

Cantos v. Argentina

ABSTRACT¹

I. FACTS

This case is about the arbitrary prosecution of a successful businessman in the Province of Santiago del Estero in Argentina. Over twenty-six years, the victim was subject to fines and prosecution before Argentinean courts for alleged failure to comply with stamp and revenue regulations. Eventually, the Court found violation of the rights of the victim (right to a fair trial and right to juridical protection).

A. Chronology of Events

Early 1970s: Mr. José María Cantos is the owner of prosperous business groups in the Province of Santiago del Estero, in Argentina.² Mr. Cantos's businesses include a bank, a radio station, and a citrus processing plant.³ Altogether, his business enterprises employ over 700 people.⁴ Additionally, Mr. Cantos owns several tracts of urban and rural land in the Province of Santiago del Estero.⁵

March 1972: The Province's Revenue Department conducts a series of searches of Mr. José Mariá Cantos's administrative companies due to an alleged violation of the Stamp Act.⁶ The Stamp Act regulates the registration and taxation of stamp usage in Argentina and is regulated by provincial revenue agencies.⁷ The Revenue Department seizes Mr. Cantos's

1. Edgar Navarrete, Author; Milja Miric, Editor; Megan Venanzi, Chief IACHR Editor; Cesare Romano, Faculty Advisor.

2. Cantos v. Argentina, Merits, Reparations, and Costs, Judgment, Inter-Am.Ct.H.R. (ser. C) No. 97, ¶ 7(a).

3. *Id.*

4. Cantos v. Argentina, Preliminary Objections, Inter-Am.Ct.H.R. (ser. C) No. 85, ¶ 2 (Sep. 07, 2001).

5. Cantos v. Argentina, Merits, Reparations and Costs, ¶ 7(a).

6. *Id.* ¶ 7(b).

7. *Id.* n.2.; *Taxation and Investment in Argentina 2016*, Deloitte, 13, <https://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-argentinaguide-2016.pdf>.

company documents and records, which includes company books, vouchers, and accounting documentation.⁸ Mr. Cantos's businesses are unable to operate properly without the seized documents and suffer significant financial losses as a result of the state's seizures.⁹

Mr. Cantos responds to the seizures by filing multiple lawsuits against the Province to defend his business and property interests.¹⁰ He files a criminal complaint against the Director General of Revenue of the Province, and a petition for *amparo* relief (protective relief), which is denied.¹¹

Mr. Cantos is subjected to "persecution and harassment by state agents" following the filing of his lawsuits.¹² He is detained more than thirty times and state agents detain his sons on multiple occasions.¹³ Additionally, Mr. Cantos's residence is placed under constant police surveillance.¹⁴ Between 1972 and 1985, a total of seventeen separate cases are filed against Mr. Cantos by the State for fraud, embezzlement, and forgery.¹⁵

September 10, 1972: Mr. Cantos files an administrative claim with the *de facto* Governor of the Province to have his losses acknowledged by the Province for reparations.¹⁶ Mr. Cantos's losses are estimated to be 40,029,070 Argentine pesos, or approximately 2,921,829.92 US dollars at the time.¹⁷

May 23, 1974: Mr. Cantos expands his claim and his losses are estimated to be 90,214,669.10 Argentine pesos, or approximately 6,264,893.69 US dollars at the time.¹⁸

April 26, 1974: Pursuant to the government's lack of response to Mr. Cantos's administrative claims, Mr. Cantos requests an expeditious "fast-track" settlement to his claim.¹⁹

8. Cantos v. Argentina, Merits, Reparations and Costs, ¶ 7(b).

9. *Id.* ¶ 7(c).

10. *Id.* ¶ 7(d).

11. *Id.*

12. *Id.* ¶ 7(e).

13. *Id.*

14. Cantos v. Argentina, Merits, Reparations and Costs, ¶ 7(e).

15. *Id.*

16. *Id.* ¶ 7(d).

17. *Id.*; *Historical Exchange Rates of Argentina*, Wikipedia.org, https://en.wikipedia.org/wiki/Historical_exchange_rates_of_Argentine_currency (last visited Dec. 29, 2016).

18. *Id.*; Wikipedia, *supra* note 16.

