

Inter-American Human Rights Moot Court Competition 2009
Hypothetical Case: Rosalie Fournier and Bruno Tamba v. Tynalandia

Clarification Questions & Answers – ENGLISH

1. What percentage of immigrants (legal and illegal) are from Evaristo?
a) The information available is limited to the facts stated in the hypothetical case.
2. Is the Census Bureau (mentioned in paragraph 9) part of or a separate entity from the Census and Immigration Office (mentioned in paragraph 29)?
a) The Census Bureau and the Census and Immigration Office are the same entity.
3. What was the average unemployment rate in Tynalandia before 1992 (the economic crisis year)?
a) This question makes it necessary to clarify that in 1992, the unemployment rate referred to in paragraph 12 rose to 13% (it did not grow by 13%). Towards the end of the 80's and in the early 90's, unemployment remained around 9%.
4. What percentage of the crimes committed in Tynalandia are done by Evaristans?
a) The information available is limited to the facts stated in the hypothetical case.
5. What were the nationalities of the foreign couple that trafficked Rosalie Fournier and others to Tynalandia?
a) The information available is limited to the facts stated in the hypothetical case.
6. What is Rosalie Fournier's exact date of birth?
a) Rosalie Fournier was born on January 3, 1963.
7. Was Rosalie Fournier accompanied by the smuggler when she arrived in Tynalandia?
a) The information available is limited to the facts stated in the hypothetical case.
8. How old was Rosalie Fournier at the moment of her detention in 1982?
a) At the time of her detention in 1982, Rosalie Fournier was 18 years old.
9. Did Rosalie Fournier have the right to a public defender and a translator for her defense during the process of 1982?
a) The information available is limited to the facts stated in the hypothetical case.
10. On April 23, 1982, Rosalie Fournier was sanctioned with a \$500 fine and six months of probation for the crime of prostitution. Do these facts constitute a legally settled matter (judicata)?
a) Yes.
11. What were the results of the investigations referred in paragraph 12 of the hypothetical case?
a) The judicial branch of Tynalandia began investigations to determine whether racial hatred was the motive behind the violent events that took place between 1992 and 1993. Nevertheless, they did not manage to obtain sufficient information to reach conclusions or determine who was responsible for the events.
12. What were the public policies adopted by the government of Tynalandia between 1981 and 1994 to promote the legalization of undocumented immigrant workers?
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13. What are the statistics of the race and nationalities of the immigrants deported from Tynalandia from 1994 until the present?
 - a) The information available is limited to the facts stated in the hypothetical case.
14. How many employers have been sanctioned by the government of Tynalandia for hiring illegal immigrants and what percentage of the illegal immigrant population was employed?
 - a) The information available is limited to the facts stated in the hypothetical case.
15. How did the government of Tynalandia collect taxes from Rosalie Fournier since she was considered an illegal immigrant?
 - a) Rosalie Fournier's employers made deductions from her salary to pay income tax and social security tax. Also, in her day to day affairs, Rosalie Fournier paid the taxes related to the goods and services she consumed.
16. Was Marco Tamba (Bruno's father) born in Tynalandia or did he become a Tynalandian by naturalization?
 - a) Marco Tamba was born in Tynalandia.
17. Did Marco Tamba maintain a relationship with his son Bruno Tamba after Rosalie Fournier moved in 1992?
 - a) Yes, as mentioned in paragraph 19, Marco Tamba sporadically visited his son Bruno Tamba.
18. What was the definitive frequency with which the "increasingly sporadic" visits between Marco Tamba and his son Bruno occurred once the parents had separated?

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- a) Yes, the Republic of Evaristo has an Embassy and various consulates in the Republic of Tynalandia.
24. Under what conditions did the four-and-a-half-hour-long interview between Rosalie Fournier and the immigration official take place? (For example, were there other people involved? Was she allowed to fulfill her basic necessities? Etc.)
- a) The interrogation of Rosalie Fournier was conducted under dignified circumstances during the four-and-a-half-hour-long interview.

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a) Yes, it is applicable to both people who commit an aggravated federal offense after Law 24.326 entered into force, as well as those who have been convicted in the past for crimes the Law has classified as aggravated federal offenses.

59. Para. 13 states that immigrants who commit aggravated offense are subject to deportation "without exception." However, Para. 33 states the Immigration Judges do not have a "wide margin of discretion" when considering aggravated offenses. Under what circumstances, if any, can an IJ set aside deportation of a person charged with an aggravated felony?

a) Paragraph 33 refers to the perspective of Rosalie Fournier's attorney. Law 24.326 does not establish exceptions to the deportation of immigrants who have committed an aggravated federal offense.

60. What are the different migratory statuses recognized by Tynalandian legislation and what are the mechanisms to access them?

a) To regulate their situation in Tynalandia, foreigners can apply for a visa, permanent residence or naturalization.

The right to apply for a visa, residency or naturalization is not subject to a statute of limitation. The process may be initiated in Tynalandia or, in certain cases, from the Tynalandian consulates in other countries. The processing time can last from one month, in the case of certain visas, up to five years for those who apply for residency or naturalization.

With regards to visas, there are visas for visitors, employment, and for studies. All these visas are granted for a determined period of time. In other words, they are not permanent.

Those who desire to live permanently in Tynalandia apply for permanent residency. In order to be eligible, one must be the child or spouse of a citizen of Tynalandia. Having a child in Tynalandia does not allow a foreigner to apply permanent residency unless, once the child turns 21, the child claims the foreigner to be their dependent.

With regards to naturalization, only legal permanent residents may apply. Therefore, the procedures to apply for naturalization are relevant to the hypothetical case.

Finally, every foreigner who is physically present in Tynalandia, or at any border or port of entry,

