case to the IACtHR, claiming breaches of previously referenced Articles.²⁶

²² *Id.*

²³ *Id.*, ¶53.

²⁴ *Id.*, ¶55.

²⁵ *Id.*, ¶58.

²⁶ *Id.*, ¶59.

LEGAL ANALYSIS

I. INTERNAL PROCEEDINGS

On January 14, 2014, A.A. filed a complaint with the Velora Police in Aravania about the alleged incidents. After police investigations were completed, Hugo Maldini appeared before the Second Criminal Court Judge on January 15, 2014, and claimed immunity under the cooperation agreement. On January 16, 2014, the Ministry of Foreign Affairs of Aravania asked that the State of Lusaria waive immunity, which it declined. On January 31, 2014, the Second Criminal Court Judge dismissed the case without prejudice. On February 5, 2014, petitioners through the Trafficking Victims Support and Reintegration Clinic in Aravania appealed that decision on behalf of the ten women. However, the Velora Court of Appeals affirmed the Criminal Court's decision on April 17, 2014. On March 8, 2014, Aravania initiated dispute resolution proceedings against Lusaria for violating Article 73 of the cooperation agreement. On September 17, 2014, the Special Arbitration Panel ruled in favor of Aravania and ordered Lusaria to pay \$250,000, \$5,000 of which was paid to A.A.

II. STATEMENT OF JURISDICTION

The Republic of Aravania appreciates this Court has fulfilled the elements of *ratione personae*, *ratione temporis*, and *ratione loci* elements to exercise jurisdiction over this case. Additionally, it recognized the contentious jurisdiction of the Inter-American Court of Human Rights (IACtHR) per Article 62 of the American Convention on Human Rights (ACHR) in 1986.²⁷ In the present case, this Court has subject matter jurisdiction because the Petitioner alleges violations falling under Articles 3, 5, 6, 7, 8, 25, and 26 of the ACHR in conjunction with Articles 1.1 and 2 thereof and Article 7 of the Inter-American Convention of the Prevention Punishment and Eradication of Violence against Women (Convention of Belém do Pará). Additionally, since the alleged violations occurred after the republic ratified the ACHR and petitioners are assumably nationals of Aravania, a member of the Organization of American States (OAS), the IACtHR has temporal and personal jurisdiction. However, it should be noted that its authority is still limited in promoting each state's indivisible sovereignty.

²⁷ Hypothetical, ¶3.

II. MERITS

The Republic of Aravania respected Article 5 (Right to Humane Treatment) in conjunction with Articles 1(1) & 2 of the ACHR as well as Article 7 of the Convention of Belém do Pará

Per Article 5-1, every individual has the subjective and individual right to protection of their “physical, mental, and moral integrity.”²⁸ The objective of Article 5-1 is to protect the human dignity of every person without conditions, as well as that of collective entities and the family members or relatives of victims. While the dimension of integrity being violated is readily addressed by Article 5-2’s prohibition against torture, degrading treatment, punishment, or other similar inhuman acts not restricted to physical harm, the ACHR does not define or distinguish these terms. Conjunctively, Article 5’s applicability is readily fulfilled in instances of detention,²⁹ enforced disappearances,³⁰ forced medical practices,³¹ and blatant torture and massacre by state agents.³² Nevertheless, situations regarding the integrity of a victim “vary in intensity according to endogenous and exogenous factors that must be *proved* in each specific situation.”³³ However, while violations of Article 5-2 necessarily imply a violation of Article 5-1, the reverse is untrue.

Moreover, this Court has held the personal characteristics of an alleged victim, such as age, sex, context, and vulnerability of an alleged victim, must be considered when deciding whether their personal integrity was violated.³⁴ Objectively, A.A.’s vulnerabilities include being

²⁸ OAS, American Convention on Human Rights [ACHR], Nov. 22, 1969, O.A.S.T.S. No 36 1144 U.N.T.S. 123., art. 5(1).

²⁹ *Velasquez Rodriguez v. Honduras*. Merits. Judgment of July 29, 1988. Series C No. 4, para. 156.

³⁰ *Baldeón García v. Peru*. Merits, Reparations, and Costs. Judgment of April 6, 2006. Series C No. 147, paras. 127-130.

³¹ *I.V. v. Bolivia*. Preliminary Objections, Merits, Reparations and Costs. Judgment of November 30, 2016. Series C No. 336, paras. 155-266.

³² *La Rochela Massacre v. Colombia*. Merits, Reparations, and Costs. Judgment of May 11, 2007. Series C No. 163, paras. 132-140.

³³ *Vélez Restrepo and family v. Colombia*. Preliminary Objection, Merit, Reparations, and Costs. Judgment of September 3, 2012. Series C No. 248, para. 176.

³⁴ *J.V. v. Peru*. Preliminary Objection, Merits, Reparations, and Costs. Judgment of November 27, 2013. Series C No. 275, para. 362.

a woman and a single mother supporting her family. Nevertheless, the facts of this case do not demonstrate that A.A. was subjected to a serious and systematic breach of violence, nor are they aligned with instances of failed humanitarian intervention, where petitioners were deprived of food, water, health care, and protection, resulting in cruel and inhuman treatment.³⁵ While specific actions under Article 5-2 inherently inflict physical and mental suffering on the victim, it's hard to categorize A.A.'s. "robust" social security benefits, healthcare, food, housing, daycare, and wages as cruel and inhumane.³⁶ Although the nature of the work petitioners performed was arduous and physically taxing, the work was performed voluntarily, came with many benefits, and likely reflected the typical exhaustion experienced by farm workers.

Additionally, this Court has asserted that individuals deprived of liberty are entitled to complete protection of their dignity. Nonetheless, their suffering must exceed typical lawful, non-arbitrary detention. While it was alleged other petitioners may have been "severely repressed," subject to sexual violence, or disappeared, this was never corroborated by the other nine women or Aravanian officials. In addition, A.A. did not witness these allegations and only ever heard about them.³⁷ Finally, criminal and arbitration proceedings did not include or document these allegations despite the discovery and addition of seven petitioners as parties to the relevant suit.³⁸

Finally, an element that encompasses the personal integrity of Article 5-1 is the rights of family relatives of victims of particular human rights violations. In *Las Dos Erres Massacre v. Guatemala*, this Court awarded reparations to the next of kin who experienced psychological damage and suffering as relatives of the victims who were massacred and whose bodies were

³⁵ *Afro-descendant Communities displaced from the Cacarica River Basin (Operation Genesis) v. Colombia*. Preliminary Objections, Merits, Reparations, and Costs. Judgment of November 20, 2013. Series C No. 270, paras. 323-324.

³⁶ Questions, ¶18.

³⁷ Hypothetical, ¶ 43-45.

