

# Miguel Castro Castro Prison v. Peru

## I. COMPLIANCE AND FOLLOW-UP ADDENDUM<sup>1</sup>

**March 31, 2014:** In a follow-up hearing, the Court determined the State failed to comply with the required measures.<sup>2</sup> The Court found that although the opening and joinder of two criminal investigations positively affected the investigation of the case, the State failed its duty to investigate within a reasonable time, as more than twenty years has passed since the events occurred.<sup>3</sup> Additionally, the Court found that the State was not investigating violations constituting torture and violence against women, and that the State did not properly characterize several victims as “aggrieved.”<sup>4</sup> The Court therefore found that the measure of reparation requiring proper investigation of the facts was still pending, and required the State to provide updated and detailed information on: (1) progress regarding the joinder of the two criminal proceedings, referencing the criteria set forth by the judgment; (2) specific uninvestigated facts considered in the judgment as violations, and the reasons why these facts were not under investigation; (3) a list clearly indicating the total accused persons and victims and an explanation of why the State believes they should not be characterized as victims; and (4) the status of the extension requested for the extradition of former President Alberto Fujimori, demonstrating which State authority had made steps towards this goal, and if relevant, why it had failed to do so.<sup>5</sup>

The Court also found that the State failed to change domestic legislation so that documentation of police investigations is adequately stored.<sup>6</sup> The Court therefore considered this measure to be pending compliance and ordered the State to provide more information.<sup>7</sup>

---

1. Sebastian Richards, Author; Edgar Navarrete, Editor; Erin Gonzalez, Chief IACHR Editor; Cesare Romano, Faculty Advisor

2. *See Miguel Castro Castro Prison v. Peru*, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. (ser. C) No. 202 (Mar. 31, 2014).

3. *Id.* ¶¶ 16, 18-19.

4. *Id.* ¶ 20.

5. *Id.* ¶ 25.

6. *Id.* ¶ 30.

7. *Id.*

Additionally, the Court found that the State could not establish whether it delivered the remains of Mr. Mario Francisco Aguilar Vega to his family or ensured that all inmates killed in the attack were identified.<sup>8</sup> As a result, the Court found the measure as pending compliance and ordered the State to investigate into the whereabouts of Mr. Aguilar Vega's remains and to show clear and comprehensive information regarding the whereabouts of remains of prisoners killed in the attack.<sup>9</sup>

Further, the Court found that although the State registered the victims in the general health system, it needed to provide them with priority status so they could be treated in State institutions.<sup>10</sup> The Court thus considered the measure of providing medical and psychological treatment to the victims as pending compliance and urged the State to adopt all needed actions to implement the measure.<sup>11</sup> Additionally, the State failed to pay reparations to victims abroad, and the Court ordered the State to comply with the measure as soon as possible.<sup>12</sup>

Next, the Court found that although the State took significant steps in training and educating penitentiary officials on international standards of prisoner treatment, the State's reports were ambiguous as to whether the courses were taught to prison employees at all levels of employment or only to new hires.<sup>13</sup> The Court required more information to determine compliance, particularly, copies of the materials used in training courses and the names of employees who received the training.<sup>14</sup>

The Court also noted that the State failed to acknowledge its international responsibility of the attack, and to publish its acknowledgement in its official newspaper and another nationally-circulated newspaper.<sup>15</sup> The Court ordered the State to comply with the measures within six months and explain why the measures were delayed for seven years.<sup>16</sup> Additionally, the Court ordered the State comply with the measure requiring the creation of a park or erection of a monument as soon as possible.<sup>17</sup>

---

8. Miguel Castro Castro Prison v. Peru, Monitoring Compliance with Judgment, Mar. 2014, ¶¶ 38-39.

9. *Id.*

10. *Id.* ¶¶ 45-46.

11. *Id.* ¶ 47.

12. *Id.* ¶ 48.

13. *Id.*

14. Miguel Castro Castro Prison v. Peru, Monitoring Compliance with Judgment, Mar. 2014, ¶ 48.

15. *Id.*

16. *Id.* ¶ 62.

17. *Id.* ¶ 63.

Additionally, the Court found the State failed to pay pecuniary and non-pecuniary damages to the victims, as the State wrongly claimed the measure was condition on the outcome of domestic judicial proceedings.<sup>18</sup> The Court thus ordered the State to immediately pay all victims whose compensation was not subject to the judicial determination by the domestic Courts, and to pay all victims awaiting judicial determination within six months.<sup>19</sup> The Court required the State to provide a complete list of victims and detailed and comprehensive reports regarding the payment progress to the victims, including: (1) the status of the decision in regards to the degree of injury incurred by the surviving victims who submitted requests; (2) specifics about family members who claimed a familial relationship to any of the forty-one victims and the status of their payment pursuant to the Judgment; and (3) information about the requests from the surviving victims and their families, who were not identified in the Judgment, that were dismissed by the domestic authorities.<sup>20</sup>

Finally, the Court noted the State failed to reimburse for costs and expenses, and ordered the State to do so immediately.<sup>21</sup>

**April 17, 2015:** In a follow-up hearing, the Court determined that the State did not comply with the measures required by the Court in its March 2014 monitoring compliance resolution.<sup>22</sup> In terms of the State's obligation to investigate the facts leading to the violations and to punish those responsible, the Court found that the State failed to provide the explanations of the investigations as required in the 2014 Monitoring Compliance report.<sup>23</sup> The Court stated this reflects the lack of due diligence in the requirement to investigate.<sup>24</sup>

With respect to delivering the remains of Mr. Mario Francisco Aguilar Vega to his family, the Court found the State failed to comply with this order.<sup>25</sup> The Court found that the State again did not provide the required information regarding the identities of all inmates killed in

---

18. *Id.*

19. *Id.* ¶ 78.

