

# Torres Millacura et al. v. Argentina

## ABSTRACT<sup>1</sup>

*This case is about police brutality in Argentina. Under the infamous Law 815, police were allowed to detain and investigate unidentified individuals to determine if they are making a legal means of living. During the turbulent years following the Argentinian economic crisis of 2001, Argentina's police frequently abused, tortured and extra-judicially executed young persons relying on Law 815. In this case, the victim, a young construction worker, in the Patagonian province of Chubut, was arrested, extra-judicially executed and disappeared by police. The Court found violation of several articles of the American Convention, the Inter-American Convention on Forced Disappearances, and the Inter-American Convention Against Torture.*

## I. FACTS

### A. Chronology of Events

**November 24, 1976:** Mr. Iván Eladio Torres Millacura is born in Castro, Chile.<sup>2</sup> He lives with his mother, Ms. María Leontina Millacura Llaipén, sister, Ms. Fabiola Valeria Torres, and niece, Eveyln Paola Caba, in Comodoro Rivadavia, in the Patagonian province of Chubut, in southern Argentina, and provides for them through his construction job.<sup>3</sup>

**September 26, 2003:** A telephone call reports the presence of two individuals with a “suspicious attitude.” The Comodoro Rivadavia’s First Precinct police is dispatched, and Mr. Torres Millacura is arrested shortly thereafter.<sup>4</sup>

Mr. Torres Millacura is detained by the Comodoro Rivadavia police, but is subsequently released from the station without the incident

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

2. Torres Millacura et al. v. Argentina, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 114/09, ¶ 58 (Aug. 26, 2011).

3. *Id.*

4. *Id.* ¶ 63.

being registered in the police records.<sup>5</sup> There is evidence that during this detention, Mr. Torres Millacura is taken to a remote area outside the city known as “Km. 8” where the officers initiate a “mock execution” to intimidate Mr. Torres Millacura.<sup>6</sup>

**October 2, 2003:** Mr. Torres Millacura is with two friends in Bitto Plaza, in Comodoro Rivadavia, near midnight, when his friends enter an ice cream shop.<sup>7</sup> His friends notice a patrol car pass close to Mr. Torres Millacura, but when they come out of the shop several minutes later, they cannot locate him.<sup>8</sup>

**October 3, 2003:** Witnesses verify that they saw police officers beat Mr. Torres Millacura into unconsciousness and then drag him away.<sup>9</sup> This is the last time anyone sees him.<sup>10</sup>

**October 4, 2003:** Ms. Maria Leontina Millacura Llaipén goes to the precinct to inquire as to the whereabouts of her son<sup>11</sup> and to file her first complaint over his disappearance.<sup>12</sup> Ms. Millacura Llaipén later returns to the precinct two more times, but is turned away.<sup>13</sup> The First Precinct of Comodoro Rivadavia receives Ms. Millacura Llaipén’s complaint on October 14, 2003.<sup>14</sup>

**October 15, 2003:** A police officer from the First Precinct is assigned to investigate Mr. Torres Millacura’s whereabouts.<sup>15</sup>

**October 27, 2003:** The First Precinct brings the preliminary actions before Examining Judge No. 2 and the investigations are later re-conducted under case number 1138/03.<sup>16</sup> Although Examining Judge No. 2 initiates actions in order to locate Mr. Torres Millacura, the Judge makes minimal efforts to determine those responsible for Mr. Torres Millacura’s arrests

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5. *Id.*

6. Torres Millacura et al. v. Argentina, Petition to the Court, Inter-Am. Comm’n H.R., Case No. 12.533, ¶¶ 76–77 (April 18, 2010).

7. Torres Millacura et al. v. Argentina, Merits, Reparations, and Costs, ¶ 65.

8. *Id.*

9. *Id.* ¶ 66.

10. *Id.*

11. *Id.* ¶ 110.

12. *Id.* ¶ 117.

13. Torres Millacura et al. v. Argentina, Merits, Reparations, and Costs, ¶ 117.

14. *Id.* ¶ 117, n.120.

15. *Id.* ¶ 118.

16. *Id.* ¶ 120.

and disappearances.<sup>17</sup> In this first proceeding, Mr. Torres Millacura's mother, Ms. Millacura Llaipén, requests that evidence-gathering procedures be done by personnel outside of the province from where her son disappeared; however, Examining Judge No. 2 denies her request.<sup>18</sup> Additionally, Examining Judge No. 2 delays the gathering of testimony from police and witnesses.<sup>19</sup>

**November 14, 2003:** Ms. Millacura Llaipén and the Association for the Rights of the Children (*Asociación Grupo-Pro Derechos de los Niños*) file a petition before the Commission.<sup>20</sup>

**August 18, 2004:** The Public Prosecutor's Office of the Province of Chubut orders a handwriting test to determine the credibility of the daily logbook of the First Precinct and concludes that Daily Logbook number 10/03 relating to Mr. Torres Millacura had been manipulated.<sup>21</sup>