19. Cantos v. Argentina, Merits, Reparations and Costs, ¶ 7(d).

July 15, 1982: The government of the Province of Santiago del Estero enters an agreement with Mr. Cantos in which it acknowledges it owes a debt to his businesses as a result of its Revenue Department's actions.²⁰ Jensen Viano, a man authorized by the Province, signs on behalf of the Governor of the Province.²¹ A payment amount and a due date are established in the agreement.²²

March 24, 1986: Mr. Cantos asks the Governor of Santiago del Estero to take prompt action to keep the agreement he had signed with Mr. Jensen Viano on July 15, 1982.²³ Receiving no response, Mr. Cantos requests that the governor provide a written statement declaring all administrative formalities to be completed to set the stage for litigation.²⁴

July 4, 1986: Mr. Cantos files a claim against the Province and the State of Argentina before the Supreme Court, after the Province fails to comply with the July 15, 1982 agreement.²⁵ The claim is assigned case file number C-1099.²⁶ The amount sought by Mr. Cantos is 130,245,739.30 Argentine pesos, or approximately 140,806,204.65 US dollars at the time.²⁷ The Supreme Court of Argentina on multiple occasions suspends proceedings and denies Mr. Cantos's requests to admit evidence, making the trial proceedings increasingly difficult for Mr. Cantos.²⁸

September 3, 1996: The Supreme Court of Argentina rejects Mr. Cantos' claim and orders him to pay for the expenses, including attorney and expert fees, incurred over the course of the trial.²⁹ The court estimates the costs to be 140,000,000 Argentine pesos (8,930,930.02 US dollars).³⁰ The Supreme Court determines the Province could not be sued for the July 15, 1982 agreement because the statute of limitations had lapsed.³¹ Mr. Cantos is unable to pay the substantial filing and attorney fees levied

20. *Id.* ¶ 7(f).

21. *Id.* ¶ 43(b).

22. *Id.* ¶ 7(f).

23. *Id.* ¶ 43(b).

24. *Id.*

25. *Cantos v. Argentina, Merits, Reparations and Costs*, ¶ 43(c).

26. *Cantos v. Argentina, Merits, Reparations and Costs*, ¶ 43(c) n.21.

27. *Id.* ¶ 7(g). Amount sought is calculated based on the amount claimed on May 23, 1974 with the value adjusted for the value of the U.S. dollar as of December 31, 1984, with an additional daily interest of one percent taken into account; Wikipedia, *supra* note 16.

28. *Cantos v. Argentina, Merits, Reparations and Costs*, ¶¶ 43(d)-(g).

29. *Id.* ¶ 7(h).

30. *Id.*

31. *Id.* ¶ 43(p).

against him, so the State places a “general restraining order” on Mr. Cantos, barring him from engaging in business.³²

December 17, 1996: The Supreme Court establishes attorney and expert fees to be 6,948,835 Argentine pesos (443,288.38 US Dollars).³³

B. Other Relevant Facts

2015 to 2016: The Argentinian League of Human Rights (*Liga Argentina de los Derechos Humanos*) initiates proceedings to honor Mr. Cantos with a doctorate for his struggle against the State for the protection of his human rights.³⁴ The Argentinian newspaper, *El Nuevo Diario*, states Argentina targeted Mr. Cantos because of his prosperous business ventures and used the dubious pretext of a violation of the Stamp Act to deprive Mr. Cantos of his property.³⁵

II. PROCEDURAL HISTORY

*A. Before the Commission*³⁶

May 29, 1996: Mr. Cantos and his representatives submit a complaint to the Commission, alleging the violation of his human rights pursuant to Articles 5 (Right to Human Treatment), 11 (Right to Privacy), 17 (Right of the Family), 21 (Right to Property), 8 (Right to a Fair Trial), and 25 (Judicial Protection) of the American Convention in relation to the Obligation to Respect Rights pursuant to Article 1(1).³⁷ Furthermore, Mr. Cantos alleges the State violated several articles of the American Declaration of the Rights and Duties of Man (“the Declaration”).³⁸

32. *Id.* ¶ 43(t).

33. *Id.* ¶ 43(s).

