

CASE OF A.A. AND NINE OTHER WOMEN VS. REPUBLIC OF ARAVANIA

**PRESENTED BEFORE THE HONORABLE INTER-AMERICAN COURT OF HUMAN
RIGHTS**

REPRESENTATIVES OF THE STATE

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STATEMENT OF FACTS

The Republic of Aravania is located along the Pacific coast of South America and borders the Democratic Republic of Lusaria to the west.¹ For many years Aravania suffered from extreme weather including flooding specifically in its open plains and coastal areas.² Some of which was catastrophic leading to the displacement of thousands around the country.³ Carlos Molina assumed the presidency of Aravania in 2011.⁴ Molina instituted the “Impulso 4 Veces” development plan which included the creation of “sponge cities” in urban areas.⁵ Aravania is a party to multiple international agreements, including the Inter-American Convention on Human Rights (1985) and the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence Against women (1996), and is a member of the Organization of American States.⁶

The Democratic State of Lusaria is a leading country in the fight against climate change.⁷ In 1994, James Mann identified a plant known as *Aerisflora* in Lusaria that had the capacity to absorb rainwater and prevent flooding, this is useful in creating “sponge cities.”⁸ The production of *Aerisflora* is difficult, requiring repetitive motions and causing contact dermatitis.⁹ In 2010, Elena Solis won the Lusarian presidential election and decided to share *Aerisflora* with other

¹ Hypothetic Case ¶ 1 [hereinafter “H.C.”].

² H.C. ¶¶ 2-3.

³ *Id.* at ¶ 4.

⁴ *Id.* at ¶ 6.

⁵ *Id.* at ¶ 7.

⁶ *Id.* at ¶ 10.

⁷ *Id.* at ¶¶ 11-12.

⁸ H.C. ¶ 13.

⁹ *Id.* at ¶ 15.

countries.¹⁰ Solis offered Hugo Maldini a place in her administration, even though there was controversy with him enriching himself based from the climate change agenda.¹¹

In May 2012, Aravania was hit by one of the worst floods in its history, causing widespread destruction.¹² Aravania looked into services provided by public companies in Lusaria, specifically EcoUrban Solutions, to provide *Aerisflora* to help prevent flooding in Aravania.¹³ While other offers were entertained, Aravania decided to partner with Lusaria for *Aerisflora* production.¹⁴ Aravania fast tracked the agreement with Lusaria into developing “sponge cities” in Aravania before the next rainy season.¹⁵ The agreement allowed Lusaria to grow *Aerisflora* and transplant it into Aravania, Aravania would identify where the *Aerisflora* would be planted, but Lusaria would handle effectively everything else, from hiring workers, to transplanting the *Aerisflora*, to sending monthly progress reports.¹⁶ Aravania was allowed to investigate the farms where the *Aerisflora* was being produced.¹⁷ The agreement also allowed for two individuals designated by Lusaria to be given diplomatic immunity.¹⁸ Any dispute about this agreement was to go before an arbitration panel and any decision made would be enforced within the countries.¹⁹

Finca El Dorado was selected as the first Lusarian farm to produce *Aerisflora*, and Hugo Maldini was hired by the farm’s owners to recruit workers.²⁰ To attract more workers, Maldini

¹⁰ *Id.* at ¶ 16.

¹¹ *Id.* at ¶ 17.

¹² *Id.* at ¶ 20.

¹³ *Id.* at ¶ 21.

¹⁴ H.C. ¶ 22.

¹⁵ *Id.* at ¶¶ 23-24.

¹⁶ *Id.* at ¶ 25.

¹⁷ *Id.* at ¶ 25.

¹⁸ *Id.* at ¶ 25.

¹⁹ *Id.* at ¶ 25.

²⁰ H.C. ¶ 26.

made *ClicTik* videos that were targeted at single mothers in Aravania who would be desperate for work.²¹ On October 24, 2012 Maldini was appointed as Lusaria’s Special Attache for Public and Commercial Relations for *Aerisflora* and Lusaria sent a note to Aravania that Maldini should be designated as a diplomat under the agreement.²²

A.A., (“Applicant”), is a citizen of Aravania, left as a single mother by a man, that was exposed to the *ClicTik* videos created by Maldini. Applicant got pregnant with her daughter, F.A. and the family, including Applicant’s mother M.A. did not have enough income to support themselves.²³ This was partially due to M.A. having carpal tunnel surgery that prevented her from working and required medical care.²⁴ Applicant was captivated by Maldini’s videos and eventually sent a message requesting information about going to Lusaria to work on the farms.²⁵ On August 21, 2012, Applicant sent an email to an account provided by Maldini expressing this interest and received a reply from Isabel Torres.²⁶ Torres provided Applicant with and employment agreement that set out the job description, hours, payment structure, and travel information for Applicant, her daughter, and her mother.²⁷

On November 24, 2012, 60 women, including Applicant’s family traveled into Lusaria where they were placed on a bus with tinted windows and their identification documents were taken by Torres.²⁸ Applicant arrived at Finca El Dorado where she was required to report for work at 7:00 a.m., received a forty-five minute for lunch at 12:00 p.m., and worked until 3:00

²¹ *Id.* at ¶¶ 27-29.

²² *Id.* at ¶ 30.

²³ *Id.* at ¶¶ 30-33.

²⁴ *Id.* at ¶ 32.

²⁵ *Id.* at ¶ 34.

²⁶ H.C. ¶ 35.

²⁷ *Id.* at ¶ 35.

²⁸ *Id.* at ¶ 36.

p.m., Applicant was also expected to help work in the kitchens to prepare food.²⁹ Otherwise, Applicant worked in *Aerisflora* cultivation in conditions that were not the best, but allowed her to provide for F.A. and her mother's medical care.³⁰

The work Applicant was doing increased in intensity as the time for transplanting *Aerisflora* grew closer.³¹ The workers were required to live on the farm to continue working and lived in communal housing with other workers.³² The workers had to work longer hours, but were not required to pay for housing.³³ There were isolated reports of violence against some of the workers.³⁴ Some of the workers requested their documents back in response to these working conditions and were not seen on the farm again.³⁵

On January 3, 2014, Applicant and nine other women were chosen to travel from Finca El Dorado to Aravania to transplant the *Aerisflora* by Maldini.³⁶ Applicant and the nine other women arrived in Aravania in a bus with tinted windows and were taken to Primelia, where they stayed with exclusively Lusarian staff.³⁷ Difficulties in planting the *Aerisflora* required the women to stay in Aravania longer than expected, in response to this Applicant approached Maldini and requested her pay, and stated her desire to remain in Aravania after the work was done.³⁸ Maldini stated he was not in charge of payment and Applicant should be thankful for the opportunity she received.³⁹

²⁹ *Id.* at ¶ 37.

³⁰ *Id.* at ¶ 38.

³¹ *Id.* at ¶ 39.

³² H.C. ¶¶ 39-40.

³³ *Id.* at ¶¶ 42-43.

³⁴ *Id.* at ¶ 43.

³⁵ *Id.* at ¶ 44.

³⁶ *Id.* at ¶ 45.

³⁷ *Id.* at ¶ 46.

³⁸ H.C. ¶ 47.

³⁹ *Id.* at ¶ 47.