³⁸ Questions, ¶46.

never found.³⁹ No facts suggest A.A.’s mother and daughter suffered; instead, they benefitted from A.A.’s work and received medical care, social security, daycare, and education. Additionally, when A.A. discussed her work with her mother, she withheld information regarding alleged misconduct she had heard about, prompting M.A. to state, “It was crazy to leave El Dorado,” and A.A. “should feel grateful for the opportunity.”⁴⁰ Here, A.A.’s next of kin could not experience second-hand suffering because they were not aware of her subjective “suffering.” Lastly, A.A.’s mother and daughter left *El Dorado* after A.A.’s trip to Aravania, reunited with A.A., and reported no violation of their rights to the authorities.⁴¹

Under Article 7(b) of *Belém Do Pará*, the State of Aravania upheld its obligations when it diligently acted to “. . . prevent, investigate and punish any violation of the rights recognized by the convention.”⁴² At the outset, Aravania drafted a cooperation agreement with the State of Lusaria to prevent human rights violations, writing Articles 23.1, 23.2, and 23.3 following Articles 9, 51, and 102 of Aravania’s 1967 Constitution.⁴³ Furthermore, this Court has rationalized that while it can be challenging to investigate acts violating human rights, “the duty to investigate, like the duty to prevent, is not breached merely because the investigation does not produce a satisfactory result.”⁴⁴ Lastly, when analyzed in conjunction with Article 5, the obligation to prevent ill-treatment of women is only triggered if the Court determines Aravania knew or should have known of real and immediate risks to such rights and did not take the necessary measures within the scope of their powers, to prevent that risk.⁴⁵

³⁹ “*Las Dos Erres*” *Massacre v. Guatemala*. Preliminary Objections, Merits, Reparations, and Costs. Judgment of November 24, 2009. Series C No. 211, paras. 208-217, 310.

⁴⁰ Hypothetical, ¶43.

⁴¹ Questions, ¶1.

⁴² *Velásquez-Rodríguez v Honduras*, footnote 29, para 166.

⁴³ Hypothetical, ¶8, 25.

⁴⁴ *Velásquez-Rodríguez v Honduras*, footnote 29, para. 177.

⁴⁵ *López Soto et al. v. Venezuela*. Merits, Reparations, and Costs. Judgment of October 26, 2018. Series C No. 362, para. 140; *Guzman Albarracín et al. v. Ecuador*. Merits, Reparations, and Costs. Judgment of June 24, 2020. Series C No. 405, paras. 106 and f.

In the present case, Aravania relied on monthly status reports showing no complaints or lawsuits, visited the worksite, and preemptively protected against inhuman work conditions through the cooperation agreement.⁴⁶ Moreover, Maldini had been hired by several farms over 15 years to help staff the entire labor force with women and was publicly known as the “face of *Aerisflora*.”⁴⁷ Despite extensive publicity and prominent social media presence in the global commercial market, which made it easy to identify Maldini, Aravania was never informed of any troubling misconduct.⁴⁸ Although petitioners allege poor working conditions and mistreatment, the State had no reason to be concerned or to oversee the operation when it received satisfactory monthly reports and had no lawsuits or complaints.⁴⁹ Although Aravania received two complaints in October 2012 and 2013, the prosecutor’s office investigated and dismissed them as not amounting to unlawful activity or being outside its jurisdiction.⁵⁰ Additionally, after the 2013 complaint, Aravania further investigated and diligently requested a new report on working conditions at *El Dorado*.⁵¹

Moreover, unlike the petitioners in *Massacres of El Mozote and Nearby Places v. El Salvador*, who waited nine years for an investigation into massacres, the Velora police investigated A.A.’s complaint the same day it was made and attentively worked to determine its merit to the best of their ability.⁵² Additionally, Maldini’s legal proceedings in Aravania took place within days of the filed complaint, alongside an arbitration that awarded A.A. reparations the following month.⁵³ Thus, Aravania navigated the situation delicately while complying with

⁴⁶ Hypothetical, ¶21, 22, 25; Questions, ¶22.

⁴⁷ Hypothetical, ¶27.

⁴⁸ *Id.*

⁴⁹ Questions, ¶22.

⁵⁰ Hypothetical, ¶54.

⁵¹ Questions, ¶10.

⁵² *Massacres of El Mozote and Nearby Places v. El Salvador*. Merits, Reparations and Costs. Judgment of October 25, 2012. Series C No. 252, paras. 243-53.

⁵³ Hypothetical, ¶49, 50, 55.

its obligations to the Cooperation Agreement and the Vienna Convention on Diplomatic Relations, trusting Lusaria and EcoUrban, acting as its state entity, to pursue justice while maintaining a friendly and diplomatic relationship.⁵⁴

The Republic of Aravania respected Article 6 (Freedom from Slavery) in conjunction with Articles 1(1) & 2 of the ACHR, as well as Article 7 (Right to Personal Liberty)

A.A. was not subject to slavery or involuntary servitude while working for EcoUrban Solution

In conjunction with Articles 1-1, 5, and 11, Article 6 completes and affirms the *dignity* of persons. Article 6 requires the State to take a wide range of positive and negative actions to refrain from conduct that aligns with enslavement and to prohibit practices that could lead to servitude, trafficking, or forced labor of anyone under its jurisdiction.⁵⁵ Articles 1-1 and 6 also assert the general obligations of the state’s international responsibility to “ensure, protect, and guarantee” the prohibition of slavery.⁵⁶ This Court has defined *slavery* as a relationship characterized by domination and economic exploitation,⁵⁷ which denies equality amongst human beings.⁵⁸ Moreover, the European Court of Human Rights informally adopted the 1926 Slavery Convention’s definition of slavery, which reduces an individual’s status to that of an “object.”⁵⁹

In the exemplary case of *Hacienda Brazil Workers vs. Brazil*, this Court found extreme violations of the state’s positive obligations to prevent and correct slavery in areas from which a large part of their economy was derived. The victims lived in “extremely” unhealthy conditions, did not have sufficient food, drink, or free access to it, and earned minor to no wages, continuing their cycle of debt and never-ending excruciating labor to their owners on a plantation they did

⁵⁴ *Id.* ¶55; *Questions*, ¶9.

⁵⁵ *Hacienda Brazil Verde Workers v. Brazil*. Preliminary Objections, Merits, Reparations, and Costs. Judgment of October 20, 2016. Series C No. 318, para. 317.

⁵⁶ *Id.*

⁵⁷ *Ramirez Escobar et al. v. Guatemala*. Merits, Reparations, and Costs. Judgment of March 9, 2018. Series C No. 351, para. 301.

⁵⁸ *López Soto et al.*, footnote 42, para. 181.

⁵⁹ *Eur. Court HR Case of Siliadin v. France*. Judgment of July 26, 2005- Application No. 73316/01, para. 122.

not have permission to leave.⁶⁰ Subsequently, the IACHR conditions a variety of disjunctive elements needed to determine slavery in a situation, including but not limited to “the restriction or control of the autonomy of the person, the loss or restriction of a person’s freedom of movement, . . . [and] detention or captivity.”⁶¹ When considering whether involuntary servitude was present in any given situation, the court added the element of being coerced to “perform work for others . . . on another person’s property, without the possibility of changing that condition.”⁶² In *Maria Mejia v. Guatemala*, the commission found a violation of Article 6-2 when victims were obliged to participate in watch patrols against their will and without pay.⁶³

Here, A.A. was not directly targeted or coerced by Maldini to work on the *Aerisflora* farms. Instead, A.A. inquired about employment through a public social media platform called *Clitick* to express her interest.⁶⁴ Once at the farm, workers were provided with work schedules, allotting free time outside these hours to attend to personal needs. While A.A.’s circumstantial familial responsibilities left her little time to relax, A.A. was never explicitly told she could not go home. Her attempt to resign only elicited “indifference” from Maldini, not violence.⁶⁵ Unlike victims in *Río Negro Massacres v. Guatemala* who were captured, burned upon refusal to work, and uncompensated, A.A. earned wages and was treated hospitably with meals, housing, healthcare, and childcare.⁶⁶ Lastly, Article 23.1 of the cooperation agreement ensured compliance with decent working conditions through monthly status update reports.⁶⁷

⁶⁰ *Hacienda Brazil Workers.*, footnote 46, para 329.