34. Cantos: “La mejor recompensa ese estar siempre al servicio de quienes lo necesitan”, *Nuevo Diario* (Oct. 14, 2016), <http://www.nuevodiarioweb.com.ar/noticias/2015/10/14/641-cantos-la-mejor-recompensa-es-estar-siempre-al-servicio-de-quienes-lo-necesitan>.

35. “Cometieron Delitos de Lesa Humanidad Contra Cantos”, *Nuevo Diario* (Mar. 3, 2016), <http://www.nuevodiarioweb.com.ar/noticias/2016/09/03/45462-come-tieron-delitos-de-lesa-humanidad-contra-cantos>.

36. *Id.* ¶ 9. Mr. Cantos representatives include Robert K. Goldmán, Carlos M. Ayala Corao, and German J. Bidart Campos as delegates. Susana Albanese, Viviana Krsticevic, Mária Claudia Pulido, Emilio Weinschelbaum, Martín Abregú, and Ariel Dulitzky as assistants.

37. Cantos v. Argentina, Preliminary Objections, ¶ 3.

38. *Id.*

June 13, 1996: The Commission requests the State's respond to Mr. Cantos's complaint.³⁹ After several extensions, the State requests the complaint be declared inadmissible, which the Commission denies.⁴⁰

March 4, 1997: The Commission holds a hearing to discuss Mr. Cantos's case, in which he presents new information that states he was forced to pay new unreasonable regulations and fees.⁴¹ He requests precautionary measures.⁴²

November 3, 1997: Mr. Cantos's representatives inform the Commission that it is impossible to reach an amicable settlement with the State and that the Commission should proceed to processing the case.⁴³

September 28, 1998: The Commission adopts Report No. 75/98.⁴⁴ The Commission finds Argentina violated Mr. Cantos's right to a fair trial, right to property, and right to judicial protection pursuant to Articles 8, 21, and 25 of the American Convention, respectively.⁴⁵ The Commission also finds that Argentina has violated Mr. Cantos's rights to a fair trial and the right of petition, as set forth in Articles 18 and 24 of the Declaration.⁴⁶ The Commission makes several recommendations to the State.⁴⁷

B. Before the Court

March 10, 1999: The Commission submits the case to the Court after the State failed to adopt its recommendations.⁴⁸

The Commission alleges Argentina arbitrarily and unjustly refused to repair the significant losses as a result of the actions that the State's agents inflicted on Mr. Cantos.⁴⁹ Furthermore, the Commission requests the Court deliver a judgment declaring that the State violated and continues to violate Mr. Cantos's rights to a fair trial and judicial protection as guaranteed by the American Convention.⁵⁰ Finally, the application also claims

39. *Id.*

40. *Id.* ¶ 5.

41. *Id.* ¶ 6.

42. *Id.*

43. Cantos v. Argentina, Preliminary Objections, ¶ 8.

44. *Id.* ¶ 9.

45. *Id.*

46. *Id.*

47. *Id.* ¶ 9(A).

48. Cantos v. Argentina, Merits, Reparations and Costs, ¶ 7.

49. *Id.* ¶ 8.

50. *Id.*

Mr. Cantos's right to property was violated.⁵¹

The Commission requests that the Court order the State of Argentina to admit responsibility for violating Mr. Cantos's rights to a fair trial and the right of petition, reestablish his rights, and provide him with adequate reparations.⁵²

1. Violations Alleged by Commission⁵³

Article 8 (Right to a Fair Trial)

Article 21 (Right to Property)

Article 25 (Right to Judicial Protection)

all in relation to:

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

Violations Alleged by Representatives of the Victims⁵⁴

Same Violations Alleged by Commission, plus:

Article 5 (Right to Humane Treatment)

Article 11 (Right to Privacy)

Article 17 (Rights of the Family) of the American Convention.

May 19, 1999: The State appoints Mr. Julio A. Barberis as judge *ad hoc*.⁵⁵

June 18, 1999: The State submits two preliminary objections claiming the Court is not competent to hear the petition.⁵⁶ They are: (1) the American Convention does not protect the rights of legal persons;⁵⁷ and (2) that the Court is competent to hear cases regarding actions that occurred only after Argentina became a party to the Convention on September 5, 1984.⁵⁸ Because there were actions in Mr. Cantos's case that occurred before September 5, 1984, the State asserts the Court is not competent to hear the entire case.⁵⁹

51. *Id.*

52. *Id.*

53. *Id.* ¶ 8.

