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## Children's Rights Moot Court 2021 Clarifications

### **Formalities**

1. Against which State(s) is the communication lodged in front the Committee by the families' lawyer?

Albion.

2. From the facts, we are confused about whether the briefs should be addressed as a Communication to the Committee on the Rights of the Child or to the fictitious court mentioned in the [rules of procedure](#).

The briefs should be addressed as communication to the Committee on the Rights of the Child. The briefs should be structured according to the requirements of the [Rules of Procedure](#).

3. For the memorial, we were unsure whether the issues need to be identical on both the applicant and respondent side, how many we are allowed to raise, or whether they must strictly revolve around the UNCRC?

Issues need not be identical on both sides, and you are free in determining the number of issues you raise. The issues you raise do not have to revolve strictly around the UNCRC, as long as they can be legally addressed and assessed by the Committee.

4. In terms of procedure, we are told that the initial communication has been lodged by the applicants. Our question is thus, has the State responded to this communication (and the communication then registered), and therefore our two memorials are only meant to outline arguments for the hearing? Or perhaps is it worth discussing issues such as prima facie jurisdiction / admissibility of the case? Essentially, we weren't sure where on the procedural timeline these memorials fall, and whether we should seek to emulate the individual communication and state response, or assume they have been done and treat the memorial as surplus.

Albion has not responded. Consider the memorial on the applicants' side as the communication applicants lodged to the Committee on the Rights of the Child on 18 September 2020. Your memorials should address all legal issues raised by the case scenario including interim measures, eventual admissibility/jurisdiction issues and merits.

5. The Committee ordinarily has 24 hours to decide if it will transmit the request to the State or not. Further, the initial communication was lodged on 18 September 2020, but the hearing is not until June 2021 – so we were unsure as to whether the interim measures have been dealt with, or whether we need to consider and argue for and against them in the memorials?

Your memorials should address all legal issues raised by the case scenario including interim measures, eventual admissibility/jurisdiction issues and merits.

6. On a related note, we were then curious of the state of Cara's pregnancy by the time of the hearing in June - if there is no longer a risk to the pregnancy by then, or it is too late?  
Assume that Cara is still pregnant in June.

7. What are the requirements for the title page?  
See Rule 4.6 of the [Rules of Procedure](#).

8. What are the requirements for the back cover?  
There are no requirements for the back cover.

9. What is required for written [oral?] arguments and how does this differ from the written submissions?  
See Rule 7.6 of the [Rules of Procedure](#).

10. The deadline for submission of memorial is 31 March. Submissions are due by 11:59 PM CET on that date. Late submissions will result in point loss according to [section 4.1 of the Rules of Procedure](#).

The due date to submit Applicant and Respondent memorial is 31 March 2021. The oral arguments of the competition will take place from 7 June to 16 June, organized as follows:

Date	Round
7 June 2021 - 11 June 2021	Preliminary Rounds
14 June 2021	Quarter final
15 June 2021	Semi final
16 June 2021	Final

Yes, all dates written in the [Rules of Procedure](#) are in standard time CET. However, for the oral arguments, the dates and times will be confirmed to the teams on standard time CET and local time.

**Sources: international treaties, reservations and case-law**

11. Has the State of Albion submitted any reservation under the CRC. If yes, which are they?  
Please verify [the case](#).

12. If and possibly when has the State of Albion ratified the Optional Protocol on the Involvement of Children in Armed Conflict; and has it made any reservation under it?

13. What other human rights treaties has Albion ratified?

14. Is Albion a party to the Optional Protocols to the CRC (on the involvement on child in armed conflict and on the sale of children etc.) as well as to the CEDAW and humanitarian law conventions (Geneva Conventions)?

15. Are the State of Albion, the State of Assur and the State of Qin parties to the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict?

16. Are Assur and Albion parties to Vienna convention to diplomatic relations and whether it would be applicable to both the states

17. Are Albion a signatory to the following:

1. The Geneva Conventions
2. The 1951 Refugee Convention

18. Are Albion and Assur parties to the European Convention on Human Rights?

**Answer to questions 12-18:**

Assume that Albion has ratified all United Nations core human rights treaties (see [link](#)). Other than those, it has not ratified any other treaties than those explicitly mentioned in [the case](#) and in the present clarification.

19. Apart from the statutes such as the Optional Protocol to the Convention on the Rights of the Child as stated in the case of *R. and others v. Albion*, are case authorities allowed to be cited in the memorials? If yes, from which jurisdiction(s) can we cite cases?

The CRC Committee, like other treaty bodies, relies on a wide range of legal materials.

**Albion procedural law**

20. What instances/procedures are available for exhaustion in Albion?

Please refer to para 16 of [the case](#) for an indication of the course of the matter in Albion.