After this encounter, Applicant decided to leave the Lusarian compound and went to the police.⁴⁰ Applicant explained everything that had taken place to Velora police and stated she did not know the names of the other women who had come to Aravania with her.⁴¹ Velora police then looked into Maldini and arrested him, but were unsuccessful in finding any of other women.⁴² Maldini's prosecution was unsuccessful, as his diplomatic immunity was not waived by Lusaria, leading to the case being dismissed.⁴³ With the help of Trafficking Victims Support and Reintegration Clinic, Applicant appealed the decision and it was upheld.⁴⁴ This apparent lack of access to justice caused a media stir.⁴⁵ Thankfully, proceedings were opened in Lusaria and Maldini was convicted and placed in prison, showing how strong the relationship between Aravania and Lusaria is.⁴⁶

During 2012 there was an anonymous report to the Prosecutor General of Aravania and the prosecutor met with a woman claiming to be a victim in 2013, but the prosecutor determined that there was not enough evidence for a case.⁴⁷ On March 8, 2014, Aravania instituted dispute resolution proceedings against Lusaria for violations of the agreements, this led to Lusaria being ordered to pay US\$250,000, US\$5,000 of which was paid to Applicant for the working conditions she experienced.⁴⁸

On behalf of Applicant, Trafficking Victims Support and Reintegration Clinic filed a petition with the Inter-American Commission on Human Rights claiming Aravania violated

⁴⁰ *Id.* at ¶ 48.

⁴¹ *Id.* at ¶ 48.

⁴² *Id.* at ¶ 49.

⁴³ *Id.* at ¶ 50.

⁴⁴ H.C. ¶ 51.

⁴⁵ *Id.* at ¶ 52.

⁴⁶ *Id.* at ¶ 53.

⁴⁷ *Id.* at ¶ 54.

⁴⁸ *Id.* at ¶ 55.

articles 3, 5, 6, 7, 25, and 26 of the Convention on Human Rights, and article 7 of the Convention of Belem do Para.⁴⁹ Aravanja responds by arguing that *ratione personae*, *ratione loci*, and the principle of subsidiarity prevents the Commission and Court from hearing the case.⁵⁰ Aravanja was determined to have violated the convention, but denies responsibility.⁵¹ The Commission transmitted the case to the Court to hear arguments on these issues.⁵²

LEGAL ANALYSIS

ADMISSIBILITY

- I. This Court does not have jurisdiction to hear the following claims due to issues with *ratione loci*, *ratione personae*, and the principle of subsidiarity.

On October 1, 2014, the Trafficking Victims Support and Reintegration Clinic filed a petition with the Inter-American Commission on Human Rights on behalf of Applicant and nine other women that claimed to have been human trafficked.⁵³ The Commission submitted the complaint to the Inter-American Court for review pursuant to Article 61 of the American Convention on Human Rights on June 10, 2024.⁵⁴ Aravanja has recognized the contentious jurisdiction of the Inter-American Court and ratified the American Convention on Human Rights in 1986.⁵⁵ This Court has the authority to make binding judgments against Aravanja on matters relating to the application of the Convention and its interpretation.⁵⁶

⁴⁹ *Id.* at ¶ 56.

⁵⁰ H.C. ¶ 57.

⁵¹ *Id.* at ¶¶ 58-59.

⁵² *Id.* at ¶ 60.

⁵³ *Id.* at ¶ 56.

⁵⁴ *Id.* at ¶ 59.

⁵⁵ *Id.* at ¶ 10.

⁵⁶ Organization of American States, American Convention on Human Rights, Nov. 22, 1969, O.A.S.T.S. No. 36, 1144 U.N.T.S. 123, article 62(1) [hereinafter “Convention”].

This case cannot proceed to the merits, as there are multiple problems of competence that preclude this Court from stepping in. The Commission is only allowed to send a case to the Court for consideration given that the Court is competent to hear that case. The Court must decide whether there is an issue with the representation and identification of the victims, as the state argues that it cannot compensate the victims, per the Commission's recommendations, because it does not know who they are.⁵⁷ The Commission has made findings that Aravania has violated its commitments under the Convention, but Aravania is unable to compensate the victims of these crimes.⁵⁸ Even if the victims are identified or the Court decides to allow the case forward, there are other issues of competence that prevent the case from being heard.

The victims of the alleged trafficking have not been identified and individualized, except for Applicant herself.⁵⁹ All the other victims remain anonymous. Domestic courts in Aravania have already implemented the protections of the Convention, meaning there is no reason for this Court to render a judgment.⁶⁰ Also, Applicant has yet to exhaust all of the domestic remedies available to her, meaning a judgment by the Court would violate the principle of subsidiarity and the Rules of the Court. Finally, the alleged violations did not take place in Aravania and were kept secret, meaning there was no way for the government to provide protections or to even know that the trafficking was taking place.

The state argues that competence *ratione personae* and *ratione loci* are not satisfied in this case. Additionally, the principle of subsidiarity dictates that the case does not move forward. All but one of the victims have not been individualized, and the circumstances surrounding the crime

⁵⁷ H.C. ¶ 59.

⁵⁸ *Id.* at ¶ 56.

⁵⁹ *Id.* at ¶ 57. While some other victims have been named in other cases, that is not true here.

⁶⁰ *Id.* at ¶ 51.

do not warrant the Court allowing them to remain anonymous, meaning competence *ratione personae* is not satisfied. Competence *ratione loci* is also not satisfied in this case, as Aravania exercised no control over the areas where the alleged trafficking took place, as they were controlled either directly by Lusaria or an agent of the state. The principle of subsidiarity also dictates the Court lacks competence to render a judgment. Domestic courts in Aravania have rendered a judgment in this case and an arbitration has made Applicant whole for any violations that took place. Therefore, the case should not be allowed to proceed to the merits.

A. The Court does not have competence *Ratione Personae* in this case.

The case cannot proceed because not all of the victims have not been identified and therefore this Court should not exercise its jurisdiction. Aravania is unable to adequately compensate the victims without knowing their identities, or even know if there is someone to be compensated. Therefore, the Court lacks competence *ratione personae*. Trafficking Victims Support and Reintegration Clinic has brought claims on behalf of Applicant and nine other women, not the women themselves.⁶¹ The Rules of Procedure of the Inter-American Court of Human Rights allow that when it has not been possible to identify one or more of the victims, the Tribunal shall decide whether to consider the unknown individuals as victims.⁶² This is usually the case when there have been massive or collective violations where it is essentially impossible to identify all of the victims.⁶³ While it is true that the Court has the ability to waive the individual identification of the victims, this should only be done in extraordinary circumstances, which do not exist here.

⁶¹ *Id.* at ¶ 56.

⁶² Rules of Procedure of the Inter-American Court of Human Rights, Art. 35(2) [hereinafter “Rules”].

⁶³ *Id.*

The state does not dispute that there is not a problem with Trafficking Victims Support and Reintegration Clinic bringing this claim before the Court. The American Convention on Human Rights, which Aravania is a party to, states that any person, group of persons, or any nongovernmental entity can lodge a complaint with the Commission.⁶⁴ The problem here is that other than Applicant, none of the other victims have had their identities revealed or been individualized. Allowing these victims to remain anonymous would open the gates for more anonymous cases before the Court, dragging down judicial efficiency.

Formal representation is not required to be able to access the protections of the Inter-American system, but the parties do need to be represented.⁶⁵ Typically this is done through a common intervenor on behalf of all of the victims.⁶⁶ While Applicant may have reached out to Trafficking Victims Support and Reintegration Clinic, none of the other victims have consented to this group representing them in these proceedings. There is also no reason for Trafficking Victims Support and Reintegration Clinic to not give the Commission and Court the information they have about these women, as they presumably have reached out for the case in Lusaria.⁶⁷ This constitutes a problem with representation in this case, and the Court should not allow a group that does not have the consent of those it purports to represent to bring this case.

There are multiple criteria that the Court can look to when deciding whether victims should be allowed to remain anonymous, these include the length of time since the incident took place, the severity of the incident, and the circumstances surrounding the incident.⁶⁸ The Court has been

⁶⁴ Convention, art. 44.