Investigations into Mr. Torres Millacura's arrests and disappearance are shown to have been inadequate since 2004, when a report by the Human Rights Secretariat of the Nation said, "the pretrial examination of the case [is] plagued with errors and material sloppiness."<sup>22</sup> The report mentions that Examining Judge No. 2 protected the local police's actions.<sup>23</sup> The report further recommends another policing body continue the investigation and asks that Examining Judge No. 2 be investigated.<sup>24</sup>

**May 26, 2004:** The governor of the Province of Chubut and the State prosecutor bring a request for a "jury trial" before the Council of Magistrates in that province against Examining Judge No. 2.<sup>25</sup>

Examining Judge No. 2 is, in a formal complaint, accused of poor performance in both his duties of entrusting the investigation with the personnel of the First Precinct, and for allegedly causing a delay in rectifying the facts with regard to Mr. Torres Millacura's case.<sup>26</sup>

**January 18, 2005:** The Commission orders precautionary measures to

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17. *Id.* ¶ 121.

18. *Id.*

19. Torres Millacura et al. v. Argentina, Merits, Reparations, and Costs, ¶ 122.

20. *Id.* ¶ 1.

21. *Id.* ¶ 123.

22. *Id.* ¶ 124.

23. *Id.*

24. *Id.*

25. Torres Millacura et al. v. Argentina, Merits, Reparations, and Costs, ¶ 125.

26. *Id.*

protect witnesses.<sup>27</sup>

**October 13, 2005:** The Commission issues the Report on Admissibility, finding the petition admissible.<sup>28</sup>

**July 6, 2006:** The Inter-American Court orders provisional measures to protect witnesses and others associated with the case.<sup>29</sup>

**March 13, 2007:** The case is removed to a federal court in the city of Comodoro Rivadavia by order of the Supreme Court of Justice of the Nation, which finds that “federal courts have jurisdiction over the investigation into what happened to Mr. Torres Millacura.”<sup>30</sup>

**October 15, 2007:** The Federal Judge decides that there is not enough evidence to justify classifying Mr. Torres Millacura’s absence as a forced disappearance.<sup>31</sup>

Likewise, the Federal Judge orders two agents to be tried “for the crime of illegal deprivation of liberty” and “for the crime of intrusion into the home in relation to one of the detentions [of] Mr. Torres Millacura,” which are later all dismissed.<sup>32</sup>

**October 23, 2007:** The Federal Prosecutor appeals the judgment and argues against the discharge of all accused officials.<sup>33</sup>

**February 28, 2008:** The Federal Appeals Chamber of Comodoro Rivadavia overturns the Federal Judge’s prior dismissal, finding the case has merit and ordering continued investigations.<sup>34</sup>

**October 28, 2009:** The Commission find the State responsible for the alleged violations in the Report on Merits.<sup>35</sup>

**January 20, 2011:** The Federal Judge orders the fifteen officers of the Chubut Police “to be tried without preventive detention” as liable for the

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27. Torres Millacura et al. v. Argentina, Petition to the Court, ¶ 52.

28. Torres Millacura et al. v. Argentina, Merits, Reparations, and Costs, ¶ 1.

29. Torres Millacura et al. v. Argentina, Petition to the Court, ¶ 60.

30. Torres Millacura et al. v. Argentina, Merits, Reparations, and Costs, ¶ 127.

31. *Id.* ¶ 128.

32. *Id.*

33. *Id.* ¶ 129.

34. *Id.* ¶ 130; Torres Millacura et al. v. Argentina, Petition to the Court, ¶ 94 (April 18, 2010).

35. Torres Millacura et al. v. Argentina, Merits, Reparations, and Costs, ¶ 3.

crime of enforced disappearance of persons against Mr. Torres Millacura.<sup>36</sup>

**May 26, 2011:** The Comodoro Rivadavia Federal Appeals Chamber annuls the January 20, 2011 proceedings; however, the investigation remains open because those accused have not been acquitted.<sup>37</sup>

### B. Other Relevant Facts

The Argentinian economy has severely declined by the end of 2001, resulting in social unrest and culminating in riots.<sup>38</sup> The resignation of President Fernando de la Rúa's, and that of his successors, leads the country into economic uncertainty.<sup>39</sup> The devaluation of the peso further destroys the economy, and puts Argentina in a position to default on its foreign debt.<sup>40</sup> During this time, Argentina deals with protests and police are condemned for the killings of many civilians.<sup>41</sup>

The Inter-American Court of Human Rights concludes that during this time in Argentina, police frequently abuse and intimidate the youth.<sup>42</sup> At the time of Mr. Torres Millacura's arrest, police inconsistently apply Argentina's Law 815 and detain and investigate the lives of unidentified individuals.<sup>43</sup> Police are able to detain them in order to inquire into their lives and criminal records to ensure that they are making a legal means of living.<sup>44</sup> However, human rights group have documented that the police use excessive lethal force or intentional executions through Law 815.<sup>45</sup> Studies have identified that practices like these support Argentina's notorious reputation for police brutality compared to other Latin American countries.<sup>46</sup>

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36. *Id.* ¶ 131.