54. Cantos v. Argentina, Preliminary Objections, ¶ 3. Mr. Germán J. Bidart Campos, Ms. Susana Albanese, and Mr. Emilio Weinschelbaum of the Center for Justice and International Law ("CEJIL") serve as representatives for Mr. Cantos. *Id.*

55. *Id.* ¶ 12.

56. *Id.* ¶ 21.

57. *Id.* ¶ 22.

58. *Id.* ¶ 32.

59. *Id.*

September 7, 2001: The Court dismisses the State's first preliminary objection because "the rights and obligations attributed to companies become rights and obligations for the individuals who comprise them."⁶⁰ The Court finds an individual can seek the protection of the Inter-American system, even when the rights he seeks to protect are encompassed in a legal entity such as a company.⁶¹ Here, Mr. Cantos's claim was in his name and his companies' and thus, the Court finds the violation falls within the jurisdiction of the Convention.⁶²

The Court partially dismisses the State's second preliminary objection because the instrument that made Argentina a part of the American Convention was not ratified until September 5, 1984.⁶³ The Court does not have jurisdiction over matters before the date Argentina became a part of the American Convention.⁶⁴ Because some of the alleged facts took place before September 5, 1984, the Court partially agrees with the State's objection, but also determines it has jurisdiction over ongoing proceedings and matters that occurred after September 5th, 1985.⁶⁵

III. Merits

A. *Composition of the Court*⁶⁶

Antônio A. Cançado Trindade, President
 Alirio Abreu Burelli, Vice President
 Máximo Pacheco Gómez, Judge
 Hernán Salgado Pesantes, Judge
 Oliver Jackman, Judge
 Sergio García Ramírez, Judge
 Carlos Vicente de Roux Rengifo, Judge
 Julio A. Barberis, Judge *ad hoc*

Manuel E. Ventura Robles, Secretary
 Pablo Saavedra Alessandri, Deputy Secretary

B. *Decision on the Merits*

Nov. 28, 2002: The Court issues its Judgment on Merits, Reparations and

60. *Cantos v. Argentina*, Preliminary Objections, ¶ 27.

61. *Id.* ¶ 29.

62. *Id.* ¶ 30.

63. *Id.* ¶ 32.

64. *Id.* ¶ 36.

65. *Id.* ¶ 39.

66. *See generally* *Cantos v. Argentina*, Merits, Reparations and Costs.

Costs.⁶⁷

The Court found unanimously that the State violated: Article 8(1) (Right to a Hearing within Reasonable Time by a Competent and Independent Tribunal) and Article 25 (Right to Judicial Protection), in relation to Article 1(1) of the Convention, to the detriment of Mr. Cantos,⁶⁸ because:

The State ordered Mr. Cantos to pay exorbitant court fees because he filed an administrative suit in Argentina's Supreme Court.⁶⁹ According to Article 8(1) (Right to a Hearing within Reasonable Time by a Competent and Independent Tribunal), states are required to remove all impediments to legal remedies available to individuals for the protection of their legal rights.⁷⁰ These remedies include ready access to hearings by competent and impartial tribunals within a reasonable time.⁷¹ Domestic measures imposing significant costs and obstructions on access to judicial systems conflict with this right.⁷² Finally, under Article 25 (Right to Judicial Protection), legal remedies and resources must provide effective solutions against violations of individual rights.⁷³

The Court found that the State did not comply with its obligations under these Articles because it obstructed Mr. Cantos's access to the courts by levying fees ultimately amounting to 140,000,000.00 Argentine pesos (8,930,930.02 US dollars).⁷⁴ The State sets court fees at 3% of the relief sought by the claimant, which is a practice, the State argued, that discourages claimants from filing reckless lawsuits.⁷⁵ Mr. Cantos's claim totaled 2,780,015,303.44 Argentine pesos (177,358,214.963 US Dollars), which caused Mr. Cantos's filing fees to calculate to 83,400,459.10 Argentine pesos (5,320,768.22 US Dollars).⁷⁶ When Mr. Cantos did not pay the fees imposed on him, a fine was levied against him for an additional 41,700,229.50 Argentine pesos (2,660,384.11 US Dollars).⁷⁷

The Court found that the right of access to courts might be limited by a State so long as the limitations are reasonable.⁷⁸ Although 3% of the

67. *Id.* ¶ 70.