⁶¹ *Hacienda Brazil Workers.*, footnote 46, para 272.

⁶² *Id.*, ¶280.

⁶³ Inter-Am. Comm. H.R. *Maria Mejia v. Guatemala*. October 16, 1996. Case 10.553. Report No. 32/96, pan. 62.

⁶⁴ Hypothetical, ¶33-35.

⁶⁵ *Id.*, ¶47.

⁶⁶ *Río Negro Massacres v. Guatemala*. Preliminary Objections, Merits, Reparations, and Costs. Judgment of September 4, 2012. Series C No. 250, para. 148-50.

⁶⁷ Hypothetical, ¶25.

A.A. worked voluntarily and did not satisfy the three elements of Forced or Compulsory Labor

Under Article 6-2, any means of forced labor is prohibited, and the 1930 International Labor Organization Convention has supplemented its interpretation to create a three-element test used by the IACHR.⁶⁸ To violate the convention, the work or service must have occurred under 1) “menace” of a penalty, 2) performed involuntarily, and 3) credited to the State.⁶⁹ Such elements mainly happen in cases of extreme depravity, consistently using the term “extreme” to describe violations of labor voluntariness⁷⁰ and are further satisfied by acts of “physical violence, isolation or confinement, or the threat to kill the victim or his next of kin.”⁷¹

Although she felt exhausted, A.A. remained unharmed, her family was not threatened, and they were not subjected to any form of “extreme” violence.⁷² Without undermining their experience, the other nine women’s alleged experiences were never corroborated, and A.A. only ever “heard” of such incidents.⁷³ Scientific research dictates that “people are more likely to share misinformation when it aligns with personal identity or social norms . . . and when it elicits strong emotions.”⁷⁴ Also, studies indicate that actual words convey less than 10 percent of our message, and specific word choices are easily interpreted to mean different things to various people, especially when emotional factors like exhaustion are at play.⁷⁵

Secondly, it has been established that A.A. willingly accepted the terms of the job, even undergoing a lengthy application process during which she had the freedom to decline or

⁶⁸ *Ituango Massacres v. Colombia*. Preliminary Objection, Merits, Reparations, and Costs. Judgment of July 1, 2006. Series C No. 148, para. 157.

⁶⁹ International Labour Organization, CO29-Forced Labour Convention, 1930, No. 29, Article 2

⁷⁰ *López Soto.*, footnote 49, para 1-255.

⁷¹ *Ituango Massacres.*, footnote 59, para 161-63.

⁷² *Id.*, para 164-65.

⁷³ Hypothetical, ¶43-45.

⁷⁴ AdvantEdge Training & Consulting. “The Telephone Game - Emotional Intelligence.” *AdvantEdge Training & Consulting*, 4 Jan. 2023, www.advantedge-training.com/2020/09/the-telephone-game-emotional-intelligence/.

⁷⁵ *Id.*

withdraw from any job offer.⁷⁶ Moreover, when she informed Maldini of her desire to remain in Aravania following a work trip with nine other women, he neither explicitly denied her right to choose nor imposed any punishment after hearing her statement. The petitioner's failure to meet all three elements does not satisfy the *Hacienda Brazil Workers* test. Therefore, the State of Aravania did not subject A.A. to involuntary servitude.

A.A. and nine other women were not deprived of their personal or physical liberty and security

Articles 7-1 and 7-2's narrow interpretation of personal liberty protects "both the physical liberty of the individual and . . . personal safety . . . where the absence of guarantees may result in the subversion of . . . law."⁷⁷ Additionally, violations of personal liberty are categorized and may be exacted by either state agents or private actors. For example, states have been found to violate their obligations in cases involving state emergencies,⁷⁸ prolonged detentions after informal or formal arrests,⁷⁹ illegal arrests without proper documentation,⁸⁰ preventative detentions⁸¹, and forced disappearances.⁸² Moreover, the *right to security* is not mutually exclusive. For instance, if a state's army prohibits its police officers from preventing and investigating certain violent crimes, the victims of those crimes have had their right to security denied.⁸³ However, as noted by the UN Human Rights Committee, threats to personal liberty are

⁷⁶ Hypothetical, ¶34-35.

⁷⁷ "*Street Children*" (*Villagrán Morales et al.*) v. *Guatemala*. Preliminary Objection, Merits, Reparations, and Costs. Judgment of November 19, 1999. Series C No. 63, para. 135.

⁷⁸ *Galindo Cárdenas et al. v. Peru*. Report on Merits, Report No. 57/12, Inter-Am. Comm'n H.R., Case No. 11.568, ¶ 87 (Mar. 21, 2012).

⁷⁹ *Bayarri v. Argentina*. Preliminary Objection, Merits, Reparations, and Costs. Judgment of October 30, 2008. Series C No. 187, para. 55-77.

⁸⁰ *Galindo Cárdenas et al.*, footnote 69, para 192-229.

⁸¹ *Servellón García et al. v. Honduras*. Preliminary Objection, Merits, Reparations and Costs. Judgment of September 21, 2006. Series C No. 22, para 88-99.

⁸² *Gómez-Palomino v. Peru*. Preliminary Objection, Merits, Reparations, and Costs. Judgment of November 22, 2005. Series C No. 136, para 35.

⁸³ *Cabrera Garcia and Montiel Fiores v. Mexico*. Preliminary Objection, Merits, Reparations, and Costs. Judgment of November 26, 2010. Series C No. 220, para 77.

not limited to formal arrests, and such States cannot “ignore known threats to the life of persons under their jurisdiction, just because he or she is not arrested or otherwise detained.”⁸⁴

It should be noted that the European Court of Human Rights has determined that the jump from freedom of movement to violations of personal liberty lies in the margin, not in nature or essence.⁸⁵ Here, it is easy to dismiss the extremes of state emergencies, unlawful arrests, or unwarranted detentions made by state officials. When Maldini and his staff hired A.A., he had not been granted the “privileges, exemptions, and immunities granted to the administrative and technical staff of a diplomatic mission under the Vienna Convention . . .” given to a state actor.⁸⁶ Therefore, the initial relationship between EcoUrban Solution and the ten petitioners was a mutual employment agreement and did not start with formal arrests or detentions by state actors intended to limit personal liberties. While a deprivation of liberty occurs when a person “cannot or is unable to leave or abandon at will the place or establishment where she . . . has been placed,” A.A. was never informed she could not leave the property or that the fence and security system were to keep the workers in⁸⁷ or limit their movement.⁸⁸ The installation was likely for general security precautions, given the premium of *Aerisflora*. It is also possible the other nine women left voluntarily.

Historically, the commission found a clear violation of Article 7 with Article 1-1 when forced disappearances by state agents were not adequately investigated.⁸⁹ Despite lacking names, the Velora Police diligently pursued an investigation alongside immigration authorities but found

⁸⁴ Human Rights Committee. *Delgado Paez v. Colombia*. Views of July 12, 1990. Communication No. 195/1985, July 12, 1990.

⁸⁵ *Andrade Salmon v. Bolivia*. Merits, Reparations, and Costs. Judgment of December 1, 2016. Series C No. 330, para. 144. (referenced *Engel et al v. The Netherlands* judgment adopted by the European Court in 1976)

⁸⁶ Hypothetical, ¶25.

⁸⁷ Rights and Guarantees of Children in the Context of Migration and/or in Need of International Protection. Advisory Opinion OC-21/14 of August 19, 2014. Series A No. 21, para. 145.