37. *Id.* ¶ 132.

38. *Crisis Grips Argentina* (Dec. 20, 2001, 18:50 GMT), <http://news.bbc.co.uk/2/hi/americas/1721201.stm>.

39. *The Events That Triggered Argentina's Crisis*, BBC NEWS, at 1 (Dec. 21, 2001, 09:34 GMT), <http://news.bbc.co.uk/2/hi/business/1721103.stm>.

40. *Id.*

41. Mia de Graaf, *Police Brutality Should be Front-Page News in Argentina*, THE GUARDIAN: Columnists (Aug. 29, 2011 17:00 BST), <https://www.theguardian.com/commentis-free/libertycentral/2011/aug/29/police-brutality-argentina-press>.

42. Torres Millacura et al. v. Argentina, Merits, Reparations, and Costs, ¶ 60.

43. *Id.* ¶ 75.

44. *Id.* ¶ 59.

45. See *Human Rights Watch*, Events of 2001, World Report, (2002), <https://www.hrw.org/legacy/wr2k2/americas1.html>.

46. Graaf, *supra* note 41.

## II. PROCEDURAL HISTORY

A. *Before the Commission*

**November 14, 2003:** Ms. Millacura Llaipén and the Association for the Rights of the Children file the petition before the Commission.<sup>47</sup>

**January 18, 2005:** The Commission requests that the State implement precautionary measures to protect Ms. María Leontina Millacura Llaipén, Mr. Gerardo Colin, Mr. Patricio Oliva, Ms. Tamara Bolivar, Mr. Walter Mansilla, Ms. Silvia de los Santos, Ms. Verónica Heredia and Mr. Iván Eladio Torres Millacura's next of kin after witnesses receive death threats, harassment, one is murdered in police custody, and another is raped at the hands of a police officer.<sup>48</sup>

**October 13, 2005:** The Report on Admissibility is issued, and the Commission finds the case admissible.<sup>49</sup>

**July 6, 2006:** The Inter-American Court grants provisional measures requested by the Commission for Ms. María Leontina Millacura Llaipén, her children, her son-in-law, Mr. Gerardo Colín, Mr. Patricio Oliva, Ms. Tamara Bolívar, Mr. Walter Mansila, Ms. Silvia de los Santos, Ms. Verónica Heredia, Mr. Miguel Ángel Sánchez, and Ms. Viviana and Ms. Sonia Hayes to protect their personal safety after many have been threatened.<sup>50</sup>

**October 28, 2009:** The Commission approves the Report on Merits finding the State responsible for the following violations of the American Convention:<sup>51</sup> Articles 7 (Right to Personal Liberty), 5 (Right to Humane Treatment), 4 (Right to Life), 3 (Right to Juridical Personality), 8 (Right to a Fair Trial), and 25 (Right to Judicial Protection).<sup>52</sup> It also finds the State did not comply with obligations established in Articles 1 (Obligation to Adopt Measures) and 9 (Trial by Competent, Ordinary Non-Military Court) of the Inter-American Convention on Forced Disappearance of Persons, and Articles 1 (Obligation to Prevent and Punish Torture), 6 (Obligation to Take Effective Measures and Punish Torture and Cruel,

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47. Torres Millacura et al. v. Argentina, Merits, Reparations, and Costs, ¶ 1.

48. Torres Millacura et al. v. Argentina, Petition to the Court, ¶¶ 48–52.

49. Torres Millacura et al. v. Argentina, Merits, Reparations, and Costs, ¶ 1.

50. *Id.* ¶ 27. Torres Millacura et al. v. Argentina, Petition to the Court, ¶ 60.

51. Torres Millacura et al. v. Argentina, Merits, Reparations, and Costs, ¶ 3.

52. *Id.* ¶ 3.

Inhuman, and Degrading Treatment), and 8 (Obligation to Investigate and Prosecute) of the Inter-American Convention to Prevent and Punish Torture, to the detriment of Mr. Torres Millacura.<sup>53</sup>

The Commission also finds that the State violated Articles 5 (Right to Humane Treatment), 8 (Right to a Fair Trial), and 25 (Right to Judicial Protection) in relation to Articles 1(1) (Obligation of Non-Discrimination) and 2 (Obligation to Give Domestic Legal Effects to Rights) to the detriment of Mr. Torres Millacura's family.<sup>54</sup>

The Commission affirms the recommendation by a State Human Rights body that another state agency supported by the provincial government conduct the investigation.<sup>55</sup> The Commission also affirms a trial of Examining Judge No. 2, a new and impartial judge to hear the case anew, and lastly that a special subset of the Public Prosecutor thoroughly investigate the case.<sup>56</sup> Finally, the Commission recommends that the State publicly acknowledge responsibility for the harm to Mr. Torres Millacura and his family, return his remains if it is discovered he is no longer alive, and compensate the family for their loss.<sup>57</sup>