⁶⁵ *Case of the Hacienda Brasil Verde Workers v. Brazil*, Interpretation of the Judgment on Preliminary Objections, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (Ser. C) No. 337, ¶ 49 (Oct. 20, 2016).

⁶⁶ Rules, art 25(2).

⁶⁷ Clarification Q&A on the Hypothetical Case for the 30th Inter-American Human Rights Moot Court Competition of 2025, Question 47 [hereinafter “Clarifications”].

⁶⁸ *Case of the Rio Negro Massacres v. Guatemala*, Preliminary Objection, Merits, Reparations, and Costs, Inter-Am. Ct. H.R. (ser. C) No. 250, ¶ 51 (Sept. 4, 2012).

reluctant, even in much worse circumstances to allow for victims to remain anonymous as in other cases, where there have been much more numerous victims and the victims are much harder to identify than here, the Court has still required victims to be identified and individualized.⁶⁹

The length of time since the events took place does make it more difficult to identify the victims, as it has been over ten years since the alleged trafficking took place.⁷⁰ Applicant and the nine other women entered Aravania on January 5, 2014.⁷¹ This is more than enough time for Trafficking Victims Support and Reintegration Clinic, which has been working on the case since February of the same year to identify or at least find some evidence of the identities of the victims.⁷² Also given that the victims have communicated with the group when dealing with the case in Lusaria, there is little reason to not share that information here. In other cases, such as *Marino Lepez et al. v. Colombia*, there was at least some evidence in the case files that allowed the Court and Commission to know the identities of the victims.⁷³ Nothing like this is present here, and without some evidence to show who the victims, other than Applicant, are, the Court is not competent *ratione personae* to hear this case.

When looking at the severity of the incident, it can hardly be said that this trafficking was a gross enough violation to allow for the victims to remain anonymous, given that this Court has required identification in much more difficult circumstances.⁷⁴ Including Applicant, there are only ten victims at issue in this case, as it does not concern all women who moved from Aravania

⁶⁹ *Id.*

⁷⁰ H.C. ¶ 46.

⁷¹ *Id.* at ¶ 46.

⁷² *Id.* at ¶ 51.

⁷³ IACHR, Report 86/06, Petition 499-04, Mariano Lopez et al. (Operation Genesis), Admissibility (Colombia) ¶ 36 (Oct. 21, 2006).

⁷⁴ *Case of the Rio Negro Massacres v. Guatemala*, at ¶ 5

to Lusaria as the result of Maldini's *ClicTik* videos, but only those who were brought back across the border to plant the *Aerisflora*.⁷⁵ While any violation of the Convention is surely terrible, such a small group does not warrant the ability to remain anonymous. Cases where the Court has allowed the victims to remain anonymous are those that "by their nature or circumstances, may affect a given individual or group or persons [who] are identifiable according to specific criteria."⁷⁶ Only the facts that the alleged victims were women and from Aravania are common characteristics, not all women who are part of this group were trafficked, the group is too broad to allow for all but Applicant to remain anonymous.

For the sake of comparison, the Court has required that victims be individualized and identified in cases concerning many more victims than are present here. In the *Case of the Rio Negro Massacres v. Guatemala*, the Court allowed only the victims that there was enough evidence of to identify to be included.⁷⁷ That case concerned many more people, a case concerning only ten would surely also require identification.

The circumstances surrounding the event also do not support the assertion that the victims should be allowed to remain anonymous. All of the people who traveled from Lusaria to Aravania were to receive documentation from the Aravanian government.⁷⁸ These records presumably do not exist, so there was no way for Aravania to know who any of these women are, as if Lusaria had brought them across the border properly, these records would exist. Lusaria also should have the records of all the women who crossed the border to work in the *Aerisflora* production farms. Even further, under the agreement between Lusaria and Aravania, both

⁷⁵ H.C. ¶ 51.

⁷⁶ *Mayan Peoples and Members of the Cristo Rey, Bullet Tree, San Ignacio, Santa Elena, and Santa Familia Communities v. Belize*, Petition 633-04, Inter-Am. Comm'n H.R., Report No. 64/15, ¶ 27 (Oct. 27, 2015).

⁷⁷ *Case of the Rio Negro Massacres v. Guatemala*, at ¶ 51.

⁷⁸ H.C. ¶ 25, art. 50.2.

countries were required to keep records and reports on employees working on this project.⁷⁹

Given the failure of this program to achieve the desired anti-flooding results, there is little reason for those that crossed the border from Aravania to Lusaria to still be there. The circumstances surrounding the event mean that there should be some record of the women, records that could be introduced by the Applicant if they wish to prove the identities of the victims. The victims should not be allowed to remain anonymous.

It is also worth noting that other courts of human rights around the world, specifically the European Court of Human Rights requires the identity of the victims of a crime presented to them, the court can then rule on whether to allow them to remain anonymous.⁸⁰ Under Article 35 of the admissibility criteria for the European Convention on Human Rights, the court shall not deal with any application submitted under Article 34 that is anonymous.⁸¹ The European Court dismisses claims where there is no information available allowing them to ascertain the identity of a victim.⁸² Other than Applicant, there is no evidence in this case as to the identities of the other nine victims, the European Court would not allow this case to continue, and this Court should do the same.

If there is fear of reprisal from some of the victims, the Court could take the stance that the European Court did in the case of *Shamayev and Others v. Georgia*, where the Court allowed the victims to proceed under pseudonyms.⁸³ If Applicant does not know the identities of any of the other victims enough to allow them to come forward, even without being revealed, the Court

⁷⁹ *Id.* at ¶ 25, art. 23.2(3).

⁸⁰ Rules of the European Court of Human Rights, Rule 47(4).

⁸¹ European Convention on Human Rights, article 35(2)(a), Nov. 4, 1950, 213 U.N.T.S. 221.

⁸² *“Blondje” v. the Netherlands* (No. 122), 2009-III Eur. Ct. H.R. 35 (2009)

⁸³ *Shamayev and Others v. Georgia and Russia*, 57 Eur. Ct. H.R. 3 (2003).

should dismiss this petition, potentially with the exception of Applicant, however there are other reasons she should not be allowed to proceed.

None of the criteria that the Court looks to when determining if victims can remain anonymous are in favor of the Applicant in this case. There is a small number of victims of which records are likely to exist. The circumstances in this case are not nearly as bad as those where the Court has still required victims to be identified. Unless there is evidence of the identities of these victims that can be introduced, the Court lacks competence *ratione personae*.

B. The Principle of Subsidiarity dictates that this Court does not step in in this case.

Principle of Subsidiarity

The Principle of Subsidiarity stands for the idea that protections from human rights agreements should be implemented at the lowest level of court possible.⁸⁴ This means that domestic courts within Aravania should be the ones that provide its citizens the protections they are due under the Convention. The Inter-American system sees this as an important principle, as the Commission and Court should only step in if domestic courts have been unable to provide adequate human rights protections.⁸⁵ Multiple domestic and international proceedings have adequately addressed the harms Applicant has faced, and without identifying the other women there is nothing more that Aravania can do for them.⁸⁶ The domestic courts of Aravania and the arbitration between Aravania and Lusaria have given Applicant all the compensation that she is entitled to under the Convention and there is no reason for this Court to step in.⁸⁷

⁸⁴ IACHR, Report No. 82/17, Petition 1067-07. Admissibility. Rosa Ángela Martino and María Cristina González. Argentina. July 7, 2017, ¶ 12.

⁸⁵ IACHR, Report No. 79/12, Petition 342-07. Admissibility. Ivete Jordani Demeneck and others. Brazil. November 8, 2012, paras. 19-20.