21. Has an appeal in ordinary proceedings been lodged in the Supreme Court of Albion by Cara's father together with Mia and Roxanne's parents?

No other processes (appeals, reviews, etc) than those indicated in the scenario have been lodged in Albion.

22. Have domestic remedies in Albion been exhausted and effectiveness achieved?

This is for the contestants to assess.

**Albion criminal law**

23. Is a defendant in a criminal case in Albion obliged to be present in the court during the hearings?

Not relevant.

24. Can children below 18 years of age be held criminally liable for joining Avengers or committing acts of terrorism? If yes, from what age?

The case makes clear that travelling to Gea Minor, including that traveling abroad to join the Avengers is contrary to Albion law. For more on the age of criminal responsibility see question 37.

**International criminal law**

25. Clarify more on the facts of investigation made by the Prosecutor of ICC.

The legal process at the ICC is still in progress.

26. At what stage is the ICC investigation?

The investigation is ongoing.

27. Under which grounds of Article 7(1)(h) are violations alleged by the group of parents while approaching International Criminal Court?

The grounds have not been specified by the applicants.

**National security Albion**

28. Is the Avengers a UN listed terrorist group?

[The case](#) does not specify.

29. Clarify more on the facts of Albion travel advisory laws on travel to join Avengers.  
The Albion government advises Albion nationals against traveling to Gea Minor, including that traveling abroad to join the Avengers is contrary to Albion law.

30. We know that there are states around the world that recognize the Avengers as terrorist organizations and, therefore, ask their citizens not to travel to Gea Minor because of the conflicts in that area. We also know the Batavians are a rival group of the Avengers. In this regard, has Albion expressly recognized the Avengers and/or Batavians as a terrorist organization and the ongoing conflict in Assur as an armed conflict?  
There is no additional information to that provided in [the case](#).

31. How much of a threat to Albion are the Avengers and other non-state armed groups given their presence in the other Gea Minor states?  
This can be inferred from the facts.

### **Nationality**

32. Were all of the children captured in the Desert Camp born to the parents of the Avengers?  
Yes. All children in the Desert Camp have at least one Avengers parent.

33. Does the state of Assur adopt birthright citizenship (Jus soli), or right of blood (Jus sanguinis)?  
Nationality in Assur is determined via *ius sanguinis*.

34. Is nationality law in Albion based on *ius sanguini* or *ius soli*?  
*Ius sanguinis*, as indicated in the case scenario.

35. Have Cara, Mia and Roxanne been stripped away their citizenships due to involvement with the Avengers? If they have been stripped away their citizenships, when is the time of denaturalisation?  
[The case](#) does not indicate loss of nationality.

36. Do the nationality laws in Albion confer nationality upon those children born outside Albion territory whose one parent is Albion national while the other may not be?  
See answer to question 33.

### **Age of majority, criminal responsibility and marriage**

37. What are the ages of majority, of criminal responsibility, and of marriage according to Assur and Albion's national laws?  
The legal age of majority in all the states mentioned in the case scenario is 18. The age of criminal responsibility is 16, at the time of the offence, in all the states, and the age of marriage is 18 in all the states.

38. What is the law on majority in Assur, Albion and Qin?  
The legal age of majority in all the states mentioned in the case scenario is 18.

39. Please provide us with exact definition of minor children according to Albion state laws.  
A minor child is every human being below the age of eighteen years.

40. From what moment does childhood begin according to Albion law?  
Albion law mirrors the CRC in this regard.

### **Geography**

41. How far is it from the state of Assur to the state of Albion?  
Assur is located a 5-hour plane flight away from Albion.

## **Other**

42. Does Albion operate under a common or civil law legal system?

This is an international claim, and thus the type of legal system which Albion has is immaterial.

43. The case mentions that five orphans, minors of Albion nationality, who had also been detained in the Desert Camp, were brought back to Albion because they were considered by the Albion government too vulnerable to stay in the camp. We would like clarification as to how did the Albion government know, or what criteria in their national law did they use, to determine that these minors were Albions nationals, given that they were orphans? For example, maybe the minors had a birth certificate from Albion, or a birth certificate from Assur that stated both their parents were Albion nationals, or some other criteria was used.

No further information is available.

44. What other justifications did the Albion government have for bringing back the 5 orphan minors besides their vulnerability?

No other explanation was provided by the government.

45. In page 3, Cara's father mentions that 'Cara is a few weeks pregnant.' Did she get pregnant in the camp, or she got pregnant before entering the camp?

Cara got pregnant in the camp.

46. Is Albion one of the alliances with the State of Qin and the Batavians in combating the Avengers?

No.

47. We were unsure as to whether we should consider the ongoing COVID pandemic – are we to assume this does not exist in the world of the facts, or should we factor it in?

COVID-19 is a reality in the detention camps where Roxanne, Cara and her children (and probably Mia's twins) reside.

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