**January 28, 2011:** The State files its brief answering the application<sup>58</sup> and admits responsibility;<sup>59</sup> however, it does not perform any of the recommendations given by the Commission.<sup>60</sup> The State solely admits to the violations of rights established by the Commission in its Report on the Merits, but opposes the Commission and representatives' provisional measures, their arguments regarding specific violations, and requests for reparations.<sup>61</sup>

#### *B. Before the Court*

**April 18, 2010:** The Commission submits the case to the Court after the State failed to adopt its recommendations.<sup>62</sup>

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53. *Id.*

54. Torres Millacura et al. v. Argentina, Petition to the Court, ¶ 40.

55. Torres Millacura et al. v. Argentina, Merits, Reparations, and Costs, ¶ 124.

56. *Id.*

57. Torres Millacura et al. v. Argentina, Petition to the Court, ¶ 41.

58. Torres Millacura et al. v. Argentina, Merits, Reparations, and Costs, ¶ 6.

59. *Id.*

60. *Id.* ¶ 1.

61. *Id.* ¶ 6.

62. *Id.* ¶ 1.

1. Violations Alleged by Commission<sup>63</sup>

Article 3 (Right to Juridical Personality)

Article 4 (Right to Life)

Article 5 (Right to Humane Treatment)

Article 7 (Right to Personal Liberty)

Article 8 (Right to a Fair Trial)

Article 25 (Right to Judicial Protection)

*all in relation to:*

Article 1(1) (Obligation of Non-Discrimination)

Article 2(Obligation to Give Domestic Legal Effect to Rights) of the American Convention

Article 1 (Obligation to Adopt Measures)

Article 9 (Trial by Competent, Ordinary Non-Military Court) of the Inter-American Convention on Forced Disappearance of Persons

Article 1 (Obligation to Prevent and Punish Torture)

Article 6 (Obligation to Take Effective Measures and Punish Torture and Cruel, Inhuman, and Degrading Treatment)

Article 8 (Obligation to Investigate and Prosecute) of the Inter-American Convention to Prevent and Punish Torture.

2. Violations Alleged by Representatives of the Victims<sup>64</sup>

Same Violations Alleged by Commission, plus:

Article 2 (Obligation to Give Domestic Legal Effect to Rights)

Article 4(1) (Prohibition of Arbitrary Deprivation of Life)

Article 19 (Rights of the Child)

Article 26 (Duty to Progressively Develop Economic, Social, and Cultural Rights)

*all in relation to:*

Article 1(1) (Obligation to Respect Rights) of the American Convention

Article 2 (Definition of Forced Disappearance)

Article 3 (Obligation to Adopt Legislative Measures)

Article 11 (Right to Officially Recognized Detention Location and to Be Promptly Brought Before Competent Judicial Authority) of the Convention on Forced Disappearance of Persons.

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63. *Id.* ¶ 3.

64. Torres Millacura et al. v. Argentina, Merits, Reparations, and Costs, ¶ 5. Verónica Heredia and José Raúl Heredia served as representatives of Ms. Millacura Llaipén. *Id.*



## III. MERITS

A. *Composition of the Court*<sup>65</sup>

Diego García-Sayán, President  
Manuel E. Ventura Robles, Judge  
Margarette May Macaulay, Judge  
Rhadys Abreu Blondet, Judge  
Alberto Pérez Pérez, Judge  
Eduardo Vio Grossi, Judge

Pablo Saavedra Alessandri, Secretary

B. *Decision on the Merits*

**August 26, 2011:** The Court issues its Judgment on Merits, Reparations, and Costs.<sup>66</sup>

The Court found unanimously that Argentina had violated:

Article 7(1) (Right to Personal Liberty and Security), 7(2) (Prohibition of Deprivation of Liberty Unless for Reasons and Conditions Previously Established by Law), and 7(3) (Prohibition of Arbitrary Arrest or Imprisonment), in relation to Article 1(1) and 2 of the Convention, to the detriment of Mr. Torres Millacura<sup>67</sup> because:

*The arresting officers did not comply with proper procedures in detaining Mr. Torres Millacura.*<sup>68</sup> Article 7 (Right to Personal Liberty) “protects against all illegal or arbitrary interference with physical liberty.”<sup>69</sup> As a result, it considers detainment for purposes of identification a “hold,” which has the effect of depriving the person of physical liberty.<sup>70</sup> All restrictions of one’s personal liberty must comply with the Convention and

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65. The Vice-president of the Court, Judge Leonardo A. Franco, Argentinean, did not participate in this case pursuant to the Article 19(1) of the Rules of Procedure of the Court, which states “a Judge who is a national of the respondent State shall not be able to participate in the hearing and deliberation of the case.” Torres Millacura et al. v. Argentina, Merits, Reparations, and Costs, n.\* Deputy Secretary, Emilia Segares Rodríguez, was not present during the deliberations of this Judgment for reason of *force majeure* (an event that is a result of the elements of nature, as opposed to one caused by human behavior). *Id.* \*\*.