⁸⁶ H.C. ¶¶ 50-51.

⁸⁷ *Id.*

Aravania was unable to prosecute Maldini when the state was made aware of his transgressions because of the immunity agreement between Aravania and Lusaria.⁸⁸ The Vienna Convention on Diplomatic Relations makes clear that immunity is to be respected, and diplomats should enjoy immunity from criminal jurisdiction, civil jurisdiction, and administrative jurisdiction.⁸⁹ Looking at the facts as they were when Maldini was arrested, there was only the accusation from Applicant and an empty house where she claimed to have been held. No other information pointed to Maldini's crimes, meaning that when Lusaria did not agree to waive the immunity there was nothing to be done.⁹⁰ Under the Vienna Convention, only Lusaria was allowed to waive Maldini's immunity.⁹¹

Article 31 of the Vienna Convention on Diplomatic Relations makes clear that diplomats are not to be held legally responsible for violations of the law that are done within the scope of their duties.⁹² As Maldini was carrying out the functions of the agreement between Aravania and Lusaria, namely bringing the *Aerisflora* and the workers needed to transplant it to Aravania, this falls within the scope of his duties.⁹³ Article 50.2 of the agreement between Lusaria and Aravania stated that those provided by Lusaria and given these protections were to oversee the transplant of *Aerisflora* from Lusaria to Aravania.⁹⁴ This means that this is within the scope of his responsibilities and any exception to the Vienna Convention would not apply.

The Vienna Convention makes clear that diplomats are not to have their person or effects violated by the receiving state, and when Lusaria declined to waive the immunity, something

⁸⁸ *Id.* at ¶ 51.

⁸⁹ Vienna Convention on Diplomatic Relations 18 April, 1961, 500 U.N.T.S. 95, Article 31(1).

⁹⁰ H.C. ¶ 50.

⁹¹ Vienna Convention on Diplomatic Relations, art. 32.

⁹² *Id.* at art. 31(1)(c).

⁹³ H.C. ¶ 25, art. 50.2.

⁹⁴ *Id.*

they were allowed to do under Article 32, there was nothing more Aravania could do.⁹⁵

Diplomatic immunity is a well-respected concept in international law, Aravania providing and respecting it by allowing Maldini to leave is in line with the obligations of a state, therefore this does not mean that Aravania's courts were ineffective in implementing the protections of the Convention.

A.A was compensated for any poor working conditions she experienced through the arbitration award.⁹⁶ The system that was set up between Lusaria and Aravania to allow for victims of poor working conditions to receive compensation is in line with the commitments that Aravania has made in both the Inter-American Convention and the Convention Belem do Para.⁹⁷ Aravania was required to allow people process to rectify the violations of these conventions, something that did take place through the arbitration.⁹⁸ Just because Applicant was not satisfied with the size of the award that she received does not mean that it was improper. Others of the nine women may have also been eligible for compensation through the arbitral award, but without knowing the identity of any of these women there was nothing more that could be done for them.⁹⁹

Aravanian law also allows for the prosecution of human trafficking under Article 145 of its 1943 Criminal Code.¹⁰⁰ Aravania was prepared to prosecute Maldini in domestic court, but international obligations prohibited them from doing so. This is not a violation of any obligation

⁹⁵ Vienna Convention on Diplomatic Relations, art. 32.

⁹⁶ H.C. ¶ 55.

⁹⁷ Organization of American States, Inter-American Convention on the Prevention, Punishment, and Eradication of Violence Against Women (Belem do Para), article 7(f), 9 June, 1994 [hereinafter "Belem do Para"].

⁹⁸ H.C. ¶ 55.

⁹⁹ Applicant is the only victim who has come forward for this case. *Id.*

¹⁰⁰ *Id.* at ¶ 9, art. 145.

Aravania owes to its citizens under any convention¹⁰¹, as prosecuting Maldini after Lusaria failed to waive his immunity would have constituted a breach of international law, something that could have brought reprisal from Lusaria and an end to the program Aravania relied upon to deal with its flooding problem.

It is also worth noting that Maldini was successfully punished for his crimes by the domestic courts in Lusaria.¹⁰² Under the Vienna Convention, even those actions taken in an official capacity can expose diplomats to liability in the sending state.¹⁰³ Because Maldini was successfully prosecuted in Lusaria, the protections of the Convention were effectively implemented, meaning that there is no reason for the Court to step in in this case. This punishment shows that there is no need for the Court to step in, the relationship between Aravania and Lusaria is strong enough to punish violations of the Convention when they take place. Applicant received U.S. \$5,000 from the arbitral award, which the arbitral commission determined was a fair value for the conditions that she was subjected to.¹⁰⁴

While a prosecutor was made aware of potential violations of the Convention that were taking place in the farms, there was not enough evidence to bring any charges.¹⁰⁵ Prosecutorial discretion should not be questioned by this Court, if there was not enough evidence of a case, as there was only evidence from the anonymous tip, there is nothing more that Aravania could have done. Even if Aravania was allowed to inspect the farms under Article 50, there would have been little incentive for Lusaria to allow the Aravanians to see the real working conditions within the

¹⁰¹ The Convention Belem do Para requires that states have laws on the books to allow for the prosecution of human trafficking, Aravania meets this requirement but outside circumstances prevented them from exercising it. *See* Belem do Para, at article 7(e).

¹⁰² H.C. ¶ 53.

¹⁰³ Vienna Convention on Diplomatic Relations, art. 31(4).

¹⁰⁴ H.C. ¶ 55.

¹⁰⁵ *Id.* at ¶ 54.

farm. Having the right to inspect somewhere does not mean that Aravania exercised any control over the area, Lusaria did.

1. Exhaustion of Domestic Remedies

The Inter-American system requires that domestic remedies be exhausted before a petition can be brought before the Inter-American Commission.¹⁰⁶ This goes hand in hand with the principle of subsidiarity, meaning that it is better for these protections to be implemented at a lower level of court.¹⁰⁷ Only if the Court finds that the domestic court was unsuccessful at implementing the protections of the Convention should it go to the international system.

Even if the Court finds that there were no other domestic remedies that would have been effective at remedying the harm as is required by the Court's jurisprudence,¹⁰⁸ there is no need for this Court to step in because the domestic courts of Aravania had the opportunity to hear the issue and decided it in accordance with international law. Multiple levels of domestic courts examined Applicant's complaint, starting with the Second Criminal Court and then appealed up the Velora Court of Appeals.¹⁰⁹ The domestic courts of Aravania have heard the issue and Maldini's immunity precluded them from acting, but the courts of Lusaria have been successful in prosecuting Maldini.¹¹⁰

Domestic and international remedies have already addressed any violations of the Convention that took place in this case. Between the criminal prosecution of Maldini in Lusaria

¹⁰⁶ Convention, art. 46(1)(a).

¹⁰⁷ IACHR, Report No. 82/17, Petition 1067-07. Admissibility. Rosa Ángela Martino and María Cristina González. Argentina. July 7, 2017, ¶ 12.

¹⁰⁸ IACHR, Report No. 39/09, Petition 717-00. Inadmissibility. Tomás Eduardo Jiménez Villada. Argentina. March 27, 2009 ¶ 59.

¹⁰⁹ H.C. ¶ 51.

¹¹⁰ *Id.* at ¶ 54.

and the arbitral award given to Applicant there are no further issues that need to be addressed by the Court. Therefore, the principle of subsidiarity dictates that the Court does not step in and make a ruling, as the protections of the Convention have already been implemented.

