

2022

International Migration and Refugee Law Moot Court Competition

Clarifications

Migration Law Research Group

Ghent University



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Introduction

In this document you find the clarifications to the requests for clarifications raised by the teams participating in the 2022 International Migration and Refugee Law Moot Court Competition.

The clarifications are organized per theme:

1. Clarifications relating to the legal framework;
2. Clarifications relating to procedural rules;
3. Clarifications relating to the interview and the facts.

As has been set out in Rule 4.3, it has remained at the discretion of the organizers of the Competition to decide which requests for clarifications will be answered. The organizers of the Competition have in any case refrained from answering requests (in a way) that could significantly alter the outcome of the case.

Teams must ensure that they adequately incorporate the clarifications in the written and oral pleadings.

1. Clarifications relating to the legal framework

#1: The People's Republic of Kalakuta determines who is a child in line with the Convention on the Rights of the Child and its three Optional Protocols.

#2: To solve the legal questions of the case, teams will only be required to apply international law. All legal frameworks which are applicable to the case are mentioned in the case. References to regional or national instruments or case law, which are relevant for the interpretation of these treaties, are allowed, if they are clearly referenced and translated into English. Further note that there are at this moment no bilateral agreements between Kalakuta and other countries that are of relevance to solve the case.

#3: Lodging an appeal before the administrative court of first instance of the People's Republic of Kalakuta has suspensive effect and an applicant cannot be forcibly removed prior to the appeal deadline. Applicants for international protection whose request has initially been refused by the Commissioner for International Protection (CIP), can remain in the reception centre they have been allocated during the entire duration of their appeal procedure.

#4: For the non-fictional countries mentioned in the case, such as Turkey and Syria, relevant legal frameworks, e.g. on work permits and visa applications, should be considered as applicable at the time of the case. This is part of the country of origin research.

#5: As sources of Country of Origin Information (COI) teams may use relevant reports published by the UN, UN agencies, NGOs, as well as human rights organisations. Reports from governments and relevant articles in respected news outlets can also be referenced.

#6: The court of first instance has the jurisdiction to review the case *ex nunc*, the court can consequently review the refusal of international protection status of People's Republic of Kalakuta's Commissioner for International Protection and assess new elements during the appeal procedure.

2. Clarifications relating to the procedural rules

#7: The written pleadings on behalf of the State of Kalakuta can further substantiate the refusal of international protection by the People's Republic of Kalakuta's Commissioner for International Protection but it can also further provide new reasons for not granting Mr Omar Sharif international protection or

reasons to not permit Mr Omar Sharif to reside legally on the territory of the People's Republic of Kalakuta.

#8: For the written pleadings on behalf of the State of Kalakuta you will not receive the content of the written pleading on behalf of Mr Sharif Omar to respond to. This is one of the practical limitations of the moot court competition. Each team participating in the Competition shall prepare written pleadings on behalf of the applicant (the migrant) as well as written pleadings on behalf of the respondent (the authorities of the fictitious state). The written pleadings of each of the parties have to be written on the basis of the information available in the case and the clarifications. Each team must submit its written pleadings, for both the applicant (the migrant) and the respondent (the fictitious state) via email **before 15 December 2021, 23:59 CET**.

#9: It is not required that the lawyer drafting the written pleading on behalf of Mr Omar Sharif is the same lawyer as the one that accompanied him to the interview with the Commissioner for International Protection.

#10: The online sources and book chapters shared via the Dropbox link are a first step to support the student with their initial research and aim to ensure that all students have at least access to the same basic sources. Students are highly encouraged to expand their research on relevant topics to the case for both their written as oral pleadings.

3. Clarifications relating to the interview and the facts

#11: On Page 4 the sentence "*Omar Sharif fears that he will be forcibly returned and decides to run to Turkey, so he decides to run away.*", should be replaced by "*Omar Sharif fears that he will be forcibly returned to Turkey, so he decides to run away.*"

#12: The Ministerial Decree to close all its borders became applicable as of 25 March 2021.

#13: The interview starts at 9:15 am and ends at 12:26 pm.

#14: The notes to which is referred on page 5 of the case equal the outline of the interview, which is provided in the case from page 4 until page 25.

#15: Reception Centre "PORT 3", in Makosi City, is a Multi-Purpose Identification and Registration Centre, where asylum-seekers are accommodated when their request for international protection is being processed by the relevant authorities. Asylum-seekers can leave on Mondays, Wednesdays or Fridays, between 7 am and 7 pm. In the centre all facilities, including but not limited to health care, elementary school, language classes and essential non-food items, are provided and residents get a weekly budget to spend in the local supermarket to allow them to cook their own meals.

#16: No remarks on the asylum interview were provided.

#17: All information available to the Asylum Officer deciding on behalf of the Commissioner for International Protection (CIP) on Mr Omar Sharif's request for international protection is included in the case.



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