66. Torres Millacura et al. v. Argentina, Merits, Reparations, and Costs.

67. *Id.* “Operative Paragraphs” ¶ 2.

68. *Id.* ¶ 75.

69. *Id.* ¶ 76.

70. *Id.*

domestic legislation.<sup>71</sup>

*Argentina's Law 815 permits the police to restrict the physical liberty of any individual who did not provide identification and whose criminal record needed to be known in order to justify the suspicions that led to the detention.*<sup>72</sup> *Further, Law 815 allows police to inquire into individuals' lives to ensure that their means of living was legal.*<sup>73</sup> *Law 815 provides that "delay or detention of the party shall not last longer than the time necessary for identifying the party and establishing domicile, conduct and means of living, without exceeding to period of 24 hours."*<sup>74</sup> *Law 815 further states that detentions must be officially recorded.*<sup>75</sup>

*The September 26, 2003 detention of Mr. Torres Millacura was not recorded in the police registries as required by Law 815.*<sup>76</sup> *Additionally, the Court found that Law 815 was arbitrary and allowed police to interfere with the physical liberty of individuals in an unpredictable manner.*<sup>77</sup> *Mr. Torres Millacura's detention was carried out unpredictably since it was not based on specific grounds.*<sup>78</sup> *This resulted in the State's violation of Articles 7(1) (Right to Personal Liberty and Security), 7(2) (Prohibition of Deprivation of Liberty Unless for Reasons and Conditions Previously Established by Law), and 7(3) (Prohibition of Arbitrary Arrest or Imprisonment) of the Convention.*<sup>79</sup>

Article 5(1) (Right to Physical, Mental, and Moral Integrity) and 5(2) (Prohibition of Torture, and Cruel, Inhumane or Degrading Treatment), in relation to Article 1(1) of the Convention, to the detriment of Mr. Torres Millacura,<sup>80</sup> because:

*During his detention, police authorities forced Mr. Torres Millacura to undress, subjected him to beatings, threatened his life with firearms, and "forced him to run into the brush to avoid an apparent execution by a*

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71. *Id.*

72. Torres Millacura et al. v. Argentina, Merits, Reparations, and Costs, ¶ 59.

73. *Id.* ¶ 63, n.48.

74. *Id.*

75. *Id.* ¶ 68, n.49.

76. *Id.* ¶ 76.

77. *Id.* ¶ 80.

78. Torres Millacura et al. v. Argentina, Merits, Reparations, and Costs, ¶ 81.

79. *Id.* ¶ 82.

80. *Id.* "Operative Paragraphs" ¶ 3.

firing squad.”<sup>81</sup> *The Court held that these constituted acts of torture because they made Mr. Torres Millacura feel vulnerable and distressed.*<sup>82</sup> *The Court concluded that these acts of the police officers were a violation of Articles 5(1) (Right to Physical, Mental, and Moral Integrity) and 5(2) (Prohibition of Torture, and Cruel, Inhumane or Degrading Treatment) of the Convention.*<sup>83</sup>

Article 3 (Right to Juridical Personality), 4(1) (Prohibition of Arbitrary Deprivation of Life), 5(1) (Right to Physical, Mental, and Moral Integrity), 5(2) (Prohibition of Torture, and Cruel, Inhumane or Degrading Treatment), 7(1) (Right to Personal Liberty and Security), 7(2) (Prohibition of Deprivation of Liberty Unless for Reasons and Conditions Previously Established by Law), and 7(3) (Prohibition of Arbitrary Arrest or Imprisonment), in relation to Article 1(1) and 2 of the Convention, and in relation to Articles 1(a) and 11 of the Inter-American Convention on Forced Disappearance of Persons, to the detriment of Mr. Torres Millacura<sup>84</sup> because:

*The State did not recognize Mr. Torres Millcaura’s right to juridical personality.*<sup>85</sup> *Article 3 (Right to Juridical Personality) requires that everyone have the right to be legally recognized as a person.*<sup>86</sup> *Article 4(1) (Prohibition of Torture, and Cruel, Inhumane or Degrading Treatment) establishes that the law shall protect every individual’s right to have his life be respected from the moment he is conceived, and that it shall not be arbitrarily deprived.*<sup>87</sup>

*Mr. Torres Millacura was found to have been in “a situation of juridical unreliability” and irresolution, preventing him from asserting his rights as a person before the law, especially now, as a disappeared person.*<sup>88</sup> *The Court found this to be an especially serious violation of human rights.*<sup>89</sup> *The Court concluded that this violated the individual’s right to recognition of juridical personality established in Article 3.*<sup>90</sup> *Further,*

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81. *Id.* ¶ 88.

82. *Id.*

83. *Id.* ¶ 89.

84. Torres Millacura et al. v. Argentina, Merits, Reparations, and Costs, “Operative Paragraphs” ¶ 4.

85. *Id.* ¶ 106.

86. *Id.* ¶ 56, n.34.

87. *Id.* ¶ 56, n.35.

88. *Id.* ¶¶ 105-06.

89. *Id.* ¶ 106.

