

# Argüelles et al. v. Argentina

## ABSTRACT<sup>1</sup>

*This case is about the improper prosecution of twenty-one members of Argentina's military who had been charged with embezzlement. The Court found Argentina in violation of the Convention for unreasonably long pre-trial detention, not having provided the victims with a chance to be adequately represented, and lack of diligence in the investigation and judicial proceedings.*

## I. FACTS

### A. Chronology of Events

**September 1980:** The twenty-one victims, all who serve in the State's Air Force, are placed in preventative detention before being convicted of defrauding the armed forces.<sup>2</sup> While in detention, they are denied the opportunity to communicate with any legal counsel before giving their formal statement before a judge.<sup>3</sup>

**November 20, 1980:** The Judge of Military Instruction No.12 begins investigating the case.<sup>4</sup>

**December 1980:** The judge is relieved of his duties after three months of investigation for psychological issues.<sup>5</sup> The case is transferred to the Judge of Military Instruction No. 1.<sup>6</sup>

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1. Mildred Lima-Gonzalez, Author; Michelle Gonzalez, Editor; Erin Gonzalez, Chief IACHR Editor; Cesare Romano, Faculty Advisor.

2. The victims include: Mr. Hugo Arguelles, Mr. Enrique Jesus Aracena, Mr. Carlos Julio Arancibia, Mr. Julio César Állendes, Mr. Ricardo Omar Candurra, Mr. Miguel Oscar Cardozo, Mr. Jose Erduardo di Rosa, Mr. Carlos Alberto Galluzzi, Mr. Gerardo Félix Giordano, Mr. Anibal Ramon Machin, Mr. Miguel Angel Maluf, Mr. Luis José López Matteus, Mr. Jose Arnoldo Mercáu, Mr. Félix Oscar Morón, Mr. Horacio Eugenio Oscar Muñoz, Mr. Juan Italo Obolo, Mr. Alberto Jorge Perez, Mr. Enrique Lujan Pontecorvo, Mr. Miguel Ramon Taranto, Mr. Ambrosio Marcial, and Mr. Nicolás Tomasek. Argüelles et al. v. Argentina, Report on Merits, Report No. 135/11, Inter-Am. Comm'n H.R., Case No. 12.167, ¶ 38, 75 (Oct. 31, 2011).

3. *Id.* ¶ 29.

4. *Id.* ¶ 21.

**September 8, 1981:** The judge orders the release of two of the victims, Mr. Julio César Allendes and Mr. Luis José López Mattheus, for unspecified reasons.<sup>7</sup>

**October 4, 1982:** The case is transferred to the Supreme Council of the Armed Forces because the case involves senior officers.<sup>8</sup>

**October 29, 1982:** Ten of the victims are provided with legal representation in accordance with the Code of Military Justice.<sup>9</sup> However, the remaining victims are denied access to legal counsel for the entirety of their detention – two and a half years.<sup>10</sup> The victims are provided with representation by “military defenders” who are active or retired military personnel, but not attorneys.<sup>11</sup>

**May 10, 1984:** Mr. Marcial’s attorney requests that Article 316 of the Code of Military Justice, which provides those detained for over two years be released without prejudice, be applied to his client as he has been in custody for almost four years.<sup>12</sup> Mr. Marcial’s attorney claimed the detention causes his client “profound psychic and emotional instability” because he can no longer normally coexist in the “family group,” and is only receiving fifty percent of his assets.<sup>13</sup>

**September 1983–September 1984:** The victims plead before the Supreme Council of the Armed Forces for amnesty.<sup>14</sup> The victims also request the law they are being detained under be found unconstitutional.<sup>15</sup> The Attorney General of the Armed Forces and the Supreme Council of the Armed Forces rejects the victims’ requests.<sup>16</sup>

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5. *Id.* ¶ 33.

6. *Id.* ¶ 21.