⁸⁸ *Chaparro Alvarez and Lapo Iniguez, v. Ecuador*. Preliminary Objections. Merits, Reparations, and Costs. Judgment of November 21, 2007. Series C No. 170, para. 58.

⁸⁹ *Tiu Tojín v. Guatemala*, Petition to the Court, Inter-Am. Comm’n H.R., Case No. 10.686, ¶ 26(a) (July 28, 2007)

identifying their location or identity impossible.⁹⁰ Consequently, it is challenging to establish violations of personal liberty based on a single account, let alone whether all nine who traveled to Aravania would confirm that their experiences were similar to A.A.'s. While the petitioners may contend the seizure of the passport represents a limitation of liberty, two factors significantly undermine this claim.

First, the passports and work permits were taken and registered when the women crossed the border in 2012 and were later submitted to the labor authorities; this was confirmed by the facts several weeks after work had begun.⁹¹ Additionally, it is reasonable to expect processing these documents will take considerable time, in addition to the increased workload from the “sheer number of migrants” crossing.⁹² Despite this, all women retained their identity via work permits and “robust” social security benefits, as supported by the report by Lusaria to Aravania on October 30, 2013.⁹³ Regarding withheld pay or insufficient funds to leave, the pay was likely delayed due to the unforeseen work that extended the trip, which took everyone by surprise, including workers and administration. In A.A.'s case, although her mother's medical bills were likely reduced by health insurance, the information does not indicate that employment benefits entirely covered them. Consequently, much of A.A.'s earnings may have gone toward those expenses, limiting her budget while allowing her to access previously unaffordable costs. Lastly, insufficient information is provided about the average daily wages, the number of square meters planted, or whether \$1.00 was a standard rate in the field. As such, it is challenging to determine or corroborate personal liberty restrictions when the state cannot carry out a “complete, unbiased,

⁹⁰ Questions, ¶3.

⁹¹ Hypothetical, ¶36, 44

⁹² Questions., ¶3.

⁹³ *Id.*, ¶10, 18.

effective, and immediate” investigation to identify, prosecute, and punish the individuals responsible.⁹⁴

Secondly, Maldini was not a state agent of Aravania. Thus, if a violation of Article 7 occurred, it is the responsibility of the State of Lusaria to prosecute Maldini and defend against the violation. The Court could not assume those committing these atrocities were public officials, nor could it automatically hold the State accountable for failing to fulfill its duty to uphold respected rights.⁹⁵ Here, Maldini was granted special rights given to “the administrative and technical staff of a diplomatic mission under the Vienna Convention of Diplomatic Relations and the Convention on Special Missions,”⁹⁶ also known as VCDR and CSM, respectively. Under the VCDR, Maldini was only a “member of the staff of the mission employed in the administrative and technical service of the mission⁹⁷,” not a state agent of Aravania.

Nevertheless, he was still entitled to Articles 29 through 35 of the VCDR protections. He could not be arrested, detained, or prosecuted under Aravania’s criminal jurisdiction as this was the “receiving state.”⁹⁸ Thus, the State of Aravania acted in accordance with its domestic laws and the VCDR by not pursuing criminal prosecution against him and promptly taking steps to collect reparations for the alleged victims under the cooperation agreement with Lusaria. Lastly, Article 32 of the VCDR allowed the sending state of Lusaria to waive immunity for Maldini to be criminally prosecuted in Aravania, but it did not.⁹⁹

⁹⁴ *Gómez-Palomino*, footnote 82, para 6.

⁹⁵ *González et al. (“Cotton Field”) v. Mexico*. Preliminary Objection, Merits, Reparations, and Costs. Judgment of November 16, 2009. Series C No. 205, para 242.

⁹⁶ Hypothetical, ¶25.

⁹⁷ *Vienna Convention on Diplomatic Relations*, April 18, 1961, 500 UNTS 95, Article 1(c).

⁹⁸ *Id.*, Article 31.

⁹⁹ *Id.*, Article 32.

The Republic of Aravania respected Article 3 (Right to Juridical Personality) in conjunction with Article 8 (Right to Fair Trial) & Article 25 (Right to Judicial Protection)

Article 3 plainly states it protects the “right to recognition before the law” and is limitedly applied in available case law.¹⁰⁰ Its right is recognized in the State’s obligation not to deny anyone's legal personality as doing so makes the individual “vulnerable to State and private parties.”¹⁰¹ Therefore, States must “provide the means and legal conditions for this right to be freely and fully enjoyed by its bearers.”¹⁰² This Court has recognized that an absolute prerequisite of such means includes nationality; thus, when denied by a state, it must be held responsible.¹⁰³ The scope of its protection is also expanded to cases involving human trafficking¹⁰⁴ and slavery¹⁰⁵ regardless of sexual orientation or gender identity.¹⁰⁶ Additionally, this Court must consider two intertwined elements as part of the rights enshrined by Article 3: whether an affected party could “exercise them and have [the] legal capacity to act.”¹⁰⁷ In *Anzualdo Castro v. Peru*, a case involving a forced disappearance, the victim was placed “outside the protection of the law”¹⁰⁸ and thus could not exercise human rights because his disappearance essentially eliminated his right to a juridical personality by denying his existence.

In this case, there is no evidence the other nine women were made to disappear, despite the immediate investigation by the Aravania police. Although the facts indicate police found

¹⁰⁰ OAS, American Convention on Human Rights [ACHR], Nov. 22, 1969, O.A.S.T.S. No 36 1144 U.N.T.S. 123., art. 3.

¹⁰¹ *Xákmok Kásek Indigenous Community v. Paraguay*. Merits, Reparations, and Costs. Judgment of August 24, 2010. Series C No. 214, para. 248.

¹⁰² *Id.*, para. 249.

¹⁰³ *Girls Yean and Bosico v. Dominican Republic*. Preliminary Objections, Merits, Reparations, and Costs. Judgment of September 8, 2005. Series C No. 130, para. 178.

¹⁰⁴ *Hacienda Brazil Workers.*, footnote 46.

¹⁰⁵ *López Soto et al.*, footnote 49.

¹⁰⁶ Gender Identity, and Equality and Non-Discrimination of Same-Sex Couples. Advisory Opinion OC-24/17 of November 24, 2017. Series A No. 24.

¹⁰⁷ *Chitay Nech et al. v. Guatemala*. Preliminary Objections, Merits, Reparations, and Costs. Judgment of May 25, 2010. Series C No. 212, para. 101.

¹⁰⁸ *Anzualdo Castro v. Peru*. Preliminary Objection, Merits, Reparations, and Costs. Judgment of September 22, 2009. Series C No. 202, paras. 90-101.

unmade beds and women’s clothing as if “someone had left the place quickly,” this invites multiple interpretations, including the possibility the women left voluntarily since there was no attempt to hide the clothes or an individual’s presence. When petitioners fail to prove enforced disappearances, kidnapping,¹⁰⁹ or placement in secret prisons¹¹⁰ are at play, as in *Gutiérrez Hernández et al.*, this Court has a precedent for not finding blatant breaches of Article 3.¹¹¹ In differing cases, such as *Expelled Dominicans and Haitians vs. Dominican Republic*, juridical personality was violated by a state that did not recognize the nationality and identity of its citizens by questioning their birth certificates in a discriminatory manner.¹¹²

For the petitioners to prove the alternative, the evidence must show that Aravanja denied the alleged party's legal personality and the right to exercise or act on it. Here, all women had passports, work permits, and social security benefits and received “documentation that would allow [them] to enter Lusaria.”¹¹³ Additionally, once in Lusaria, the women received brochures that informed them about exercising their rights, and their identity documents were utilized to process the residence and work permits that the women would later need for their jobs.¹¹⁴ Therefore, none of the alleged victims were “left in a situation of legal indetermination”¹¹⁵ because their legal existence¹¹⁶ was validated, used, and maintained throughout their time on the field. EcoUrban Solution’s robust employment benefits hinged on using such identities to provide families with “social security, which covered health insurance,” as in the case of A.A.’s

¹⁰⁹ *Chitay Nech*, footnote 98, para. 97-98.