90. Torres Millacura et al. v. Argentina, Merits, Reparations, and Costs, ¶ 106.

*Mr. Torres Millacura's forced disappearance and isolation constituted an egregious threat to his personal liberty, integrity, and life.*<sup>91</sup> This violated his rights under Article 4(1) (Prohibition of Arbitrary Deprivation of Life), 5(1) (Right to Physical, Mental, and Moral Integrity), 5(2) (Prohibition of Torture, and Cruel, Inhumane or Degrading Treatment), 7(1) (Right to Personal Liberty and Security), 7(2) (Prohibition of Deprivation of Liberty Unless for Reasons and Conditions Previously Established by Law), and 7(3) (Prohibition of Arbitrary Arrest or Imprisonment) of the Convention, especially in the context of the Inter-American Convention on Forced Disappearance of Persons.<sup>92</sup>

Article 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal) and 25(1) (Right of Recourse Before a Competent Court), in relation to Article 1(1) of the Convention, as well as Article 1(b) (Duty to Punish Forced Disappearances) under the Inter-American Convention on Forced Disappearances, and Articles 1 (Obligation to Prevent and Punish Torture), 6 (Obligation to Take Effective Measures and Punish Torture), and 8 (Obligation to Investigate and Prosecute) of the Inter-American Convention Against Torture, to the detriment of Ms. Millacura Llaipín, Ms. Fabiola Valeria Torres and Mr. Marcos Alejandro Torres Millacura,<sup>93</sup> because:

*Mr. Torres Millacura and his family were not granted access to a fair and speedy trial.*<sup>94</sup> Article 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal) provides that each individual has the "right to a hearing within reasonable time, by a competent and impartial tribunal."<sup>95</sup> Article 25 (Right to Judicial Protection) provides everyone has the right to effective, timely recourse and to a competent judicial body to protect his or her rights.<sup>96</sup>

*Mr. Torres Millacura's investigation was put on hold and no police agent has been held accountable for any of the events relating to him.*<sup>97</sup> The Court concluded the State did not conduct diligent investigations into Mr. Torres Millacura's detentions, the acts of torture, and disappearance within a reasonable period of time.<sup>98</sup> The Court's considerations included

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91. *Id.* ¶ 103.

92. *Id.* ¶ 107.

93. *Id.* "Operative Paragraphs" ¶ 5.

94. *Id.* ¶ 114.

95. *Id.* ¶ 109, n.105.

96. Torres Millacura et al. v. Argentina, Merits, Reparations, and Costs, ¶ 109, n.106.

97. *Id.* ¶ 138.

98. *Id.* ¶ 139.

that the State did not make sufficient efforts in investigating the facts of the case, seeking evidence that would have led to identifying those involved in the disappearance, caused delays, and manipulated evidence.<sup>99</sup> Therefore, the Court concluded that the State violated the rights established in Articles 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal) and 25(1) (Right of Recourse Before a Competent Court) of the Convention.<sup>100</sup> Additionally, this lack of investigation and the acts of torture involved in his detention violated Mr. Torres Millacura's rights under the Inter-American Convention on Forced Disappearance, and the Inter-American Convention Against Torture.<sup>101</sup>

Article 5(1) (Right to Physical, Mental, and Moral Integrity) and 5(2) (Prohibition of Torture, and Cruel, Inhumane or Degrading Treatment), in relation to Article 1(1) of the Convention, to the detriment Ms. Millacura Llaipén, Ms. Fabiola Valeria Torres and Mr. Marcos Alejandro Torres Millacura,<sup>102</sup> because:

*Mr. Torres Millacura's siblings, Mr. Marcos Alejandro Torres Millacura and Ms. Fabiola Valeria Torres, were deeply pained by their brother's absence as a result of his forced disappearance.*<sup>103</sup> *The Court has previously found that victims' family members may be victims themselves due to the suffering they face as a result of human rights violations against their family members.*<sup>104</sup> *Ms. Fabiola Valeria Torres was living with her mother and Mr. Torres Millacura at the time of his disappearance; they were considered close to Mr. Torres Millacura, and thus, were considered victims as a result of the actions perpetrated against their family member.*<sup>105</sup> *The Court concluded that the State violated the right to humane treatment recognized in Articles 5(1) (Right to Physical, Mental, and Moral Integrity) and 5(2) (Prohibition of Torture, and Cruel, Inhumane or Degrading Treatment) of the Convention.*<sup>106</sup>

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99. *Id.* ¶ 110.

100. *Id.* ¶ 139.

101. *Id.*

102. Torres Millacura et al. v. Argentina, Merits, Reparations, and Costs, "Operative Paragraphs" ¶ 6.

103. *Id.* ¶ 144.

104. *Id.* ¶ 142.

105. *Id.* ¶ 144.

106. *Id.* ¶ 145.