7. Argüelles et al. v. Argentina, Preliminary Objections, Merits, Reparations, and Costs, Interpretation of Judgment, Inter-Am. Ct. H.R. (ser. C) No. 294, ¶ 74 (June 23, 2015).

8. Argüelles et al. v. Argentina, Report on Merits, ¶ 21; Argüelles et al. v. Argentina, Preliminary Objections, Merits, Reparations, and Costs, ¶ 71.

9. Argüelles et al. v. Argentina, Preliminary Objections, Merits, Reparations, and Costs, ¶ 75.

10. Argüelles et al. v. Argentina, Report on Merits, ¶ 28.

11. *Id.*

12. Argüelles et al. v. Argentina, Preliminary Objections, Merits, Reparations, and Costs, Judgment ¶ 77.

13. *Id.*

14. *Id.* ¶ 76.

15. *Id.*

16. *Id.*

**March 31, 1987:** Mr. Óbolo is released for unspecified reasons.<sup>17</sup>

**August 11, 1987:** The Supreme Council of the Armed Forces orders the release of Mr. Galluzi, Mr. Pontecorvo, Mr. Di Rosa, Mr. Giordano, Mr. Tomasek, Mr. Machin, Mr. Mercau, Mr. Aracena, Mr. Maluf, Mr. Candurra, Mr. Arancibia, Mr. Morón, Mr. Argüelles, Mr. Muñoz, Mr. Marcial, and Mr. Pérez because their confinements exceed two years, in accordance with Article 316 of the Code of Military Justice.<sup>18</sup>

**August 19, 1988:** The Prosecutor General of the Armed Forces indicts the victims.<sup>19</sup>

**June 5, 1989:** The Supreme Council of the Armed Forces orders the victims to pay sums of money, and serve seven to ten years in prison.<sup>20</sup> The Court also orders eighteen of the victims to be arrested as they still have to serve the part of the sentence that has not already been served during preventative custody.<sup>21</sup> Further, the victims are removed from the military, and sanctioned as “absolute[ly] and permanent[ly]” disqualified for a period of [ten] years or more.<sup>22</sup>

**June 6–June 8, 1989:** A protective order is filed challenging the detention of the victims.<sup>23</sup> Mr. Argüelles’ wife files a *habeas corpus* appeal.<sup>24</sup>

**June 9, 1989:** The Court rejects the protective order because its implementation would interfere with the military’s jurisdiction.<sup>25</sup>

**June 14, 1989:** The case is sent to the National Court of Appeals.<sup>26</sup>

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17. *Id.* ¶ 78.

18. Argüelles et al. v. Argentina, Preliminary Objections, Merits, Reparations, and Costs, ¶ 80.

19. *Id.* ¶ 81.

20. *Id.*; Argüelles et al. v. Argentina, Report on Merits ¶ 76.

21. The 18 victims are: Mr. Galluzzi, Mr. Pontecorvo, Mr. Di Rosa, Mr. Giordano, Mr. Tomasek, Mr. Machín, Mr. Candurra, Mr. Aracena, Mr. Maluf, Mr. Candurra, Mr. Arancibia, Mr. Morón, Mr. Argüelles, Mr. Cardozo, Mr. Mattheus, Mr. Allendes, Mr. Muñoz, and Mr. Óbolo; Argüelles et al. v. Argentina, Preliminary Objections, Merits, Reparations, and Costs, ¶ 82.

22. Argüelles et al. v. Argentina, Report on Merits ¶ 76.

23. *Id.* ¶ 82.

24. *Id.*

25. *Id.*

26. *Id.* ¶ 83.