While not a domestic remedy, there is a case proceeding against Lusaria for violations of the Convention.¹¹¹ This should be treated as a remedy that needs to be exhausted, as there is a greater chance of recovery there as greater violations took place at the behest of Lusaria. If the victims, are made whole, this proceeding has little reason to continue. Therefore, there are other proceedings that should be exhausted before this case continues and while they are not domestic, they should still be exhausted.

C. The Court is not competent *Ratione Loci* in this case.

Under the American Convention on Human Rights, state parties should only be held responsible for violations of the Convention that take place in areas within their jurisdiction or areas under their effective control.¹¹² Competence *Ratione Loci* is not satisfied in this case, meaning that Aravania cannot be held responsible for any of the actions that took place.

1. *Jurisdiction*

Aravania did not maintain jurisdiction or effective control over the farms or the people that worked there, the farms were located on Lusarian soil.¹¹³ The Court has only recognized a few exceptions for extraterritorial jurisdiction, namely when a country is in control of an area through military force or when an agent of the country is in control of an area in their full capacity.¹¹⁴

¹¹¹ Clarifications ¶ 41.

¹¹² Report No. 112/10 Inter-State Petition IP-02 Admissibility Franklin Guillermo Aisalla Molina (Ecuador-Colombia) ¶ 90.

¹¹³ H.C. ¶ 26.

¹¹⁴ Report No. 112/10 Inter-State Petition IP-02 Admissibility Franklin Guillermo Aisalla Molina (Ecuador-Colombia) ¶ 90.

Neither of these scenarios are present here, as Aravania did not undertake any military action in Lusaria that would have subjected an area to their effective control, and there were no agents of Aravania that had any control over the farms or the program at large.

The most well-known enumeration of the effective control doctrine comes from the I.C.J.'s *Nicaragua* case against the United States.¹¹⁵ Effective control requires directing those not affiliated with Aravania to do specific things. This is not present in this case, as the entire process was controlled by Lusaria, EcoUrban Solutions, and Maldini. Looking at the facts before the Court, the areas that Aravania did not have control over were the selection of where the *Aerisflora* would be grown. EcoUrban Solutions chose Finca El Dorado as the first place to have *Aerisflora* grown and transplanted from.¹¹⁶ EcoUrban Solutions hired Maldini to do outreach for them and the Lusarian government sent a note stating that he was to be their diplomat under Article 50 of the agreement between Lusaria and Aravania.¹¹⁷

In this case, everything took place within Lusaria up to the point where Applicant was brought from Lusaria back to Aravania. This means that there was nothing that Aravania could have done to prevent violations of the Convention from taking place on the farms, in fact, Lusaria agreed to promote compliance with labor laws in the agreement between the states.¹¹⁸ While it is true that Aravania was allowed to conduct unannounced visits of the farms,¹¹⁹ this would have been unlikely to reveal any poor working conditions, as it would have been essentially impossible for Lusaria not to know that someone from Aravania was coming to inspect the farms.

¹¹⁵ Military and Paramilitary Activities in and Against Nicaragua (Nicaragua v. U.S.) 1986 I.C.J. 14 (June 27) ¶ 115.

¹¹⁶ H.C. ¶ 26.

¹¹⁷ *Id.* at ¶¶ 26, 30.

¹¹⁸ *Id.* at ¶ 25, art. 23.2(a)-(c).

¹¹⁹ *Id.* at ¶ 25, art. 50.2.

Even if Aravania had the ability to inspect the farms like Finca El Dorado, this does not mean that they exercised any form of jurisdiction over them. If Aravania was able to discover that there had been violations of the Convention and the agreement between the states, it would have had to go to arbitration between the two countries, which is exactly what took place.¹²⁰ This shows that there was no control that Aravania exercised over the farms, as Lusaria was required to compensate both Aravania and Applicant for violations of the Convention and Agreements that took place there.¹²¹

When determining whether there is competence *ratione loci*, the questions are not about the nationality or presence in a specific geographic area of the alleged victim, but rather that the state observed the rights of people subjected to their authority and control.¹²² Aravania exercised neither authority nor control over Applicant, even during the times that she was located on Aravanian soil. The compound where the transplanting took place was completely under the control of Lusaria's agent Maldini.¹²³ For all of these reasons, Aravania did not exercise any jurisdiction over the locations or people involved in these practices, the Court therefore lacks competence *ratione loci* in this case.

2. Control by an Agent

Maldini should not be considered an agent of Aravania for purposes of determining responsibility, he was not chosen by the Aravanian government, but instead by Lusaria.¹²⁴ The Inter-American Commission has stated that it is competent *ratione loci* in a case if the violations

¹²⁰ *Id.*

¹²¹ *Id.* at ¶ 55.

¹²² IACHR, Report No. 153/11, Petition 189-03. Admissibility. Danny Honorio Bastidas Meneses and others. Ecuador. November 2, 2011, ¶ 23.

¹²³ H.C. ¶ 46.

¹²⁴ *Id.* at ¶¶ 26, 30.

take place in another state but in an area subjected to the control of an agent of the state.¹²⁵

Aravania did not exercise any control over Maldini or anyone else within Lusaria that led the program to grow and cultivate *Aerisflora*, in fact, the agreement makes clear that all of these tasks will be carried out by people who work for EcoUrban Solutions and are chosen by Lusaria,¹²⁶ therefore it can hardly be said that Maldini or anyone else working for him was an agent of Aravania.

In many of the precedent cases agents are those who are actively working for the government of a state. Maldini was working for a government, but it was the government of Lusaria and not Aravania.¹²⁷ This means that he could be seen as an agent of Lusaria, but that is not at issue in this case. Aravania was able to control Maldini's actions even less because of his diplomatic immunity, this meant that Aravania could do nothing to punish him for things he did while in the country, that would fall to Lusaria.¹²⁸

When determining whether someone is an agent of a state, the Court has looked to whether the state was directing these people to carry out the actions they took. In the case of Armando Alejandro Jr., Carlos Costa, Mario de la Pena and Pablo Morales v. Republic of Cuba, the Commission thought that Cuban officials giving targets to fighter pilots made them agents of the state.¹²⁹ There is no evidence that has been introduced to the Court pointing to the idea that Aravania was telling Maldini or anyone else what they should be doing. Aravania only sought to

¹²⁵ IACHR, Report No. 153/11, Petition 189-03. Admissibility. Danny Honorio Bastidas Meneses and others. Ecuador. November 2, 2011, ¶ 21.

¹²⁶ H.C. ¶ 25, art. 50.2.

¹²⁷ *Id.* at ¶ 30.

¹²⁸ Vienna Convention on Diplomatic Relations, art. 31.

¹²⁹ Report No. 86/99, Case 11.589, Armando Alejandro Jr., Carlos Costa, Mario de La Peña and Pablo Morales (Republic of Cuba), September 29, 1999, ¶¶ 14-15.

reap the benefits of the agreement between the states and left all of the administrative action to Lusaria and EcoUrban Solutions.

Aravania did not have control or exercise jurisdiction over the areas where the accused crimes took place. Maldini cannot be considered an agent of Aravania and there was no military force that gave Aravania effective control of an extraterritorial area. Lusaria maintained control over the area where the alleged crimes took place, and when it was brought to their attention the government there prosecuted Maldini under their domestic laws.¹³⁰ Therefore, the Court is not competent *ratione loci* in this case and it should not proceed to the merits.

The Case of A.A. and the Nine Other Women v. Aravania should not be allowed to proceed before this Court. There are too many issues with the Court's competence, specifically competence *ratione personae* and *ratione loci*.

As for *ratione personae*, any remedy that is provided by the Court will be ineffective as the identity of all but one of the victims is unknown at this time. Applicant does not provide any evidence as to the identity of these people, and the circumstances do not warrant allowing them to remain anonymous.