68. *Id.*

69. *Id.*

70. *Id.* ¶ 49.

71. *Id.* ¶ 50.

72. Cantos v Argentina, Merits, Reparations and Costs, ¶ 50.

73. *Id.* ¶ 52.

74. *Id.* ¶ 70.

75. *Id.*

76. *Id.* ¶ 53.

77. *Id.*

78. Cantos v. Argentina, Merits, Reparations and Costs, ¶ 54.

*claimed amount may sound inconsequential, the Court determined the ultimate monetary amount of the fees imposed on Mr. Cantos was unreasonable.*⁷⁹ *The Court established that individuals should be free to pursue legal relief without fear that they will be compelled to pay excessive fees for access to the courts.*⁸⁰ *The Court determined that Argentina's fee calculating system imposed a disproportionate burden on claimants and obstructed the Supreme Court's effective administration of justice.*⁸¹ *As a result, the Court determined the State violated Article 8(1) (Right to a Hearing within Reasonable Time by a Competent and Independent Tribunal) and Article 25 (Right to Judicial Protection) of the Convention.*⁸²

The Court did not rule on:

Articles 5 (Right to Humane Treatment), 11 (Right to Privacy), 17 (Rights of the Family), and 21 (Right to Property), in relation to Article 1(1) of the American Convention.⁸³

C. Dissenting and Concurring Opinions

1. Concurring Opinion of Judge Julio A. Barberis

In a separate opinion, Judge Julio A. Barberis concurred with the Court's majority opinion, elaborating further on what it means for a State to violate Articles 8(1) (Right to a Hearing within Reasonable Time by a Competent and Independent Tribunal) and 25 (Right to Judicial Protection) of the Convention, in relation to Article 1(1).⁸⁴ Judge Barberis felt the meaning of the expression "in relation to Article" was not clearly defined in the Judgment.⁸⁵

Judge Barberis analyzed the language of Article 1(1) (Obligation to Respect Rights), which requires States to respect the rights of individuals and admonishes discrimination on the basis of race, color, sex, language, opinions, economic status, and any other social label.⁸⁶ However, starting in 1988, the Court interpreted it as imposing two obligations on States:

79. *Id.* ¶ 54.

80. *Id.* ¶ 55.

81. *Id.* ¶ 56.

82. *Id.* ¶ 77.

83. *See generally* Cantos v. Argentina, Merits, Reparations and Costs.

84. Cantos v. Argentina, Merits, Reparations, and Costs, Concurring Opinion of Judge Julio A. Barberis, Inter-Am.Ct.H.R. (ser. C) No. 97, ¶ 9 (Nov. 28, 2002).

85. *Id.* ¶ 1.

86. *Id.* ¶ 2.

(1) States were required to respect the rights guaranteed by the Convention and (2) States were to ensure the free exercise of the guaranteed rights of the Convention for all individuals within their jurisdiction.⁸⁷ In essence, post-1988, Article 1(1) constitutes a generic obligation to comply with all the provisions in the Convention.⁸⁸ Through it, the Convention declares itself binding.⁸⁹

Judge Barberis stated that by declaring that a State had violated certain articles in relation to Article 1(1) of the Convention, the Court simply meant the State had violated the particular articles.⁹⁰ Therefore, as applied in the present case, since the Court concluded that the State violated Articles 8(1) (Right to a Hearing within Reasonable Time by a Competent and Independent Tribunal) and 25 (Right to Judicial Protection) of the Convention in relation to Article 1(1), this simply meant the Court had found the State violated those articles.⁹¹

IV. REPARATIONS

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

A. Specific Performance (Measures of Satisfaction and Non-Repetition Guarantee)

1. Refrain from Charging Mr. Cantos Court Fees and Fines

The Court ordered the State to stop pursuing Mr. Cantos for payment of the court fees, and the subsequent fines levied against Mr. Cantos.⁹²

2. Set Reasonable Fees for Mr. Cantos's Case

The State is ordered to set a reasonable sum for the fees arising out of Mr. Cantos's case filed in Argentina's Supreme Court.⁹³

87. *Id.* ¶ 4.