**July 25–July 30, 1989:** The National Court of Criminal Appeals and Federal Correctional Court order the release of the victims that were ordered back into detention.<sup>27</sup> By now, the victims have been detained for seven to ten years without having been formally convicted of a crime.<sup>28</sup> This detention includes *incommunicado* detention periods for up to twelve days – beyond what is permitted by the Military Justice Code.<sup>29</sup>

**April 23, 1990:** The National Appeals Chamber grants an appeal of the Supreme Council of the Armed Forces' orders.<sup>30</sup>

**October 6, 1992:** The National Appeals Chamber postpones a hearing that would have confirmed, annulled, or revoked the judgment under appeal.<sup>31</sup>

**September 16, 1993:** The National Appeals Chamber declares itself unable to hear the case.<sup>32</sup> It is determined that the National Chamber of Criminal Cassation has jurisdiction to continue with the case.<sup>33</sup>

**February 22, 1995–March 20, 1995:** The victims argue that the criminal proceedings are time barred because the proceedings have lasted over four years.<sup>34</sup> However, the Court rejects their arguments,<sup>35</sup> and applies a stricter statute of limitations while it could have applied a more favorable one set by the Code of Military Justice.<sup>36</sup>

**March 20, 1995:** Mr. Marcial's court-ordered penalties are reduced and he is acquitted.<sup>37</sup>

### B. Other Relevant Facts

[None]

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27. *Id.* ¶ 84.

28. Argüelles et al. v. Argentina, Report on Merits, ¶ 136.

29. *Id.* ¶¶ 26, 136.

30. Argüelles et al. v. Argentina, Preliminary Objections, Merits, Reparations, and Costs, ¶ 86.

31. *Id.* ¶ 90.

32. *Id.* ¶ 91.

33. *Id.*

34. *Id.* ¶¶ 93-94.

35. *Id.* ¶ 94.

36. Argüelles et al. v. Argentina, Report on Merits, ¶ 35.

37. Argüelles et al. v. Argentina, Preliminary Objections, Merits, Reparations, and Costs, ¶ 94.

## II. PROCEDURAL HISTORY

## A. Before the Commission

**June 5, 1998–October 28, 1998:** The Commission receives various petitions from the victims alleging that the State is responsible for the violation of the rights in Articles 1(1) (Obligation of Non-Discrimination), 5 (Right to Humane Treatment), 7 (Right to Personal Liberty), 8 (Right to a Fair Trial), 10 (Right to Compensation in the Event of Miscarriage of Justice), 24 (Right to Equal Protection), and 25 (Right to Judicial Protection) of the American Convention.<sup>38</sup>

**October 9, 2002:** The Commission approves Admissibility Report No. 40/02.<sup>39</sup>

**July 20, 2004:** The representatives of both parties sign an agreement to reach a friendly settlement.<sup>40</sup>

**March 17, 2007:** The Commission receives a notice from the petitioners terminating the friendly settlement because of the State's failure to comply.<sup>41</sup> The petitioners request that the Commission present the case to the Inter-American Court of Human Rights.<sup>42</sup>

**October 31, 2011:** The Commission issues the Report on the Merits No. 135/11, and concludes that the State violated Articles 1(1) (Obligation of Non-Discrimination), 7 (Right to Personal Liberty), and 8 (Right to a Fair Trial) of the Convention.<sup>43</sup> The Report on the Merits also indicates that the State did not violate Articles 5 (Right to Humane Treatment), 10 (Right to Compensation in the Event of Miscarriage of Justice), 24 (Right to Equal Protection), and 25 (Right to Judicial Protection) of the Convention.<sup>44</sup>

The Commission recommends that the State grant comprehensive reparations, namely to compensate the twenty victims, as well as report on its compliance.<sup>45</sup>

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38. *Id.* ¶ 2.

39. Argüelles et al. v. Argentina, Report on Merits, ¶ 7.

40. *Id.* ¶ 13.

41. *Id.* ¶ 15.

42. *Id.*

43. Argüelles et al. v. Argentina, Preliminary Objections, Merits, Reparations, and Costs, Judgment ¶ 2.

44. *Id.*

45. *Id.* ¶ 2(c)(b).