For *ratione loci*, the violations of the Convention took place within Lusaria, and none of the exceptions for extraterritoriality that the Court has recognized apply in this case. Aravania did not have effective control over the people or the area. Aravania in no way directed Maldini or anyone else associated with the project to take the actions they did, meaning no one can be construed as an agent of Aravania.

¹³⁰ H.C. ¶ 53.

Additionally, the principle of subsidiarity dictates that the Inter-American Court does not step in, as between the domestic courts in Aravania and the arbitration between Lusaria and Aravania for Lusaria's violations of the agreement between the states Applicant has been made whole. As there is nothing more for the Court to do in this case, Applicant's complaint should be dismissed for lack of competence.

MERITS

II. The Republic of Aravania has not violated its international responsibility under the American Convention on Human Rights with respect to the Petitioners' rights.

A. Aravania did not violate Petitioners' rights under Articles 6¹³¹, 5¹³², or 7¹³³ because the actions taken against the Petitioners by outside actors did not rise to the level of human trafficking or enslavement under international law because they received payment, free childcare, and medical treatment.

1. The transportation and conditions of the Aerisflora farms do not constitute trafficking or slavery under the American Convention.

Although the State maintains the argument that Aravania lacked adequate control over the *Aerisflora* farms in Lusaria, even if this Court finds that there is adequate support to argue that Lusaria's actions can be attributable to Aravania, the conditions in the El Dorado farm and the Primelia farm do not rise to the level of human trafficking and/or enslavement under international law. Allegations of slavery, violations of humane treatment, and the deprivation of

¹³¹ Convention, art. 6 Freedom from Slavery. Aravania has ratified the Convention. H.C. ¶ 10.

¹³² Convention, art. 5 Right to Humane Treatment.

¹³³ *Id.* art. 7 Right to Personal Liberty.

personal liberty should be taken seriously, but these allegations are not supported by the facts present in this case.

The methods for transporting Applicant and her dependents to the camp at El Dorado do not rise to human trafficking the American Convention. Article 4 of the Protocol to Prevent Suppress and Punish Trafficking in Persons, Especially Women and Children, supplemented the United Nations Convention against Transnational Organized Crime of 2000¹³⁴ requires:

- (a) “Trafficking in persons” shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs[.]

As seen above, the offense of trafficking requires that victims are transported and transferred through methods of physical force, coercion, or deception and fraud to exploit their labor.¹³⁵

However, in this case, Petitioners were not deceived, nor were fraudulent methods used for the purpose of exploiting their labor.¹³⁶ Although the *ClicTik* videos may have been somewhat misleading, Applicant was on notice of the difficulty of the work¹³⁷ due to the comprehensive information in her employment contract provided to Applicant for review.¹³⁸ This contract also

¹³⁴ Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime Article 4. Available at: <https://www.osce.org/odihr/19223?download=true>.

¹³⁵ *Id.*; see also *Case of the Workers of the Hacienda Brasil Verde v. Brazil*, Preliminary Objections, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C), ¶ 224 (Oct. 20, 2016). Aravania recognized the contentious jurisdiction of the Inter-American Court of Human Rights in 1986.

¹³⁶ *Id.*

¹³⁷ A.A.’s employment contract specifically designed this was “painstaking, delicate, and patient work” that would proceed “regardless of weather conditions.” H.C. ¶ 35.

¹³⁸ H.C. ¶ 35. Nothing indicates A.A. was illiterate or incapable of understanding the contract terms.

included the hours she would be required to work¹³⁹ and the rate at which she would receive payment.¹⁴⁰ In addition to these competitive rates, Applicant would also be entitled to “access to social security programs, which covered health insurance, day care, and education for her dependents.”¹⁴¹ This speaks to the high level of benefits provided to Applicant free of charge on top of the compensation for her labor. Paying for the cost of travel does not constitute an abuse of power, nor is the method by which these women were transported dispositive of this rising to the high standard of “trafficking.”¹⁴² Hugo Maldini and his associates did not abuse their power over Applicant or exploit her position of vulnerability as she was free to enter into an employment contract or remain in her hometown, where she had employment as a maid.¹⁴³ Further, as the conditions in the farm do not rise to meet the burden of “slavery,” the women were not transported for this purpose.

Although the conditions were not ideal in the El Dorado and Primelia farms, the labor conditions do not rise to a *jus cogens* violation under international law. This Court has held that the *Kunarac* factors in *Prosecutor v. Kunarac* were persuasive for defining slavery.¹⁴⁴ These factors include: the restriction or control of an individual’s autonomy, freedom of choice, or freedom of movement; removing the victim’s consent or free will; threat of violence or use of force; the abuse of power; and detention or captivity.¹⁴⁵ These factors were not present in either

¹³⁹ Her “job description” included that she would be required to work a “48-hour work week, with one day of rest per week.” H.C. ¶ 35.

¹⁴⁰ The wage offered included payment of “US\$1.00 per square meter (m²) of *Aerisflora*.” H.C. ¶ 35. This payment rate of per work “product” or “piece” instead of per hour is permissible under Lusaria law. Clarification, ¶ 18.

¹⁴¹ H.C. ¶ 35.

¹⁴² *Id.* at ¶¶ 35-36.

¹⁴³ *Id.* at ¶¶ 35, 33.

¹⁴⁴ *Workers of the Hacienda Brasil Verde*, ¶ 259.

¹⁴⁵ 2001 ICJ IT-96-23-T & IT-96-23/1-T ¶ 542 (“elements of control and ownership; the restriction or control of an individual’s autonomy, freedom of choice or freedom of movement; and, often, the accruing of some gain to the perpetrator. The consent or free will of the victim is absent. It is often rendered impossible or irrelevant by, for example, the threat or use of force or other forms of coercion; the fear of violence, deception or false promises; the

the El Dorado or Primelia farms. Applicant was never once herself threatened, the victim of, or even witnessed physical or sexual violence in either farm; mere rumors of violence against another individual do not amount to being a victim of violence yourself.¹⁴⁶ Although Applicant and the others could argue the 24-hour surveillance system in El Dorado or the monitored entry and exit of persons in Primelia was a form of intimidation,¹⁴⁷ this could easily be explained, alternatively and more likely, as a form of security to protect this sensitive plant and the farm's workers. Despite any allegations, the Petitioners' long hours and challenging work¹⁴⁸ do not automatically equate to slavery. Applicant, like the other Petitioners, received compensation in a consistent paycheck; she did not have to pay for housing; her daughter received free childcare and education; and her mother received medical treatment for her carpal tunnel at no additional cost.¹⁴⁹ Any additional labor performed in the camp, such as cooking and cleaning, was not required of her.¹⁵⁰ Once in Aravania, Applicant was free to leave the camp, and she did just so on January 14th to report her complaints to the local police.¹⁵¹ There is no indication of any attempt to stop or prevent her from leaving the camp to do so.¹⁵² This would certainly suggest her freedom of movement was not restricted in any way.

Aravania maintains the situation of the farms in both El Dorado and Primelia were unfortunate instances of negligible oversights but do not amount to trafficking and slavery, thus

abuse of power; the victim's position of vulnerability; detention or captivity, psychological oppression or socio-economic conditions.")

¹⁴⁶ H.C. ¶¶ 43, 45.

¹⁴⁷ *Id.* at ¶¶ 39, 46.

¹⁴⁸ *Id.* at ¶¶ 37-38, 41-42.

¹⁴⁹ *Id.* at ¶¶ 37-38, 41-42.

¹⁵⁰ *Id.* at ¶ 37. Mere social pressure and the threat of ostracism is not equable to forced labor.