¹¹⁰ *García and Family Members v. Guatemala*. Preliminary Objections, Merits, Reparations, and Costs. Judgment of November 29, 2012. Series C No. 258, para. 110,114.

¹¹¹ *Gutiérrez Hernández et al. v. Guatemala*. Preliminary Objections, Merits, Reparations, and Costs. Judgment of August 24, 2017. Series C No. 339, para. 136.

¹¹² *Expelled Dominicans and Haitians v. Dominican Republic*. Preliminary Objections, Merits, Reparations and Costs. Judgment of August 28, 2014. Series C No. 282, para. 314.

¹¹³ Hypothetical, ¶35.

¹¹⁴ *Id.*, ¶36; Questions, ¶10,13, 45.

¹¹⁵ *Anzualdo Castro*, footnote 99, para. 102; *Vásquez Durand et al. v. Ecuador*. Preliminary Objections, Merits, Reparations, and Costs. Judgment of February 15, 2017. Series C No. 332, para. 137.

¹¹⁶ *Girls Yean and Bosico*, footnote 94, para. 3.

mother. Granting and using these documents establishes the importance and “. . . means of autonomy and self-determination of individuals . . .”¹¹⁷ further supporting Aravania ensured the alleged parties’ rights under Article 3. In no way did the State of Aravania completely exclude the petitioners from the legal sphere, denying them access to society and the State.”¹¹⁸

Aravania acted promptly, timely, and effectively to determine the merits of A.A.’s complaint

Article 8 of the ACHR guarantees everyone a right to a fair trial adjudicated promptly by a “competent, independent, and impartial tribunal.”¹¹⁹ Simply put, this Court’s interpretation holds a petitioner’s right to be heard as being aligned with having a “right of access to justice.”¹²⁰ This Court will also assess whether a State acted within a reasonable timeframe in its judicial proceedings to ensure that any delays in the administration of justice did not compromise the effectiveness of due process rights belonging to the affected parties. To do this, the court will consider four elements: “the complexity of the matter, the procedural activities of the applicant, the conduct of the judicial authorities, and the adverse effect of the duration of the proceedings on the judicial situation of the person involved.”¹²¹

By the same token, Article 25 determines a victim’s “right to recourse to a competent court” without delay in equivalence to Article 18 (Right to a Fair Trial) of the American Declaration of the Rights and Duties of Man.¹²² More explicitly, the right to recourse entails a “prompt, simple and effective solution.”¹²³ The right to access a court is not unconditional; it can

¹¹⁷ Gender Identity, and Equality and Non-Discrimination of Same-Sex Couples, footnote 97, paras. 104 and f.

¹¹⁸ *Gudiel Álvarez et al. (“Diario Militar”) v. Guatemala*. Preliminary Objections, Merits, Reparations and Costs. Judgment of November 20, 2012. Series C No. 253, para. 209.

¹¹⁹ OAS, American Convention on Human Rights [ACHR], Nov. 22, 1969, O.A.S.T.S. No 36 1144 U.N.T.S. 123., art. 8(1).

¹²⁰ *Wong Ho Wing v. Peru*. Preliminary Objection, Merits, Reparations, and Costs. Judgment of June 30, 2015. Series C No. 191, para. 228.

¹²¹ *Valle Jaramillo et al. v. Colombia*. Merits, Reparations, and Costs. Judgment of November 27, 2008. Series C No. 192, para. 155.; *Martinez Esquivia v. Colombia*. Preliminary Objections, Merits, Reparations, and Costs. Judgment of October 6, 2020. Series C No. 412, paras. 141-145; *Jenkins v. Argentina*. Preliminary Objections, Merits, Reparations, and Costs. Judgment of November 26, 2019. Series C No. 397, paras. 106-121.

¹²² *La Cantuta v. Peru*. Merits, Reparations, and Costs. Judgment of November 29, 2006. Series C No. 162, para. 112.

¹²³ *Acevedo Buendia et al. (“Discharged and Retired Employees of the Comptroller”) v. Peru*. Preliminary Objection, Merits, Reparations, and Costs. Judgment of July 1, 2009. Series C No. 198, para 77.

be subject to specific discretionary limitations by the State, provided the methods employed are “proportional to the aim sought.”¹²⁴ In *Pacheco Tineo family v. Bolivia*, this Court found it necessary to analyze “whether the remedy existed and whether it was reasonably possible to exercise . . . in the situation of the country, the facts of the case, or the specific situation . . .”¹²⁵ Nevertheless, a violation of Article 8 does not necessarily determine a breach of Article 25.¹²⁶

Verona Police in Aravania began investigating the merits of A.A.’s complaint on January 14, 2014, the same day A.A. had spoken to police officials about filing it.¹²⁷ Moreover, within twenty-four hours of the 14th, officials investigated the premises A.A. spoke about and obtained a warrant from the Second Criminal Court Judge of Velora to support an arrest for Maldini.¹²⁸ The following day, on January 15, 2014, in further testament to the State’s promptness, Maldini appeared before the arrest-warranting judge, where he verbally exercised his immunity under the cooperation agreement.¹²⁹ Unlike the State in *Barbani Duarte et al. v. Uruguay*, which limited access to justice because it failed to make a complete analysis of the merits of a petition,¹³⁰ the State of Aravania’s conduct was not only diligent and prompt but exemplary in honoring the petitioner’s rights. In compliance with the interpretation of Articles 8 and 25 of the American Convention, Aravania did everything possible to organize appropriate proceedings when evaluating a petitioner’s right to exercise varying legal avenues.

The judge in Maldini’s case was independent and impartial of Aravania’s other interests

When analyzing the complexity of any situation before the IACHR and the *behavior of*

¹²⁴ *Cantos v. Argentina*. Merits, Reparations and Costs. Judgement of November 28, 2002. Series C No. 97, para. 54

¹²⁵ *Pacheco Tineo family v. Bolivia*. Preliminary Objections, Merits, Reparations, and Costs. Judgment of November 25, 2013. Series C No. 272, para. 191.

¹²⁶ *Yakye Axa Indigenous Community v. Paraguay*. Merits, Reparations, and Costs. Judgment of June 17, 2005. Series C No. 125, para. 65.

¹²⁷ Hypothetical, ¶48.

¹²⁸ *Id.*, ¶49-50.

¹²⁹ *Id.*

¹³⁰ *Barbani Duarte et al. v. Uruguay*. Merits, Reparations, and Costs. Judgment of October 13, 2011. Series C No. 234, para. 142.

judicial authorities,¹³¹ the court assesses whether proceedings have been carried out with due diligence and promptness to avoid frustrating human rights and judicial protections.¹³² To ensure this due process, courts must be subjectively and objectively impartial and independent of corruption or external pressures. Subjective impartialness is presumed¹³³ in most cases unless evidence of personal bias, direct interests, preference for one party over the other, or personal involvement in the controversy proves otherwise.¹³⁴ These instances must be substantiated by specific and concrete evidence that aspects outside the appropriate legal standard swayed a judge. On the other hand, objective impartiality asks whether the judge at issue “offered sufficient elements of conviction to exclude any legitimate misgivings or well-grounded suspicion of partiality. . .”¹³⁵ Such procedural safeguards ensure judicial institutions and investigating counterparts are united in their display of transparency and trust while remaining accountable as public servants.