**April 27, 2012:** The State sends a report on its compliance to the Commission, and the Commission determines the State did not sufficiently comply with its recommendations.<sup>46</sup>

*B. Before the Court*

**May 29, 2012:** The Commission submits the case to the Court after the State failed to adopt its recommendations.<sup>47</sup>

1. Violations Alleged by Commission<sup>48</sup>

Article 7 (Right to Personal Liberty)

Article 8 (Right to a Fair Trial)

*all in relation to:*

Article 1(1) (Obligation of Non-Discrimination) of the American Convention.

2. Violations Alleged by Representatives of the Victims<sup>49</sup>

Same Violations Alleged by the Commission, plus:

Article 5 (Right to Humane Treatment)

Article 10 (Right to Compensation in the Event of Miscarriage of Justice)

Article 24 (Right to Equal Protection)

Article 25 (Right to Judicial Protection)

III. MERITS

*A. Composition of the Court*<sup>50</sup>

Humberto Antonio Sierra Porto, President

Roberto F. Caldas, Vice President

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46. *Id.* ¶ 2(e).

47. *Id.* ¶ 2(f).

48. *Id.* ¶ 3; Argüelles et al. v. Argentina, Report on Merits, ¶ 138.

49. Alberto De Vita and Mauricio Cueto served as representatives of five victims. Juan Carlos Vega and Christian Sommer served as representatives of four victims. Claire Leite and Gustavo Vitale served as representatives for eleven of the victims. Argüelles et al. v. Argentina, Report on Merits, ¶ 138.

50. Judge Alberto Pérez Pérez and Judge Diego Garcia-Sayan did not participate in the deliberation or signing of this judgment; Argüelles et al. v. Argentina, Preliminary Objections, Merits, Reparations, and Costs, n.1.

Manuel E. Ventura Robles, Judge  
Eduardo Vio Grossi, Judge  
Eduardo Ferrer Mac-Gregor Poisot, Judge

Pablo Saavedra Alessandri, Secretary  
Emilia Segares Rodriguez, Deputy Secretary

*B. Decision on the Merits*

**November 20, 2014:** The Court issues its Judgment on Preliminary Objections, Merits, Reparations and Costs.<sup>51</sup>

The Court ruled on the State's preliminary objections:

The Court accepts the State's preliminary objection *ratione temporis*,<sup>52</sup> because:

*The Court lacked jurisdiction to analyze events prior to September 5, 1984.<sup>53</sup> The State neither ratified nor accepted the contentious jurisdiction of the Court until that date, which prevented the Court from retaining jurisdiction over events that allegedly occurred between September 9, 1980 and September 5, 1984.<sup>54</sup> The Court found that violations related to the detention or the length of domestic proceedings are limited in jurisdictional scope by the date the State recognized the Court's jurisdiction.<sup>55</sup> Therefore, the Court accepted the State's preliminary objection of *ratione temporis*, and determined that it did not have jurisdiction to make determinations on events occurring before September 5, 1984.<sup>56</sup>*

The Court rejected the State's preliminary objection *ratione materiae*,<sup>57</sup> because:

*The Court reasoned that provisions of the American Declaration were commonly used to interpret the American Convention.<sup>58</sup> Accordingly,*

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51. *Id.*

52. *Id.* ¶¶ 18-28.

53. *Id.* ¶ 18.

54. *Id.* ¶¶ 18-19.

55. *Id.* ¶ 27.

56. Argüelles et al. v. Argentina, Preliminary Objections, Merits, Reparations, and Costs, ¶ 28.

57. *Id.* ¶¶ 29-38.

58. *Id.* ¶ 37.