88. *Id.* ¶ 6.

89. *Id.* ¶ 7.

90. Cantos v. Argentina, Merits, Reparations, and Costs, Concurring Opinion of Judge Julio A. Barberis, Inter-Am.Ct.H.R. (ser. C) No. 97, ¶ 9.

91. *Id.*

92. Cantos v. Argentina, Merits, Reparations, and Costs, No. 97, ¶¶ 70(a), 77(1).

93. *Id.* ¶¶ 70(b), 77(2).

3. Pay Attorney and Expert Fees

The State is ordered to pay the fees and expenses for experts and attorneys utilized by the State and the Province of Santiago del Estero in case C-1099 in the amount of 140,000,000 Argentine pesos (8,930,930.02 US dollars).⁹⁴

4. Lift Property Encumbrances

The State was ordered to remove the encumbrances it placed upon Mr. Cantos's properties and business assets.⁹⁵

5. Submit a Report to the Court

The Court ordered the State to provide a report every six months from the date of the Judgment detailing the measures it had taken to comply with the Judgment.⁹⁶

B. Compensation

The Court awarded the following amounts:

1. Pecuniary Damages

[None]

2. Non-Pecuniary Damages

[None]

3. Costs and Expenses

The State is to pay 15,000 US dollars, or the equivalent in Argentine currency, to Mr. Cantos's representatives for the reimbursement of expenses arising from the proceedings before the Court.⁹⁷

94. *Id.* ¶¶ 70(c), 77(3).

95. *Id.* ¶¶ 70(d), 77(4).

96. *Id.* ¶¶ 76, 77(7).

97. *Id.* ¶ 77(5).

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

\$15,000.00 US dollars, or the equivalent in Argentine currency

C. Deadlines

The Court ordered the State to pay Mr. Cantos's legal fees within six months of notification of the Judgment.⁹⁸ If the State failed to pay the fees within the time period provided, it would be considered delinquent and would incur interest on the amount owed.⁹⁹

V. INTERPRETATION AND REVISION OF JUDGMENT

[None]

VI. COMPLIANCE AND FOLLOW-UP

November 28 2005: In a compliance document, the Court verified the State had complied with the payment of the victim's representatives as ordered by the Judgment.¹⁰⁰ The Court, however, determined the State had yet to comply with the remaining obligations ordered by the Judgment.¹⁰¹ These obligations included the following: a) abstaining from pursuing the fees and fines levied against Mr. Cantos;¹⁰² b) setting the fees for the Supreme Court case C-1099 to a reasonable amount;¹⁰³ c) assuming the costs of all the experts and attorneys arising out of case C-1099;¹⁰⁴ and d) lifting the encumbrances ordered upon on Mr. Canto's properties.¹⁰⁵

The Court declared that the State must continue to be supervised until it fully complies with the pending obligations and ordered the State to adopt appropriate measures to ensure compliance with the remaining Judgment obligations.¹⁰⁶ The Court ordered the State to provide a report

98. Cantos v. Argentina, Merits, Reparations and Costs, ¶ 74.

99. *Id.* ¶ 75.

100. Cantos v. Argentina, Complimiento de Sentencia, Resolucion de la Corte, Inter-Am.Ct.H.R., ¶ 8 (Nov. 28, 2005).

101. *Id.* ¶ 9.

102. *Id.* ¶ 10(a).

103. *Id.* ¶ 10(b).

104. *Id.* ¶ 10(c).

105. *Id.* ¶ 10(d).