The Court did not rule on:

Article 2 (Obligation to Give Domestic Legal Effect to Rights), in relation to Articles 3, 4, 5, 7, 8(1), 25, and 1(1), along with Article 3 of the Inter-American Convention on Forced Disappearance of Persons of the Convention,<sup>107</sup> because:

*Argentina signed the Inter-American Convention on Forced Disappearance of Persons on October 31, 1995,<sup>108</sup> and thus has obligated itself to modify its laws in order to comply with the law.<sup>109</sup> Article 2 (Obligation to Give Domestic Legal Effect to Rights) requires State Parties adopt any legislation necessary to comply with the Convention.<sup>110</sup> Because the Commission did not present arguments relating Article 2 (Obligation to Give Domestic Legal Effect to Rights) or how it affected the investigation into Mr. Torres Millacura's disappearance, the Court refused to rule on the Commission's request.<sup>111</sup>*

Article 1(1) (Obligation of Non-Discrimination), in relation to Article 5, 7, 8, and 25 of the Convention, to the detriment of Mr. Torres Millacura,<sup>112</sup> because:

*The Court already found the State failed to comply with Article 1(1) (Obligation of Non-Discrimination) of the Convention based on its analysis of the other violated Articles, and thus, did not find it necessary to separately rule on this argument.”<sup>113</sup>*

### C. Dissenting and Concurring Opinions

#### 1. Concurring Opinion of Judge Eduardo Vio Grossi

Judge Eduardo Vio Grossi concurred with the Judgment.<sup>114</sup> In his concurrence, he noted that his reasoning in this decision is not contra-

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107. *Id.* “Operative Paragraphs” ¶ 7.

108. Torres Millacura et al. v. Argentina, Merits, Reparations, and Costs, ¶ 149.

109. *Id.*

110. *Id.* ¶ 148, n.159.

111. *Id.* ¶¶ 150–51.

112. *Id.* “Operative Paragraphs” ¶ 8.

113. *Id.* ¶ 155.

114. Torres Millacura et al. v. Argentina, Merits, Reparations, and Costs, Concurring Opinion of Judge Eduardo Vio Grossi, Inter-Am. Ct. H.R. (ser. C) No. 114/09, ¶ 1 (Aug. 26, 2011).

dicted by his reasoning in other, unrelated Court opinions where he dissented from the rest of the Court.<sup>115</sup>

#### IV. REPARATIONS

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

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

###### 1. Judgment as a Form of Reparation

The Court established that the Judgment itself constitutes *per se* reparation.<sup>116</sup>

###### 2. Initiate, Direct, and Complete the Necessary Investigations and Proceedings

The Court established that the State should commence investigations by competent authorities to bring forth and punish those responsible for the disappearance of Mr. Torres Millacura.<sup>117</sup>

###### 3. Continue an Effective Search

The State must proceed in its investigations of Mr. Torres Millacura's whereabouts in a reasonable and efficient manner.<sup>118</sup>

###### 4. Train Police Officials on Human Rights Principles

In order to prevent the reoccurrence of human rights violations by police in the Chubut Province again, the State was ordered to “implement a permanent and obligatory program or course on human rights directed

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115. *Id.* Judge Eduardo Vio Grossi, in his concurrence, established his decision is not contradicted by his previous disagreements in the following court cases: *Provisional Measures regarding the Republic of Colombia, Case of Gutiérrez Soler V. Colombia*, of June 30, 2011; *Provisional Measures regarding the United Mexican States, Case of Rosendo Cantú et al. V. Mexico*, of July 1, 2011, and *Provisional Measures regarding the Republic of Honduras, Case of Kawas Fernández V. Honduras. Id.*

116. Torres Millacura et al. v. Argentina, Merits, Reparations, and Costs, “And Orders” ¶ 1.

117. *Id.* ¶ 164.

118. *Id.* ¶ 166.

toward all levels of the Chubut provincial police hierarchy.”<sup>119</sup>

### *B. Compensation*

The Court awarded the following amounts:

#### 1. Pecuniary Damages

The State must pay \$40,000 for the deprivation of Mr. Torres Millacura's income.<sup>120</sup> The State must also compensate Ms. Millacura Llaipén \$10,000 for expenses made while searching for her son, as she testified that she “lived in the First Precinct for more than one year in protest.”<sup>121</sup> The Court ordered the State to pay Ms. Fabiola Valeria Torres for the \$5,000 she spent in trying to locate Mr. Torres Millacura, which included the costs of “bringing claims before the Precinct and sleeping there together with her mother, in addition to filing a writ of habeas corpus on behalf of her brother.”<sup>122</sup> Moreover, the State must pay Mr. Marcos Alejandro Torres Millacura \$2,000 because he could not work when he assisted in searching for his brother.<sup>123</sup>

#### 2. Non-Pecuniary Damages

The State must pay \$50,000 to Mr. Torres Millacura, given the circumstances surrounding this case.<sup>124</sup> The Court also ordered the State to compensate Ms. Millacura Llaipén \$35,000, Ms. Fabiola Valeria Torres \$10,000, and Mr. Marcos Alejandro Torres \$5,000, for their suffering as a result of their attempts to find Mr. Torres Millacura.<sup>125</sup>

#### 3. Costs and Expenses

The Court ordered the State pay \$15,000 to Ms. Millacura Llaipén for costs and expenses related to the legal proceedings.<sup>126</sup>

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119. *Id.* ¶ 173.