*the Court found that it may use the American Declaration in accordance with, and for, the interpretation of the American Convention.*<sup>59</sup>

The Court rejected the State's preliminary objection for the failure to exhaust domestic remedies,<sup>60</sup> because:

*The State failed to specify what domestic remedies were available, adequate and suitable for the instant case.*<sup>61</sup> *Therefore, the Court rejected this preliminary objection.*<sup>62</sup>

The Court rejected the State's preliminary objection on error in the preparation of the brief of requests and arguments,<sup>63</sup> because:

*The preliminary objection was inadmissible because the State failed to identify*<sup>64</sup> *how the Court did not have jurisdiction to hear the present case.*

The Court found unanimously that the State had violated:

Article 7(1) (Right to Personal Liberty and Security), 7(3) (Prohibition of Arbitrary Arrest or Imprisonment), 7(5) (Right to Be Promptly Brought Before a Judge and Right to a Trial Within Reasonable Time), and 8(2) (Right to be Presumed Innocent) in relation to Article 1(1) (Obligation of Non-Discrimination) of the Convention, to the detriment of Mr. Argüelles, Mr. Aracena, Mr. Candurra, Mr. Cardozo, Mr. Di Rosa, Mr. Galluzzi, Mr. Giordano, Mr. Machin, Mr. Maluf, Mr. Marcial, Mr. Mercau, Mr. Morón, Mr. Muñoz, Mr. Óbolo, Mr. Pérez, Mr. Pontecorvo, and Mr. Tomasek,<sup>65</sup> because:

*The analysis for deprivation of liberty under Article 7 (Right to Personal Liberty and Security) requires examining whether the detention complied with the pre-established domestic regulations both materially and formally; otherwise, it will be considered in violation of*

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59. *Id.* ¶ 38.

60. *Id.* ¶¶ 39-48.

61. *Id.* ¶ 47.

62. Argüelles et al. v. Argentina, Preliminary Objections, Merits, Reparations, and Costs, ¶ 48.

63. *Id.* ¶ 16.

64. *Id.*

65. *Id.* "Operative Paragraphs" ¶ 4.



the American Convention.<sup>66</sup> Additionally, the detention cannot be arbitrary; the Court considers three factors to determine arbitrariness: unreasonableness; unpredictability; and proportionality.<sup>67</sup> Further, if a pretrial detention period extends beyond the limits of law and reason, the release of the detainees is necessary, notwithstanding the unresolved underlying matter.<sup>68</sup>

Here, the victims were deprived of their personal freedom<sup>69</sup> because the Judge unreasonably kept the victims in detention when he was permitted to release them under Article 319 of the Military Code with no prejudice to their case – thus a less severe legal alternative to detention.<sup>70</sup> Ultimately, the State’s pretrial detention of the victims until 1987 violated their right to personal liberty because it exceeded the limits imposed by law and reason.<sup>71</sup> Thus, the State violated Articles 7(1) (Right to Personal Liberty and Security), 7(5) (Right to Be Promptly Brought Before a Judge and Right to a Trial Within Reasonable Time), and 8(2) (Right to Be Presumed Innocent).<sup>72</sup>

Article 8(2)(d) (Right to Self-Defense or Legal Assistance and to Communicate Freely with Counsel) and Article 8(2)(e) (Right to Assistance by Counsel Provided by State), in relation to Article 1(1) (Obligation of Non-Discrimination) of the Convention, to the detriment of Mr. Allendes, Mr. Argüelles, Mr. Aracena, Mr. Arancibia, Mr. Candurra, Mr. Cardozo, Mr. Di Rosa, Mr. Galluzzi, Mr. Giordano, Mr. Machín, Mr. Maluf, Mr. Marcial, Mr. Mattheus, Mr. Mercau, Mr. Morón, Mr. Muñoz, Mr. Óbolo, Mr. Pérez, Mr. Pontecorvo, and Mr. Tomasek,<sup>73</sup> because:

*The State failed to provide legal representation to all the victims.*<sup>74</sup> Specifically, while in the military forum, no evidence demonstrated whether all the victims had appointed legal professionals to assist them in their defense.<sup>75</sup> This created a “procedural imbalance,” which kept

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66. *Id.* ¶ 116.

67. *Id.* ¶ 119.

68. Argüelles et al. v. Argentina, Preliminary Objections, Merits, Reparations, and Costs, ¶ 119.

69. *Id.* ¶ 128.

70. *Id.* ¶ 133.

71. *Id.* ¶ 136.

72. *Id.* ¶ 137.