¹⁵¹ *Id.* at ¶ 48.

¹⁵² *Id.* at ¶ 48.

violations of international law. However, even if this Court does find it constituted trafficking and forced labor, Aravania acted in accordance with international law.

2. *Even if it did constitute trafficking and forced labor, Aravania dealt with the human rights violations within their borders in accordance with international law.*

Even if the farm in Primelia, the only farm located within Aravania's borders, constituted trafficking and/or forced labor, Aravania followed its obligations under international law by adopting measures of prevention and reacting to situations of potential human rights violations quickly and diligently.¹⁵³

First, Aravania complied with its special obligation under international law to ensure it adopted positive measures to protect its citizenry.¹⁵⁴ The Bilateral Cooperation Agreement stipulated that the Parties would ensure working conditions were “compatible with the dignity of the individual and the observance of human rights[.]”¹⁵⁵ This would be enforced through monthly reports on the conditions of the farm,¹⁵⁶ which was then utilized by Aravania upon reports of abuse.¹⁵⁷

Additionally, this Court has held that the State cannot be held responsible for “every human rights violation committed among private individuals subject to its jurisdiction.”¹⁵⁸ In the *Workers of the Hacienda Brazil Verde*, this Court held that the State's responsibility is triggered once they become aware or should have been aware of the “real and immediate risk” of human

¹⁵³ *Workers of the Hacienda Brasil Verde*, ¶ 323.

¹⁵⁴ *Id.*, ¶ 337; H.C. ¶ 25, art. 23.1.

¹⁵⁵ H.C. ¶ 25, art. 23.1(a).

¹⁵⁶ *Id.* at ¶ 25, art. 23.2(c).

¹⁵⁷ Clarification, ¶ 10.

¹⁵⁸ *Workers of the Hacienda Brasil Verde*, ¶ 323.

rights violations.¹⁵⁹ Here, Aravanja had not received nor could confirm the information of the extent of the violations its citizens were subject to under Maldini until Applicant made her report on January 14th, 2014.¹⁶⁰ Any prior complaint was unsubstantiated and occurred outside of its jurisdiction.¹⁶¹ However, once the Velora Police received this complaint, Aravanja not only complied with their international duties, they went above and beyond to rectify the situation.¹⁶² Actions were taken immediately to confirm the allegations, and Maldini was brought before an Aravanian court on criminal charges within 24 hours.¹⁶³ Aravanja's swift and conclusive action distinguishes them from Brazil's lack of action in the *Workers of the Hacienda Brazil Verde*, who received complaints in 1989, 1992, 1993, 1996, 1997, 1999, and 2000 of human rights violations within their own borders but did nothing substantial to remedy that wrong.¹⁶⁴ Aravanja here reacted quickly and efficiently with the due diligence necessary to confirm the seriousness of the facts alleged within their own borders.¹⁶⁵ Therefore, Aravanja did not violate its responsibility under international law and should not be held contrary to that finding.

B. Aravanja did not violate Petitioners' rights under Articles 3¹⁶⁶, 8¹⁶⁷, or 25¹⁶⁸ because they acted appropriately to prevent and punish illegal acts under the Bilateral Agreement and International Law.

¹⁵⁹ *Id.*, ¶ 325.

¹⁶⁰ H.C. ¶ 48.

¹⁶¹ The singular report in 2013 prompted the Prosecutor's Office to investigate further, however, no evidence was uncovered that could corroborate her story. H.C. ¶ 54. Further, Lusaria hid its practices by submitting false reports to Aravanja. Clarification, ¶ 10.

¹⁶² H.C. ¶¶ 48-49.

¹⁶³ *Id.* at ¶ 49.

¹⁶⁴ *Workers of the Hacienda Brasil Verde*, at ¶ 326.

¹⁶⁵ *Id.* ¶ 328; H.C. ¶¶ 48-49.

¹⁶⁶ Convention, art. 3 Right to Juridical Personality.

¹⁶⁷ *Id.*, art. 8 Right to a Fair Trial.

¹⁶⁸ *Id.*, art. 25 Right to Judicial Protection.

Aravanja did not violate the American Convention’s guarantees of judicial protection because they (a) exercised their due diligence in investigating this matter; (b) these investigations and judicial proceedings were within a reasonable timeframe; and (c) there were adequate judicial remedies for the Petitioners.

Aravanja can show that they exercised due diligence in investigating this matter through their effective and thorough evidence gathering upon receiving a credible allegation of human rights violations within their borders.¹⁶⁹ This Court has held that when the “integrity of an individual is at stake,” there is a “special diligence” required of them to act to remove the individual and investigate promptly.¹⁷⁰ Here, within 24 hours of receiving a report of the working conditions in Primelia, Velora Police officers confirmed Maldini’s accounts for suspicious activity, visited the Primelia farm, received a warrant for Maldini from the Second Criminal Court Judge of Velora, arrested Maldini per that warrant, and brought Maldini before the Second Criminal Court Judge to face charges.¹⁷¹ This all shows that the Aravanian authorities, upon receiving the necessary information, exercised and fulfilled their special obligation under international law.

Secondly, Aravanja can also show that the judicial proceedings following Applicant’s report were undertaken within a reasonable timeframe because Applicant received reparations in less than a year and Maldini was convicted of criminal charges a little over a year later. In the *Workers of the Hacienda*, this Court held that Article 8 requires the Convention be assessed in relation to the total duration of the proceedings from when charges are brought to when a final judgment is handed down. Although Maldini’s case had to be dismissed in Aravanian courts due

¹⁶⁹ H.C. ¶¶ 48-49.

¹⁷⁰ *Workers of the Hacienda Brasil Verde*, ¶ 364.

¹⁷¹ H.C. ¶ 49.

to the Cooperation Agreement's immunity provision so Lusaria could bring charges, that case was resolved in the Lusaria criminal courts within 13 months. Further, Applicant received US\$5,000 from Aravana in reparations for the actions taken against her a mere eight months after her report to the Velora Police. This is a stark difference from *Workers of the Hacienda*, wherein it took nearly 11 years to move the perpetrators through the criminal justice system.¹⁷² 13 months is significantly less time than 11 years for Applicant to see her abuser be brought to justice in the jurisdiction in which his crimes took place. Even if the clock began in October of 2012 wherein an anonymous tip was reported to the Office of the Prosecutor General of Aravana or in October of 2013 where an unidentified female reported potential violations in El Dorado, these complaints were investigated and were determined to be unfounded from the information provided to Aravana by Lusaria at that time.¹⁷³ Therefore, Aravana, complying with its international obligations to its partner, Lusaria, provided an avenue for judicial reparations to Applicant in the form of criminal charges against her abuser and monetary compensation.

Under Aravanian law and agreements, the Petitioners had adequate judicial remedies available. In *Workers of the Hacienda Brazil*, the Commission and this Court held that the Statute of Limitations barring a judicial proceeding for these human rights violations was unlawful under their international responsibilities.¹⁷⁴ In that case, *all* remedies for the *jus cogens* violations were barred under domestic law, contrary to Brazil's obligations under international law.¹⁷⁵ However, here, the Petitioners still had an avenue for justice available to them through the Arbitration, which resulted in reparations being paid directly to them.¹⁷⁶ Maldini was also the

¹⁷² *Workers of the Hacienda Brasil Verde*, ¶ 371.

¹⁷³ H.C. ¶ 54.

¹⁷⁴ *Workers of the Hacienda Brasil Verde*, ¶¶ 346, 413.

¹⁷⁵ *Id.*, ¶ 413.