120. *Id.* ¶ 184.

121. *Id.* ¶ 185.

122. Torres Millacura et al. v. Argentina, Merits, Reparations, and Costs, ¶ 186.

123. *Id.*

124. *Id.* ¶ 192.

125. *Id.*

126. *Id.* ¶ 200.



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

\$172,000

*C. Deadlines*

The State must compensate Ms. Millcura Llaipén, Ms. Fabiola Valeria Torres and Mr. Marcos Alejandro Torres Millacura for both pecuniary and non-pecuniary damages within one year of notice of the Court's Judgment.<sup>127</sup>

Additionally, the State must compensate for pecuniary and non-pecuniary damages with regard to Mr. Torres Millacura within one year's notice of the Judgment<sup>128</sup>

## V. INTERPRETATION AND REVISION OF JUDGMENT

[None]

## VI. COMPLIANCE AND FOLLOW-UP

**November 26, 2013:** The Court decided to end the provisional measures dictated by its February 13, 2013 order.<sup>129</sup> However, the Court made clear that this action does not alleviate the State from its responsibilities in ensuring that all individuals involved in this matter are afforded with that, which will necessarily ensure their protection.<sup>130</sup>

## VII. LIST OF DOCUMENTS

*A. Inter-American Court*

## 1. Preliminary Objections

[None]

## 2. Decisions on Merits, Reparations and Costs

[Torres Millacura et al. v. Argentina, Merits, Reparations, and Costs.](#)

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127. *Id.* ¶ 206.

128. Torres Millacura et al. v. Argentina, Merits, Reparations, and Costs, ¶ 207.

129. Torres Millacura et al. v. Argentina, Provisional Measures, Order of the President of the Court, Inter-Am. Ct. H.R. (ser. E) "Having Seen" ¶ 3 (November 26, 2013).

130. *Id.* ¶ 24.

[Judgment, Inter-Am. Ct. H.R. \(ser. C\) No. 114/09 \(Aug. 26, 2011\).](#)

[Torres Millacura et al. v. Argentina, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. \(ser. C\) No. 114/09, Concurring Opinion of Judge Eduardo Vio Grossi, Inter-Am. Ct. H.R., Case No. 12.533 \(August, 26, 2011\).](#)

### 3. Provisional Measures

[Torres Millacura et al. v. Argentina, Provisional Measures, Order of the President of the Court, Inter-Am. Ct. H.R. \(ser. E\) \(November 26, 2013\).](#)

[Torres Millacura et al. v. Argentina, Provisional Measures, Order of the Court, Inter-Am. Ct. H.R. \(ser. E\) \(June 23, 2015\) \(Available only in Spanish\).](#)

### 4. Compliance Monitoring

[Torres Millacura et al. v. Argentina, Provisional Measures With Regard to the Argentine Republic, Matter of Millacura Llaipén et al, Order of the President of the Court, Inter-Am. Ct. H.R. \(ser. E\) \(Feb. 13, 2013\).](#)

### 5. Review and Interpretation of Judgment

[None]

#### *B. Inter-American Commission*

##### 1. Petition to the Commission

[Not Available]

##### 2. Report on Admissibility

[Torres Millacura et al. v. Argentina, Admissibility Report, Report No. 69/05, Inter-Am. Comm'n H.R., Case No. 12.533 \(October 13, 2005\).](#)

### 3. Provisional Measures

[None]

##### 4. Report on Merits

[Not Available]

5. Application to the Court

[Torres Millacura et al. v. Argentina, Petition to the Court, Inter-Am. Comm'n H.R., Case No. 12.5333 \(April 18, 2010\).](#)

VIII. BIBLIOGRAPHY

[Crisis Grips Argentina, BBC NEWS \(Dec. 20, 2001, 18:50 GMT\), http://news.bbc.co.uk/2/hi/americas/1721201.stm.](http://news.bbc.co.uk/2/hi/americas/1721201.stm)

[Human Rights Watch, WORLD REPORT: Events of 2001, \(2002\), https://www.hrw.org/legacy/wr2k2/americas1.html.](https://www.hrw.org/legacy/wr2k2/americas1.html)

[Mia de Graaf, Police Brutality Should be Front-Page News in Argentina, THE GUARDIAN: Columnists \(Aug. 29, 2011 17:00 BST\), https://www.theguardian.com/commentisfree/libertycentral/2011/aug/29/police-brutality-argentina-press.](https://www.theguardian.com/commentisfree/libertycentral/2011/aug/29/police-brutality-argentina-press)

[The Events That Triggered Argentina's Crisis, BBC NEWS \(Dec. 21, 2001, 09:34 GMT\), http://news.bbc.co.uk/2/hi/business/1721103.stm.](http://news.bbc.co.uk/2/hi/business/1721103.stm)