20. *Miguel Castro Castro Prison v. Peru*, Monitoring Compliance with Judgment, Mar. 2014, ¶ 78.

21. *Id.* ¶ 83.

22. *See Miguel Castro Castro Prison v. Peru*, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. (ser. C) No. 202 (Apr. 15, 2015).

23. *Id.* ¶ 10.

24. *Id.*

25. *Id.* ¶ 11.

the attack, and failed to oversee the delivery of their remains to their families.<sup>26</sup>

With respect to providing medical and psychological treatment to the victims and their relatives, the Court found the State failed to take the necessary steps to comply with the Judgment, and did not submit adequate information of the progress of its compliance with the measures.<sup>27</sup>

The Court found that the State failed to implement the suggested training program of international standards of prisoner treatment for its correction officers.<sup>28</sup> Furthermore, the State did not provide copies of training materials used or prove that its training procedures were on par with international standards.<sup>29</sup>

Regarding the measures pertaining to the recognition of international responsibility and the publication of the Judgment, the Court determined that the State failed to deliver on this measure.<sup>30</sup>

Lastly, regarding compensation for material and immaterial damage and payment on medical and psychological care for the victims abroad, the Court determined the State did not submit sufficient information pertaining to the status of the internal process.<sup>31</sup> As a result, the Court determined that the State did not comply with its obligation to pay damages.<sup>32</sup>

**February 9, 2017:** Regarding the payment of the amount related to medical and psychological care for victims who no longer resided within the State and the payment of compensation for property damage, the Court found that the State did not comply with this measure.<sup>33</sup> The Court required the State to immediately: (1) compensate those who did not need national authorities to determine their compensation; (2) implement the necessary steps to meet the requirements established by the Court of Execution Supranational; (3) evaluate the victims who were alive with physical and psychological injuries to determine

---

26. *Id.* ¶ 12.

27. *Id.* ¶ 13.

28. Miguel Castro Castro Prison v. Peru, Monitoring Compliance with Judgment, Apr. 2015, ¶ 13.

29. *Id.*

30. *Id.* ¶ 15.

31. *Id.* ¶ 16.

32. *Id.*

33. Miguel Castro Castro Prison v. Peru, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. (ser. C) No. 202, ¶ 17 (Feb. 09, 2017).

adequate compensation; and (4) correct claims relating to errors in the names entered in the Judgment.<sup>34</sup>

Furthermore, within six months, the State must submit the following: (1) the name of the victims whose compensation required determination by the national authorities; (2) the information about the victims for whom the Court of Execution of Sentences Supranational ordered payment for; (3) the steps taken to remedy the surviving victims who submitted applications and could not submit to assessment and the resulting decisions by the domestic authorities; and (4) the pertinent measures taken to resolve the request of Cuicapusa victims and correct errors related to the names entered in the Judgment and the names of the victims as they appear in the internal registry.<sup>35</sup>

The Court found that the State again failed to deliver the remains of Mr. Mario Francisco Aguilar Vega to his family.<sup>36</sup> Furthermore, the State did not say how it planned to find Mr. Aguilar Vega's remains.<sup>37</sup> The Court restated that failure to comply indicated a lack of diligence by the State.<sup>38</sup> As a result, the Court required the State to provide information on: (1) the rationale for not complying with this requirement; (2) the State authority to implement these measures; (3) a schedule related to the steps to be taken; and (4) a definitive solution to the whereabouts, dependable identification, and return of Mr. Aguilar Vega's remains.<sup>39</sup>

With respect to the publication and dissemination of the Judgment, the Court determined that the State had complied in part.<sup>40</sup>

The Court ordered the State to fulfill the following reparations: (1) investigate, identify and punish the responsible parties; (2) ensure that documents related to the police information are preserved for investigation; (3) identify the inmates who died and forfeit their remains to their next of kin; (4) execute a public act to acknowledge international responsibility, in a public ceremony, in front of the senior State authorities, victims, and their next of kin, in addition to sharing the act through the media, including radio and television; and (5) provide medical and psychological care to the victims and their family after evaluating their needs.<sup>41</sup>

---

34. *Id.* ¶ 18.

35. *Id.*

36. *Id.* ¶ 23.

37. *Id.*

38. *Id.*

39. Miguel Castro Castro Prison v. Peru, Monitoring Compliance with Judgment, Feb. 2017, ¶ 24.

40. *Id.* ¶ 29.

41. *Id.* ¶ 30.