¹⁷⁶ H.C. ¶ 55.

subject of criminal charges in Lusarian courts and was convicted for abuse of authority, which was the appropriate venue considering the alleged human rights violations took place in Lusaria.¹⁷⁷

Aravania fulfilled its special obligation to investigate with due diligence in a reasonable time, providing adequate judicial protections and remedies to the Applicant and the nine other Women in this case. Therefore, this Court should not find that they violated their obligations under the Convention.

C. Aravania did not violate Petitioners' rights under Article 26 because they undertook adequate progressive development by investing millions in a comprehensive infrastructure plan.

Aravania has complied with its international obligations under Article 26 of the American Convention on Human Rights ("Convention") to implement progressive developments for economic, social, educational, scientific, and cultural standards.¹⁷⁸ According to the General Comment No. 3, the UN's Office of the High Commissioner for Human Rights understood that it was the obligation of the States "to adopt measures" ("a adoptar medidas" in Spanish) that are deliberate, concrete, and targeted to meet their obligations.¹⁷⁹ This idea was shared by the drafters of the Convention, it was clear that it is not realistic to expect a state, such as Aravania, to achieve equitable distribution of resources and stability immediately.¹⁸⁰ Therefore, the actions

¹⁷⁷ H.C. ¶ 53.

¹⁷⁸ Convention, art. 26 Progressive Development.

¹⁷⁹ CESCR. *General Comment No. 3: The nature of States parties' obligations* (art. 2, ¶ 1, of the Covenant), 1990, ¶ 2.

¹⁸⁰ See *Case of Acevedo Buendía 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, ¶ 102; see also Ludovic Hennebel & Hélène Tigroudja, *Article 26: Progressive development*, in *THE AMERICAN CONVENTION ON HUMAN RIGHTS: A COMMENTARY* 759, 774 (2022).

Aravania has taken to achieve progressive development¹⁸¹ in accordance with the Charter of the Organization of American States were sufficient.

III. The Republic of Aravania has not violated its international responsibility under the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women.

Aravania also has not committed any violations to the Petitioners under the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women under Article 7. Aravania did not violate their responsibilities under Article 7 because they undertook adequate measures to prevent violence against women.

Article 7 of the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence Against Women (“Belem do Para”) states, that parties will condemn all forms of violence against women, make sure their authorities act in recognition of this principle, apply due diligence to preventing harm, adopt domestic legislation that prevents harm, repeal laws that discriminate against women, establish fair legal procedures for women who have been harmed and put systems into place to allow for reparation.¹⁸² The Republic of Aravania is a signatory to the Belem do Para and takes these responsibilities seriously.¹⁸³

¹⁸¹ H.C. ¶ 7 (“Molina implemented the ‘Impulso 4 Veces’ Development Plan [in 2011], which aimed to transform the country in just four years by modernizing infrastructure and fostering a highly competitive environment open to foreign investment.”); H.C. ¶ 8 (providing the Aravania constitutional provisions that entitle Aravania citizens to life, honor, liberty, security, work, and property under Article 9; fair wages and a decent standard of living under Article 51; and economic, social, cultural, and environmental protections in Article 102).

¹⁸² Inter-American Convention on the Prevention, Punishment, and Eradication of Violence Against Women (Convention of Belem do Para), art 7(a)-(h) [hereinafter “Belem do Para”].

¹⁸³ H.C. ¶10.

Aravania can show it complied with Belem do Para's Article 7(b)-(c)¹⁸⁴ through its criminal code, the stipulations in the Bilateral Cooperation Agreement ("Agreement"), and its swift investigation into Applicant's allegations. First, the Aravania criminal code has serious penalties for the crimes of human trafficking and forced labor, recognizing the gravity of these offenses.¹⁸⁵ The inclusion of Article 23.3 into the Agreement between Aravania and Lusaria recognized the objective of achieving "women's equality in the workplace."¹⁸⁶ This Article of the Agreement also stipulated that each Party would implement the procedures necessary to prevent employment discrimination based on gender.¹⁸⁷ It is not Aravania's responsibility that Lusaria failed to uphold their end of the bargain, intentionally deceiving Aravania to the actual conditions perpetrated in their camps.¹⁸⁸ Within nine days of arriving in Aravania, however, Applicant could exit the Primelia camp and report her working conditions to the Velora Police, which then Aravania promptly and efficiently investigated.¹⁸⁹

Aravania can also show it complied with the Belem do Para's Article 7(d)-(g)¹⁹⁰ through their investigations, the ending reparations paid to Applicant, and the criminal charges and conviction against Maldini. A mere two months following the report to the police, Aravania brought dispute resolution proceedings against Lusaria under their international obligation per

¹⁸⁴ Belem do Para, art. 7(b)-(c) (protecting the rights to "apply due diligence to prevent, investigate and impose penalties for violence against women" and "include in their domestic legislation penal, civil, administrative and any other type of provisions that may be needed to prevent, punish and eradicate violence against women and to adopt appropriate administrative measures where necessary[.]").

¹⁸⁵ H.C. ¶ 9, 1943 Aravania Criminal Code, art. 145, 237.

¹⁸⁶ H.C. ¶ 25, art. 23.3.

¹⁸⁷ H.C. ¶ 25, art. 23.3.

¹⁸⁸ Lusaria had complied with the Agreement and sent periodic reports that alleged the working conditions in the camps were satisfactory, obviously which turned out to be false. This included the reports following the anonymous report in October 2012 and the former female employee of the El Dorado camps in October 2013. H.C. ¶ 50.

¹⁸⁹ H.C. ¶ 54; Belem do Para, art. 7(b)-(c).

¹⁹⁰ Belem do Para, art. 7(d)-(g) (stipulating that the States Parties adopt legal measures to protect the victims from their perpetrators, take all appropriate measures to prevent the violence against women, establish fair and effective legal procedures for women to achieve timely access to judicial procedures, and ensure victims have access remedies, such as restitution or reparations).

the Agreement, which ended up resulting in a US\$5,000 reparation payment to Applicant for the harm and violence she suffered.¹⁹¹ Further, Maldini faced criminal charges in Lusaria, and his conviction for abuse of authority became final on March 31, 2015, only 13 months following Applicant's report.¹⁹²

Through these actions, Aravania can show it did not violate its international responsibilities but complied with all its obligations under the Belem do Para.

REQUEST FOR RELIEF

Based on the factual and legal arguments presented, the Republic of Aravania respectfully requests that this esteemed Inter-American Court of Human Rights administer international justice and declare the Republic of Aravania not responsible for the violations of the rights to juridical personality (Article 3); humane treatment (Article 5); freedom from slavery (Article 6); right to personal freedom (Article 7); right to judicial guarantees (Article 8); judicial protection (Article 25); and progressive development (Article 26) in relation to Articles 1.1 of the American Convention on Human Rights (Convention) and Article 7 under the Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women, concerning A.A. and the Nine other Women and:

a) DECLARE that Aravania has not violated either of the conventions named above, in contrast to findings of the Inter-American Commission.

b) DECLARE that Applicant has been sufficiently compensated for any harm she experienced at the hands of Lusaria.

¹⁹¹ H.C. ¶ 55; Belem do Para, art. 7(e)-(g).

¹⁹² H.C. ¶ 53; Belem do Para, art. 7(d), (g).

- c) **DECLARE** that this case cannot continue without the identification of the nine other victims.
- d) **DECLARE** that the protections of the Convention have been adequately implemented by domestic courts in Aravania and Lusaria.
- e) **DECLARE** that Aravania's actions did not rise to the level of human trafficking or enslavement under international law.
- f) **DECLARE** that Aravania acted appropriately to prevent and punish illegal actions under the Bilateral Agreement and International Law.
- g) **DECLARE** that Aravania did not violate Applicant's rights relating to progressive development.