In this case, the State of Aravania acted accordingly when the judge served as an impartial, unbiased entity to investigate the truth and facilitate the arrest, prosecution, and punishment of those deemed responsible.¹³⁶ For instance, when the judge contacted the Ministry of Foreign Affairs of Aravania to verify Maldini had immunity from criminal prosecution, he acted diligently despite the complexity of the matter to determine what legal avenues could be pursued by the alleged victims.¹³⁷ Additionally, a day later, Aravania officially requested Lusaria waive its immunity, allowing Aravania to investigate, prosecute, and, if warranted, impose

¹³¹ *Genie Lacayo v. Nicaragua*. Merits, Reparations, and Costs. Judgment of January 29, 1997. Series C No. 30, para. 80.

¹³² *Ricardo Canese v. Paraguay*. Merits, Reparations, and Costs. Judgment of August 31, 2004. Series C No. 111, para. 146.

¹³³ *Apitz Barbera et al. (“First Court of Administrative Disputes”) v. Venezuela*. Preliminary Objection, Merits, Reparations, and Costs. Judgment of August 5, 2008. Series C No. 182, para. 56.

¹³⁴ *Palamara Iribarne v. Chile*. Merits, Reparations, and Costs. Judgment of November 22, 2005. Series C No. 135, para 146.

¹³⁵ *Apitz Barbera et al.*, footnote 123, para 56.

¹³⁶ *Vera Vera et al. v. Ecuador*. Preliminary Objection, Merits, Reparations, and Costs. Judgment of May 19, 2011, Series. C No. 226, para. 89.

¹³⁷ Hypothetical, ¶50.

penalties.¹³⁸ These actions demonstrate that Aravania did not attempt to hide behind its domestic laws to protect its state interests or mutually vested collaborations at the expense of its citizens. Additionally, when Aravania requested this waiver, its formal request legally identified A.A.'s complaint, recognizing her rights under Article 3. Aravania, free from corruption and coercion, diligently advocated for its citizens to the fullest extent permitted by international law.

Alternatively, violations of Article 8 should be pursued against Lusaria because they occurred on Lusarian territory. Per the facts, Aravania dutifully examined the periodic reports they implemented to prevent violations under the ACHR, indicating stable working conditions in compliance with the cooperation agreement. Therefore, there was no reason Aravania knew or reasonably should have known about any violations prompting it to investigate it. If every potential violation required investigation, a snowball effect could result in an overwhelming number of violations that the State was unaware of while pursuing "progressivism" under Article 26. Despite all obstacles, Aravania persevered and remained diligent in its initiated dispute resolution against Lusaria to secure reparations for the petitioners despite challenges posed by various issues on the state's agenda, including recurring flooding.

The Republic of Aravania respected Article 26 (Progressive Development) in conjunction with Articles 1(1) & 2 of the ACHR

Per the OAS's economic, social, and cultural rights, as amended by the Protocol of Buenos Aires, Article 26 of the ACHR holds states accountable for fulfilling rights that contribute to progressive development in line with their obligations under Articles 1 and 2. Further guiding the Inter-American Commission's interpretation are the Protocol of San Salvador, the American Declaration of 1948, the International Labour Organization, and the

¹³⁸ *Id.*

UN's International Covenant on Economic, Social, and Cultural Rights, which established qualitative and quantitative measures of progress or regression. While the core principle of progressivity is crucial, it would be infeasible to “legally oblige the State to *immediately*”¹³⁹ or, in a “short period of time,” achieve such success.¹⁴⁰

Although a state can also be held accountable for deliberately taking retrogressive measures, Article 26 of the ACHR does not “exclude the possibility that a State imposes certain restrictions to the exercise of the rights enshrined in that norm.”¹⁴¹ Having said this, the Inter-American Commission's *corpus juris* has remained cautious in deciding on a possible violation of Article 26 in numerous cases. For example, in the case of the “*Five Pensions*,” the Court refused to consider Peru's obligation to progressive achievement since “it is measured on the scale of the population and not from a limited group of a few . . .”¹⁴² Moreover, the Court stressed that although civil, political, economic, social, and cultural rights are interdependent and not disjunctive, they have no hierarchy. Subsequently, in the case of *Lagos del Campo*, the IACtHr and IACHR expanded Article 26's material content to include the right to health,¹⁴³ social protection,¹⁴⁴ food, clean water, a healthy environment,¹⁴⁵ education, and participation in cultural life,¹⁴⁶ among many others.

¹³⁹ OAS, Charter of the Organization of American States, art. 34, 30 April 1948; *Acevedo Buendia et al. (“Discharged and Retired Employees of the Comptroller”)*, footnote 114, para. 102.

¹⁴⁰ CESCR, General Comment No. 3: The Nature Of States Parties' Obligations (art. 2, para. 1, of the Covenant), 1990, para. 9.

¹⁴¹ Report on Admissibility and Merits No. 38/09, Case No. 12.670; *National Association of Ex-Employees of the Peruvian Social Security Institute et al. v. Perú*. March 27, 2009, para 140.

¹⁴² “*Five Pensions*” v. *Peru*. Merits, Reparations, and Costs. Judgment of February 28, 2003. Series C No. 98, paras. 146-48.

¹⁴³ *Cuscul Pivaral et al. v. Guatemala*. Preliminary Objection, Merits, Reparations, and Costs. Judgment of August 23, 2018. Series C No. 359, paras. 98-118; *Poblete Vilches et al. v. Chile*. Merits, Reparations, and Costs. Judgment of March 8, 2018. Series C No. 349, paras. 100-143.

¹⁴⁴ *Muelle Flores v. Peru*. Preliminary Objection, Merits, Reparations, and Costs. Judgment of March 6, 2019. Series C No. 375, paras. 172 and f.

¹⁴⁵ *The Environment and Human Rights*. Advisory Opinion OC-23/17 of November 15, 2017. Series A No. 2, para 57.

¹⁴⁶ *Indigenous Communities of the Lhaka Honhat Association (Our Land) v. Argentina*. Merits, Reparations, and Costs. Judgment of February 6, 2020. Series C No. 400, paras. 195 and f.

All ten women's right to work and social protection was respected and promoted

The right to work and social protection is in Article 26 and is interpreted as one “derived” from those recognized by the OAS. As such, case law regarding the right to work stability heavily emphasizes protection from arbitrary and unfair dismissals. Convention 158 of the International Labor Organization further supports this by stating that valid grounds are necessary for dismissal and that sufficient recourse is accessible to the individual terminated.¹⁴⁷ For instance, in *San Miguel Sosa et al. v. Venezuela*, three employees’ right to work was violated when the state failed to protect workers from being “unfairly deprived of a job.”¹⁴⁸ Similarly, in *Lagos del Campo*, the State’s failure to prevent and protect the right to work meant a worker’s arbitrary termination did not allow him to access his pension or find sustainable work due to his age as an elder.¹⁴⁹ It is also essential to note the right to work in accordance with social protection includes “effective judicial protection in the private sphere of labor relations.”¹⁵⁰

In more limited case law, this Court has also clarified that the right to work includes safe working conditions that “would prevent occupational accidents and disease”¹⁵¹ and ensure affected workers have “access to adequate measures of reclamation . . . to *request* reparation or compensation.”¹⁵² The key to this Court’s analysis is focusing on the preventative measures Aravania took, their recognition of rights derived under Article 26, and the ability of the petitioners to *request*, not receive, reparation where the circumstances are fit. Here, Article 9 of Aravania’s 1967 Constitution emphasizes inhabitants of Aravania have the right to work, while

¹⁴⁷ *Trabajadores Cesados de Petroperú and Others v. Peru*. Preliminary Objections, Merits, Reparations, and Costs, Judgment of November 23, 2017. Series C No. 358, para.193.