73. *Id.* “Operative Paragraphs” ¶ 5.

74. Argüelles et al. v. Argentina, Preliminary Objections, Merits, Reparations, and Costs, ¶ 181.

75. *Id.*

*the victims from exercising an adequate defense before the military forum.*<sup>76</sup> *Therefore, the State violated Article 8(2)(d) (Right to Self-Defense or Legal Assistance and to Communicate Freely with Counsel) and Article 8(2)(e) (Right to Assistance by Counsel Provided by State).*<sup>77</sup>

Article 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal), in relation to Article 1(1) (Obligation of Non-Discrimination) of the Convention, to the detriment of Mr. Allendes, Mr. Argüelles, Mr. Aracena, Mr. Arancibia, Mr. Candurra, Mr. Cardozo, Mr. Di Rosa, Mr. Galluzzi, Mr. Giordano, Mr. Machín, Mr. Maluf, Mr. Marcial, Mr. Mattheus, Mr. Mercau, Mr. Morón, Mr. Muñoz, Mr. Óbolo, Mr. Pérez, Mr. Pontecorvo, and Mr. Tomasek,<sup>78</sup> because:

*Numerous State actions postponed the processing of the victims' case, which led to their unreasonably long detainment, and the prolonged resolution of this action.*<sup>79</sup> *This resulted in a lack of diligence in the investigation and proceedings.*<sup>80</sup> *The State was required to exercise greater diligence because the victims were preventatively detained, and their personal liberty, as well as their legal status in the military, was at stake.*<sup>81</sup> *The State failed to exercise this diligence in violation of Article 8(1)(Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal).*<sup>82</sup>

The Court found unanimously that the State did not violate:

Article 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal) and Article 25(1) (Right of Recourse Before a Competent Court) in relation to Article 1(1) (Obligation of Non-Discrimination) of the Convention, to the detriment of the victims,<sup>83</sup> because:

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76. *Id.*

77. *Id.* ¶ 182.

78. *Id.* ¶ 197.

79. *Id.* ¶ 195.

80. Argüelles et al. v. Argentina, Preliminary Objections, Merits, Reparations, and Costs, ¶ 196.

81. *Id.*

82. *Id.*

83. *Id.* "Operative Paragraphs" ¶ 7.

*The case involved active military personnel and interests of legal rights that were of military nature, and was therefore rightfully before the Supreme Council of the Armed Forces.<sup>84</sup> Further, the use of the Military Justice Code and remedies sought pursuant to Article 445 of the Military Justice Code in establishing whether a violation of human rights had been carried out was appropriate.<sup>85</sup> Allegations as to unconstitutional actions and wrongdoings were analyzed and resolved by the Chamber National of Criminal Cassation and the Supreme Court of Justice.<sup>86</sup> These forums were of ordinary jurisdiction and fully able to execute these judgments.<sup>87</sup> By processing the case through different judicial channels of ordinary jurisdiction, it allowed for a review of decisions previously made by the military jurisdiction, and invited further litigation on issues and redeterminations of due penal possibility.<sup>88</sup> This resulted in modified sentences, diminished sentences, and a victim's acquittal.<sup>89</sup> Therefore, the processing of this case, which was taken through a different judicial channel, provided judicial impartiality, and did not violate Articles 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal) or 25(1) (Right of Recourse Before a Competent Court).<sup>90</sup>*

Article 9 (Freedom from *Ex Post Facto* Laws), in relation to Article 1(1) (Obligation of Non-Discrimination) of the American Convention, to the detriment of the victims,<sup>91</sup> because:

*The application of the common criminal law was expressly provided for in the Military Justice Code.<sup>92</sup> Thus, there was no change in the procedural rules, nor did any violation of the principles of legality and retroactivity arise.<sup>93</sup> Therefore, the State did not violate Article 9 (Freedom from *Ex Post Facto* Laws).<sup>94</sup>*

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84. *Id.* ¶ 156.

85. *Id.* ¶ 161.