106. Cantos v. Argentina, Complimiento de Sentencia, ¶ 8 (Nov. 28, 2005).

by March 6, 2006 that describes the measures it will adopt to ensure compliance.¹⁰⁷ The Court instructed the Commission and Mr. Cantos's representatives to submit a report of their observations regarding the State's efforts to comply with the Judgment.¹⁰⁸ Finally, the State must continue monitoring all aspects of the Judgment until complete compliance was achieved.¹⁰⁹

July 12, 2007: The Court published another compliance document in which it states that Argentina presented the Court with reports on March 6, 2006 and May 14, 2007 in lieu of the Court's November 28, 2005 Compliance Order.¹¹⁰ The State's reports detailed the measures it had adopted to comply with the Judgment.¹¹¹

The reports stated that on January 25, 2006, the National Executive Branch of the State enacted Decree No. 99/06 as a measure to comply with the Judgment.¹¹² The Decree compelled the Federal Administration of Public Revenue and Argentina's National Congress to comply with the pending obligations of the Judgment.¹¹³

The Court acknowledged the State's efforts to comply with the operative paragraphs of the Judgment, but found it had yet to definitively comply with the obligations.¹¹⁴ Given the information provided by the parties, the Court determined the State did not fulfill the following obligations: a) refrain from pursuing the fees and fines levied against Mr. Cantos;¹¹⁵ b) set reasonable fees for Mr. Cantos' Supreme Court case;¹¹⁶ c) pay for Mr. Cantos' attorney and expert fees;¹¹⁷ and d) lift the encumbrances inhibiting Mr. Cantos' properties.¹¹⁸

The Court declared that it would maintain compliance monitoring proceedings to ensure the remaining obligations were met.¹¹⁹ The Court ordered the State to provide a report, no later than September 28, 2007, describing the measures it adopted to comply with the Judgment.¹²⁰ The

107. *Id.* "Y Resuelve" ¶ 2.

108. *Id.* "Y Resuelve" ¶ 3.

109. *Id.* "Y Resuelve" ¶ 4.

110. *Cantos v. Argentina, Monitoring Compliance with Judgment, Order of the Court, Inter-Am.Ct.H.R.*, ¶ 3 (July 12, 2007).

111. *Id.*

112. *Id.* ¶ 3(a).

113. *Id.*

114. *Id.* ¶ 9.

115. *Id.* ¶ 11(a).

116. *Cantos v. Argentina, Monitoring Compliance with Judgment*, ¶ 11(b) (July 12, 2007).

117. *Id.* ¶ 11(c).

118. *Id.* ¶ 11(d).

119. *Id.* "Declares" ¶ 1.

120. *Id.* "And Decides" ¶ 2.

Court called upon the Commission and Mr. Cantos's representatives to submit their observations of the State's efforts to comply with the Judgment along with the State's report.¹²¹ Finally, the State was to continue monitoring all compliance measures until the remaining pending provisions of the Judgment were satisfied.¹²²

July 6, 2009: The Court published another compliance document in which it detailed how the State presented the Court with reports on March 14, 2008 and February 2, 2009 with information regarding the measures it had adopted to comply with the Judgment.¹²³

The Court determined the State had complied with the obligation to refrain from charging Mr. Cantos for fees and fines of his administrative claim because the State closed actions seeking the collection of the filing fees and fines levied against Mr. Cantos.¹²⁴

With regards to the State's obligation to set a reasonable sum for the fees accumulated in Mr. Cantos's case C-1099 filed in the Supreme Court, the Court determined the State had not complied with its obligation.¹²⁵ The State reiterated that it determined its fees were reasonable but nevertheless agreed to take a partial payment of 20% of the total fees owed by Mr. Cantos.¹²⁶ Mr. Cantos's representatives and the Commission found these measures were too delayed since the State had taken more than five years after the Judgment to arrive at any sort of resolution regarding the matter.¹²⁷ The Court agreed with Mr. Cantos's representatives and the Commission and determined that the State's meeting to discuss the reasonableness of the fees for case C-1099 did not comply with the Judgment's obligation.¹²⁸

The Court found that the State had partially complied with regards to the State's obligation to pay for the costs of experts and attorneys arising from case C-1099.¹²⁹ Although the State provided information that it had paid some of the experts and attorneys involved in the case, the Court found that it lacked adequate information regarding compliance with this

121. *Id.* "And Decides" ¶ 3.

122. Cantos v. Argentina, Monitoring Compliance with Judgment, "And Decides" ¶ 4 (July 12, 2007).

123. Cantos v. Argentina, Monitoring Compliance with Judgment, Order of the Court, Inter-Am.Ct.H.R. ¶ 4 (July 6, 2009).

124. *Id.* ¶ 7.