¹⁴⁸ *San Miguel Sosa v. Venezuela*. Merits, Reparations, and Costs. Judgment of February 8, 2018. Series C No. 348, para 220.

¹⁴⁹ *Lagos del Campo v. Peru*. Preliminary Objections, Merits, Reparations, and Costs. Judgment of August 31, 2017. Series C No. 340, paras.151- 52; “Resolution Points,” para. 5.

¹⁵⁰ *Trabajadores Cesados de Petroperú and Others*, footnote 138, para. 193.

¹⁵¹ *Spoltore v. Argentina*. Preliminary Objections, Merits, Reparations, and Costs. Judgment of June 9, 2020. Series C No. 404, para. 99.

¹⁵² *Id.*

Article 102 ensures state authorities “respect and ensure human rights in all their actions, including economic, social, cultural, and environmental rights.”¹⁵³ In light of this, Aravanja took preventative measures to protect its citizens when it visited the work site before signing the cooperation agreement and ensured appropriate working conditions and workplace inspections in the agreement.¹⁵⁴ As part of these workplace inspections, in January 2013, El Dorado was inspected during A.A.’s tenure and found to have appropriate working conditions that complied with the country’s labor laws.¹⁵⁵ At this visit, several individuals noted how beneficial the work was for their family and received brochures “informing them of their labor rights, the prohibition of workplace discrimination, and how to file an employment-related complaint.”¹⁵⁶

Per the cooperation agreement, Aravanja received the monthly reports required from Lusaria, which did not indicate signs of disease, accidents, or highly unfavorable conditions, nor did the nine women use the information on the brochures to file complaints.¹⁵⁷ This is evidenced by the copies of employment contracts sent by Lusaria, which indicated no labor lawsuits or complaints had been filed by any worker.¹⁵⁸ Even without complaints, Aravanja was informed that El Dorado was being proactively modified 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.”¹⁵⁹ As stated in the arbitration panel proceedings, Aravanja had no “reason to carry out any of the visits provided for in the agreement” when the reports they received were amicable.¹⁶⁰ Therefore, Aravanja complied with Article 26 by taking

¹⁵³ Hypothetical, ¶ 2.

¹⁵⁴ *Id.*, at ¶21-22.

¹⁵⁵ Questions, ¶ 45.

¹⁵⁶ *Id.*

¹⁵⁷ *Id.*; Hypothetical, ¶50.

¹⁵⁸ Questions, ¶22.

¹⁵⁹ *Id.*

¹⁶⁰ *Id.*

preventive measures to ensure compatible working conditions and confirming that monthly reports were made without complaints or lawsuits.

In addition to informing workers of their legal rights and filing complaints, Aravania immediately requested a new report on El Dorado's working conditions five days after a complaint was filed in October 2013.¹⁶¹ Although a single woman came forward, Aravania took it seriously by promptly and appropriately investigating the matter. However, the report again indicated satisfactory compliance with one day off and all employment benefits and conditions that workers agreed to when they voluntarily accepted employment with EcoUrban.

Additionally, Lusaria supplied the prosecutor's office with the pertinent details of the October 2013 complaint to assist in the investigations conducted by the authorities.¹⁶² As such, the prosecutor's officer in Aravania "considered that no crime had been committed . . . and the videos did not give rise to any unlawful action." With no additional information available, Aravanian authorities did not consider it appropriate to take further action by visiting the work site. If every complaint warranted a workplace visit or strained public judicial resources, bilateral relationships could become tense and complicate a state's broader agenda of progressivism.

In the petitioner's case, an arbitration panel assessed the dispute under Article 23 of the cooperation agreement and set an "amount of compensation based on the principle of equity."¹⁶³ Seven women were identified in the criminal proceedings in Lusaria, and a judgment was made accordingly.¹⁶⁴ As stated earlier, Aravanian police had sifted through immigration records and were informed by the immigration officials responsible "for registering all persons entering or leaving either country" that it was impossible to determine the identity and location of the nine

¹⁶¹ Questions, ¶10.

¹⁶² *Id.*

¹⁶³ *Id.*, at ¶31.

¹⁶⁴ *Id.*, at ¶46.

other women.¹⁶⁵ Additionally, the facts corroborate that there was “no information on the existence of . . . incidents” concerning women seeking to leave who were stopped or discouraged from doing so by any person.¹⁶⁶

Consequently, Lusaria and the prosecutor’s office should have adequately searched for the other women and not misled Aravanaia about incorrect payments, flawed contracts, and other purported discriminatory actions.¹⁶⁷ With no ability to bring a criminal proceeding against Maldini due to immunity and misinformation, the Ministry of Foreign Affairs of Aravanaia continued its quest for progressivism. It issued Resolution 2020 to ensure future compliance with “labor rights recognized by the International Labor Organization” and improve the process of filing employment claims.¹⁶⁸ It also should be noted that during Lusarian criminal proceedings, elements of human trafficking were not met in any of the petitioner’s cases, further corroborating Aravanaia’s preliminary investigations.¹⁶⁹ Thus, Aravanaia, in good faith, worked to prevent adverse working conditions, informed employees of legal options, and applied judicial decisions based on the doctrine of social protection to promote the primary goal of progressivity under Article 26.

All ten women’s right to health and social security in the workplace was respected

As interpreted in *Poblete Vilches*, the right to health is an “autonomous” right. In this case, the Court supported its interpretation by referencing General Comment No. 14 of the CESCR, emphasizing the quality, accessibility, availability, and acceptability of non-discriminatory health care.¹⁷⁰ This right is also protected under Articles 34(i), 24(l), and 45(h) of

¹⁶⁵ *Id.*, at ¶3, 13.

¹⁶⁶ *Id.*, at ¶32.

¹⁶⁷ *Id.*, ¶46.

¹⁶⁸ *Id.*, at ¶8.

¹⁶⁹ *Id.*, at 24.