86. Argüelles et al. v. Argentina, Preliminary Objections, Merits, Reparations, and Costs, ¶ 161.

87. *Id.*

88. *Id.* ¶ 161.

89. *Id.*

90. *Id.* ¶ 166.

91. *Id.* “Operative Paragraphs” ¶ 8.

92. Argüelles et al. v. Argentina, Preliminary Objections, Merits, Reparations, and Costs, ¶ 209.

93. *Id.* ¶ 210.

94. *Id.* “Operative Paragraphs” ¶ 8.

Article 23 (Right to Participate in Government), in relation to Article 1(1) (Obligation of Non-Discrimination) of the American Convention, to the detriment of Mr. Candura, Mr. Arancibia, Mr. Di Rosa, Mr. Pontecorvo, and Mr. Machin,<sup>95</sup> because:

*The State prevented a convicted individual from participating in government for ten years, which is in accordance with the principles of legality, necessity, and proportionality.<sup>96</sup> Therefore, Article 23 (Right to Participate in Government) was not violated.<sup>97</sup>*

#### IV. REPARATIONS

The Court ruled unanimously that the State had the following obligations:

##### *A. Specific Performance (Measures of Satisfaction and Non-Repitition Guarantee)*

###### 1. Publish the Judgment

The State must publish the Official Summary of the Judgment<sup>98</sup> at least once in the Official Gazette of the State within six months of the notification of Judgment.<sup>99</sup>

###### 2. Report on Compliance

The State must report on the affirmative steps taken to comply with the Court's orders.<sup>100</sup>

##### *B. Compensation*

The Court awarded the following amounts:

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95. *Id.* "Operative Paragraphs" ¶ 9, ¶ 223.

96. *Id.* ¶ 231.

97. *Id.* "Operative Paragraphs" ¶ 9, ¶ 223.

98. Argüelles et al. v. Argentina, Preliminary Objections, Merits, Reparations, and Costs, ¶ 254.

99. *Id.*

100. *Id.* "Operative Paragraphs" ¶ 14.

### 1. Pecuniary Damages

The Court did not award pecuniary damages because there was insufficient proof that the economic compensation had a direct and reasonable causal link with the States' violations.<sup>101</sup> Further, the Court noted that, in accordance to the law, the victims received half of their salary up to the time of the arrest.<sup>102</sup> Therefore, the Court determined that compensatory pecuniary damages were not necessary.<sup>103</sup>

### 2. Non-Pecuniary Damages

The Court ordered the State to pay \$3,000.00 to each victim.<sup>104</sup> Although the victims failed to articulate the conditions of their detention, the damages constituted a form of equity to compensate for the arbitrariness of their detention and lack of access to counsel.<sup>105</sup>

### 3. Costs and Expenses

The State must pay a reasonable sum of \$10,000 to Mr. Vega and Mr. Sommer, and \$10,000 to Mr. Vita and Mr. Cueto for costs and expenses.<sup>106</sup> Additionally, the State must reimburse the Inter-American Defenders, Mr. Gustavo Luis Vitale and Mr. Clara Leite, \$630 for expenses incurred during the proceedings.<sup>107</sup> The State must also reimburse the Victims' Legal Assistance Fund for its \$7,244.95 contribution.<sup>108</sup>

### 4. Total Compensation (including Costs and Expenses ordered):

\$ 87,874.95

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101. *Id.* ¶ 288.

102. *Id.*

103. *Id.*

104. *Argüelles et al. v. Argentina*, Preliminary Objections, Merits, Reparations, and Costs, ¶ 289.

105. *Id.*

106. *Id.* ¶ 298.

107. *Id.*

108. *Id.* ¶ 302.