125. *Id.* ¶ 14.

126. *Id.* ¶ 11(d).

127. *Id.* ¶¶ 12, 13.

128. *Id.* ¶ 14.

129. Cantos v. Argentina, Monitoring Compliance with Judgment, ¶ 18 (July 6, 2009).

provision, and thus found the State had partially complied with the Judgment's measures.¹³⁰

With regards to the State's obligation to lift the encumbrances and attachments ordered against Mr. Cantos's assets and commercial activities pursuant to the fourth operative paragraph of the Judgment, the Court determined the State had met its obligation.¹³¹ The encumbrances were lifted as per a judicial decision on March 17, 2006.¹³²

The Court declared that it would maintain compliance monitoring proceedings to ensure the remaining Judgment obligations were met and called upon the State to undertake measures to promptly comply with the pending obligations of the Judgment.¹³³ The Court ordered the State to provide a report by October 15, 2009 describing the measures it adopted to comply with the Judgment.¹³⁴ Again, the Court called upon the Commission and Mr. Cantos's representatives to submit their observations regarding the State's efforts to obey the Judgment along with the State's report.¹³⁵ Finally, the State was to continue monitoring all compliance measures until compliance with the Judgment's remaining provisions was achieved.¹³⁶

August 26, 2010: The State failed to comply with the Court's July 6, 2009 Compliance Order because it did not report the measures it adopted to satisfy the remaining Judgment provisions.¹³⁷ The Court considered it necessary that the State inform the Court about all its efforts to meet the obligations set forth in the Judgment.¹³⁸

The Court declared that it would keep compliance monitoring proceedings open to ensure the remaining Judgment obligations were met.¹³⁹ Again, the Court ordered the State to provide a report describing the measures it adopted to comply by no later than November 13, 2010.¹⁴⁰

130. *Id.*

131. *Id.* ¶ 22.

132. *Id.*

133. *Id.* "And Decides" ¶ 4.

134. *Id.* "And Decides" ¶ 2.

135. *Cantos v. Argentina*, Monitoring Compliance with Judgment, "And Decides" ¶ 3 (July 6, 2009).

136. *Id.* "And Decides" ¶ 4.

137. *Cantos v. Argentina*, Monitoring Compliance with Judgment, Order of the Court, Inter-Am.Ct.H.R., ¶ 8 (Aug. 26, 2010).

138. *Id.* ¶ 9.

139. *Id.* "Declares That" ¶ 2.

140. *Id.* "And Decides" ¶ 2.

VII. LIST OF DOCUMENTS

A. Inter-American Court

1. Preliminary Objections

[Cantos v. Argentina, Preliminary Objections, Inter-Am.Ct.H.R. \(ser. C\) No. 85, ¶ \(Sep. 07, 2001\).](#)

2. sDecisions on Merits, Reparations and Costs

[Cantos v. Argentina, Merits, Reparations, and Costs, Judgment, Inter-Am.Ct.H.R. \(ser. C\) No. 97, ¶ \(Nov. 28, 2002\).](#)

[Cantos v. Argentina, Merits, Reparations, and Costs, Concurring Opinion of Judge Julio A. Barberis, Inter-Am.Ct.H.R. \(ser. C\) No. 97, ¶ \(Nov. 28, 2002\).](#)

3. Provisional Measures

[None]

4. Compliance Monitoring

[Cantos v. Argentina, Complimiento de Sentencia, Resolucion de la Corte, Inter-Am.Ct.H.R., ¶ \(Nov. 28, 2005\).](#)

[Cantos v. Argentina, Monitoring Compliance with Judgment, Order of the Court, Inter-Am.Ct.H.R., ¶ \(July 12, 2007\).](#)

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[Cantos v. Argentina, Monitoring Compliance with Judgment, Order of the Court, Inter-Am.Ct.H.R., ¶ \(Aug. 26, 2010\).](#)

5. Review and Interpretation of Judgment

[None]

B. Inter-American Commission

1. Petition to the Commission

[None]

2. Report on Admissibility

[None]

3. Provisional Measures

[None]

4. Report on Merits

[None]

5. Application to the Court

[None]

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