¹⁷⁰ *Poblete Vilches et al.*, footnote 134, paras. 118-124; CESCR. General Comment No. 14: The Right to the Highest Attainable Standard of Health, (art. 12), 2000

the OAS Charter¹⁷¹ and referred to in the Protocol of San Salvador.¹⁷² When analyzing a violation, a court looks at “1) the right to equitable and satisfactory working conditions that ensure the health of the worker; 2) the content of the right to equitable and satisfactory working conditions that ensure the health of the worker, and 3) the harmful effect on the right to equitable and satisfactory working conditions that ensure the health of the worker in the present case.”¹⁷³

Moreover, this Court, in *Cuscul Pivaral et al. v. Guatemala*, emphasized the obligations of a State to prohibit intersectional discrimination against vulnerable individuals, especially those living in poverty.¹⁷⁴ This right should not be confused with the right to a healthy environment, in which the Court has limited its sphere of protection to nature and concerns related to “the survival of humankind” concerning “the components of the environment, such as forests, seas, rivers . . .” and other areas alike.¹⁷⁵ If anything, critical work done on the *Aerisflora* farms was “for the other living organisms with which the planet is shared.”¹⁷⁶

Given the nature of the laborious job, A.A. and the other women were indeed subject to arduous work conditions. However, unlike many divers in *Lemoth Morris* who died due to inadequate training, malnutrition, or lack of proper equipment, the women, in this case, were trained, equipped, well-fed, and taught how to do non-endangering work, in addition to receiving other benefits. Further, in *Lemoth Morris*, this Court also stated the right to health obligated the state to “provide quality health services and medical care.”¹⁷⁷ All ten women and their next of kin had access to health insurance and medical treatment covered by it. In particular, in A.A.’s

¹⁷¹ *Lemoth Morris et al. (Miskito Divers) v. Honduras*. Preliminary Objections, Merits, Reparations, and Costs. Judgment on August 31, 2021. Series C No. 432, paras. 79-80.

¹⁷² *Id.* at paras. 81-82; Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social, and Cultural Rights (“Protocol of San Salvador”), A-52, 16 November 1999, art. 7(e), *Equitable, & Satisfactory Conditions Of Work*.

¹⁷³ *Spoltore*, footnote 142, para. 83.

¹⁷⁴ *Cuscul Pivaral et al.*, footnote 134, paras. 133-134.

¹⁷⁵ *Indigenous Communities of the Lhaka Honhat Association (Our Land)*, footnote 137, para. 200.

¹⁷⁶ *Id.* (the Court also referred to its Advisory Opinion No. 23)

¹⁷⁷ *Id.* at para. 83.

case, her mother had a severe carpal tunnel that was too expensive to treat, causing her to stop working and retire; it wasn't until A.A. began working on the *Aerisflora* farms that her mother was able to receive medical treatment through health insurance provided by EcoUrban.

Additionally, all employees on the *Aerisflora* farms had access to essential and “effective high-quality medical services” as obligated by this Court in *Poblete Vilches*.¹⁷⁸ Unlike the elderly petitioner in *Poblete Vilches*, who did not receive timely or adequate medical treatment, A.A.’s mom received quality medical treatment for carpal tunnel, a disease that is costly to manage. Although some workers raised concerns about wrist pain, allergies, back issues, and potential skin cancer, these complaints are presumed to have been reported before 2010.¹⁷⁹ As such, those issues are before the petitioner’s time, and there is no mention that the 10 women attempted to or were denied medical care. Lastly, several universities in Lusaria tried to find a correlation between these effects and *Aerisflora*; none were reported or conclusively established. As for hygiene, there were no reported diseases, illnesses, or information to suggest unsanitary conditions for workers, but there is evidence women were given personal care supplies.¹⁸⁰

While A.A. will likely argue that the housing conditions were inadequate because her residence comprised eight people, including her family, was 35m² and too small, the International Organization for Migration (“IOM”) has published evidence to the contrary. In a *Migrant Worker Guideline for Employers* manual, the IOM provided a checklist for standardized living conditions, indicating 3.6m² per person in a room of more than four people followed the “International Standards for spacing at worker’s accommodations.”¹⁸¹ An example provided by the IMO was IKEA, an internationally famous furniture store with suppliers in Thailand. The

¹⁷⁸ *Poblete Vilches* et al., footnote 134, para. 118.

¹⁷⁹ Hypothetical, ¶15-16.

¹⁸⁰ *Id.*, at ¶40.

¹⁸¹ *Migrant Workers’ Accommodations*, International Organization on Migration Migrant Worker Guidelines for Employers, https://publications.iom.int/system/files/pdf/MWG-Tool-5-Accommodation-checklist_0.pdf, PUB2021/125/R, pg. 13 (2022).

standard square meter per labor worker sleeping accommodations is 3.8m².¹⁸² Under the IMO standards, the eight people living in A.A.’s house required 30.4m² (8 x 3.8m²), which means they were given 4.6 more than what is standard under the IMO guidelines.

Furthermore, the facts state three families are appointed to each house. However, it fails to mention that a “family” is a worker and their dependents, *if* they have any. This provides broad speculation to theorize that three families per house could mean only three workers are allotted 35m² where they have no dependents in one instance and vary in other cases. Therefore, because we do not know the other alleged victims’ identities, we cannot determine how many individuals they lived with and if they were allotted the proper square meter per each. No information is provided about general cleanliness; thus, we assume it was adequate, unlike the child petitioners whose hygiene was examined by a doctor registered with the ministry after working with fireworks¹⁸³ or preventive hygiene to reduce infant mortality.¹⁸⁴

Regarding the right to social security, the Court has generally defined the right to protect individuals from future harmful situations by guaranteeing income security, including protections for workers disabled due to job-related injuries, and ensuring they are entitled to adequate benefits, such as health services and income support.¹⁸⁵ This right is also supported by Articles 3(j), 45(b), and 46 of the OAS charter, American Declaration, Protocol of San Salvador, Universal Declaration of Human Rights, and International Covenant on Economic, Social, and

¹⁸² Ernst, T., White, L., International Organization for Migration, & Palmgren, P., pg. 38 (2021). LITERATURE REVIEW: MIGRANT WORKER ACCOMMODATION: EXAMINING PUBLIC AND PRIVATE SECTOR APPROACHES AND THE IMPACTS OF COVID-19. In Y. Jiang, V. Annamalai, A. G. Morada, A. Lasota, N. Spence, T. Dermott, A. Chan, M. Pottler, S. Awasthi, A. Chowdhury, J. T. F. Chua, & K. R. Nadzarin (Eds.), *International Organization for Migration*. <https://www.iom.int/sites/g/files/tmzbd1486/files/2021-09/LiteratureReview-MigrantWorkerAccommodation.pdf>

¹⁸³ *Workers of the Firework Factory in Santo Antônio De Jesus and Their Families v. Brazil*. Preliminary Objections, Merits, Reparations, and Costs. Judgment of July 15, 2020. Series C No. 407, paras. 2, 62, 151, 176.

¹⁸⁴ Draft Convention on Human Rights. Inter-American Council of Jurists, September 1959, reproduced in *Inter-American Yearbook of Human Rights*, 1968. p. 247.

¹⁸⁵ *Lemoth Morris et al. (Miskito Divers)*, footnote 159, paras. 90-91.

Cultural Rights.¹⁸⁶ The IACtHR again applied this definition in the case of *Lemoth Morris* when the State knew of the barrier injured divers faced in attempting to access medical care and failed to maintain a system that provided preventative and curative services. In that case, divers lacked social security because they were not officially documented employees with employment contracts, thus not covered by the Honduran social security system.¹⁸⁷ Contrastingly, as supplied by the facts, all workers, including A.A., received “special social security” under their employment and were documented.¹⁸⁸

III. REQUEST FOR RELIEF

Considering the arguments presented above, the Republic of Aravania respectfully requests that this Honorable Inter-American Court of Human Rights conclude and declare that:

- (1) Aravania respected all the rights and freedoms established in Articles 5, 6, 7, 3, 8, 25, 26, and Article 7 of Belém Do Pará; or alternatively;
- (2) if any of the rights enumerated above were violated, they were subsequently satisfactorily ensured, remedied, and compensated in accordance with Article 63(1) of the ACHR.

¹⁸⁶ *Id.* at ¶ 87-89.

¹⁸⁷ *Id.* at ¶ 95-97.

¹⁸⁸ Hypothetical, ¶35.