*C. Deadlines*

The State has six months from the notification of the Judgment to publish the summary in the Official Gazette of the State.<sup>109</sup>

The State has one year from the notification of the Court's decision to submit a report on the affirmative steps taken to comply with the Court's orders.<sup>110</sup>

The State has ninety days from the notification of the Judgment to reimburse the Victims' Legal Assistance Fund for payments made during the processing of the case.<sup>111</sup>

## V. INTERPRETATION AND REVISION OF JUDGMENT

**December 16, 2014:** Representatives Mr. Cueto and Mr. de Vita requested an interpretation of the Judgment to determine whether the ordered legal fees were set jointly or individually.<sup>112</sup>

**December 22, 2014:** The Inter-American Defenders requested an interpretation of the Judgment regarding the reimbursement of expenses incurred by Mr. Argüelles, who served as a representative of the victims.<sup>113</sup>

*A. Composition of the Court*<sup>114</sup>

Humberto Antonio Sierra Porto, President  
Roberto F. Caldas, Vice President  
Manuel E. Ventura Robles, Judge  
Eduardo Vio Grossi, Judge  
Eduardo Ferrer Mac-Gregor Poisot, Judge

Pablo Saavedra Alessandri, Secretary  
Emilia Segares Rodriguez, Deputy Secretary

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109. *Id.* ¶ 254.

110. Argüelles et al. v. Argentina, Preliminary Objections, Merits, Reparations, and Costs, "Operative Paragraphs" ¶ 14.

111. *Id.* ¶ 302.

112. Argüelles et al. v. Argentina, Preliminary Objections, Merits, Reparations, and Costs, Interpretation of Judgment, Inter-Am. Ct. H.R. (ser. C) No. 294, ¶ 2 (June 23, 2015).

113. *Id.* ¶ 3.

114. Judges Diego García Sayán and Alberto Pérez Pérez did not participate in the judgment for reasons of *force majeure*. *Id.* n.1.

### B. Decision on the Merits

As to the representatives, Mr. Cueto and Mr. Vita, the Court referred to the original Judgment, noting that Mr. Cueto and Mr. Vita failed to submit proof of the expenditures made during litigation, at both the national and international level.<sup>115</sup> Given the representative's oversight, the Court concluded that a \$10,000 sum was reasonable.<sup>116</sup>

As to the Inter-American Defenders' request, the Court found it appropriate to only order repayment of expenses incurred by the Victims' Legal Assistance Fund.<sup>117</sup> The Court stated that any legal costs incurred by Mr. Argüelles associated with his representation was purposely not compensated for and not an oversight by the Court.<sup>118</sup> The Court further ruled that the Inter-American Defenders' request for interpretation was asking for a modification of the Judgment and therefore impermissible.<sup>119</sup> As such, the Court rejected both requests for interpretation.<sup>120</sup>

## VI. COMPLIANCE AND FOLLOW-UP

**August 7, 2015:** The State published the Official Summary of the Judgment in the Official Gazette,<sup>121</sup> and in a national newspaper.<sup>122</sup> The Court found that the State satisfied its obligation to publish the Judgment.<sup>123</sup>

**November 22, 2016:** The Court found that the State had not fully complied with its order to compensate the victims for non-pecuniary damages, compensate the legal representatives, or reimburse the Victims' Legal Assistance Fund.<sup>124</sup>

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115. *Id.* ¶¶ 19, 22.

116. *Id.* ¶ 22.

117. *Id.* ¶ 23.

118. Argüelles et al. v. Argentina, Interpretation of Judgment, ¶ 23.

119. *Id.*

120. *Id.* "Operative Paragraphs" ¶ 1.

121. Argüelles et al. v. Argentina, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. "Publication of the Official Summary" n.14, (Nov. 22, 2016).

122. *Id.*

123. *Id.* ¶ 1.

124. *Id.* ¶¶ 9-10.

## VII. LIST OF DOCUMENTS

*A. Inter-American Court*

## 1. Preliminary Objections

[None]

## 2. Decisions on Merits, Reparations and Costs

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[None]

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*B. Inter-American Commission*

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[Not Available]

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2018

*Argüelles et al. v. Argentina*

1261

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[Not Available]

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VIII. BIBLIOGRAPHY

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