

ARGENTINA

I) RELEVANT LEGAL EVENTS

MEMBER OF THE ORGANIZATION OF AMERICAN STATES SINCE: JANUARY 19, 1956

RATIFIED AMERICAN CONVENTION: AUGUST 14, 1984

Reservation and interpretive declarations made at the time of ratification and recognition of competence
(from <http://www.cidh.org/basicos/english/Basic4.Amer.Conv.Ratif.htm>)

The instrument of ratification received at the General Secretariat of the OAS on September 5, 1984 with a reservation and interpretive declarations. The notification procedure of the reservation was taken in conformity with the Vienna Convention on the Law of Treaties signed on May 23, 1969.

The texts of the above-mentioned reservation and of the interpretive declarations are the following:

I. Reservation

Article 21 is subject to the following reservation: "The Argentine Government establishes that questions relating to the Government's economic policy shall not be subject to review by an international tribunal. Neither shall it consider reviewable anything the national courts may determine to be matters of 'public utility' and 'social interest', nor anything they may understand to be 'fair compensation'."

II. Interpretative Declarations

Article 5, paragraph 3, shall be interpreted to mean that a punishment shall not be applied to any person other than the criminal, that is, that there shall be no vicarious criminal punishment.

Article 7, paragraph 7, shall be interpreted to mean that the prohibition against "detention for debt" does not involve prohibiting the state from basing punishment on default of certain debts, when the punishment is not imposed for default itself but rather for a prior independent, illegal, punishable act.

Article 10 shall be interpreted to mean that the "miscarriage of justice" has been established by a national court.

Recognition of Competence

In the instrument of ratification dated August 14, 1984, and deposited with the General Secretariat of the OAS on September 5, 1984, the Government of Argentina recognizes the competence of the Inter-American Commission on Human Rights and on the jurisdiction of the Inter-American Court of Human Rights. This recognition is for an indeterminate period and on condition of reciprocity on all cases related to the interpretation or application of the Convention cited, with the partial reservation and bearing in mind the interpretative statements contained in the instrument of ratification.

The instrument of ratification further notes that the obligations undertaken by virtue of the Convention shall only be effective as regards acts that have occurred after the ratification of the above-mentioned instrument."

ACCEPTED JURISDICTION OF THE IA COMMISSION FOR “INTERSTATE COMMUNICATIONS” (ART. 45):
SEPTEMBER 5, 1984

ACCEPTED JURISDICTION OF IACHR (ART. 62): SEPTEMBER 5, 1984

II) DECISIONS, JUDGMENTS AND ORDERS

A) CASES

I) Case of Garrido and Baigorria v. Argentina

On April 28, 1990, Mr. Adolfo Argentino Garrido Calderón and Mr. Raúl Baigorria Balmaceda were detained by members of the Mendoza police force. They were never seen again. The State acknowledged full international responsibility and instead of immediately proceeding to the reparations stage, the Court granted the State and victims a six month period to reach an agreement on reparations and compensation. Because the parties could not come to an agreement during those six months, the Court issued a judgment for reparations and costs. As of the Court's most recent Monitoring Compliance with Judgment of November 27, 2007, the State has not complied with its obligation to investigate the facts which led to the disappearance of the victims and punish those responsible.

Key Words: *Forced Disappearances*

Merits

Judgment of February 2, 1996. Series C No. 26

Monitoring Compliance with Judgment

- 1) Order of the Inter-American Court of Human Rights of November 17, 2004
- 2) Order of the Inter-American Court of Human Rights of November 27, 2007

II) Case of Cantos v. Argentina

José María Cantos was the owner of multiple businesses in the province of Santiago del Estero in Argentina. In March 1972, the Revenue Department of the Province conducted a series of searches in the administrative offices of Mr. María Canto's companies, owing to an alleged violation of the Stamp Act. During these procedures, all the accounting documentation, company books and records, receipts and supporting documents of payments by those companies to third parties and suppliers, as well as numerous shares and securities were seized without being inventoried. The seizure of company documents caused the company severe financial losses. Following multiple lawsuits filed against the Revenue Department, the Revenue Department acknowledged a debt towards some of Mr. María Cantos' businesses, and established a compensatory amount, but the compensation was never paid. The Court found that the State violated the American Convention on Human Rights

Key Words: *Access to Legal Procedures; Criminal Justice; Judicial Protection (Right to); Amnesty, Pardon, and Commutation of Sentence (Right to Seek).*

Merits, Reparations and Costs

Judgment of November 28, 2002. Series C No. 97

Monitoring Compliance with Judgment

- 1) Order of the Inter-American Court of Human Rights of November 28, 2005
- 2) Order of the Inter-American Court of Human Rights of July 12, 2007
- 3) Order of the Inter-American Court of Human Rights of July 6, 2009
- 4) Order of the Inter-American Court of Human Rights of August 26, 2010

III) Case of Bulacio v. Argentina

José María Cantos was the owner of multiple businesses in the province of Santiago del Estero in Argentina. In March 1972, the Revenue Department of the Province conducted a series of searches in the administrative offices of Mr. María Canto's companies, owing to an alleged violation of the Stamp Act. During these procedures, all the accounting documentation, company books and records, receipts and supporting documents of payments by those companies to third parties and suppliers, as well as numerous shares and securities were seized without being inventoried. The seizure of company documents caused the company severe financial losses. Following multiple lawsuits filed against the Revenue Department, the Revenue Department acknowledged a debt towards some of Mr. María Cantos' businesses, and established a compensatory amount, but the compensation was never paid. The Court found that the State violated the American Convention on Human Rights.

Key Words: Access to Legal Procedures; Arbitrary Arrest and Detention; Due Process Rights; Life (Right to); Minors/Children; Prison and Detention Conditions; Freedom from Torture and other Cruel, Inhumane and Degrading Treatment.

Merits, Reparations and Costs

Judgment of September 18, 2003. Series C No. 100

Monitoring Compliance with Judgment

- 1) Order of the Inter-American Court of Human Rights of November 17, 2004
- 2) Order of the Inter-American Court of Human Rights of November 26, 2008

IV) Case of Bueno Alves v. Argentina

On April 5, 1988, Mr. Juan Francisco Bueno Alves, a Uruguayan national residing in Argentina, and his attorney, Mr. Carlos Alberto Pérez-Galindo, were detained under order of the criminal court. The next day Mr. Bueno Alves was beaten by the police to force him to confess against himself and his attorney. The Court found that the State violated the American Convention on Human Rights.

Key Words: Arbitrary Arrest and Detention; Freedom from Torture and other Cruel, Inhumane, and Degrading Treatment; Judicial Protection (Right to), Due Process Rights.

Merits, Reparations and Costs

Judgment of May 11, 2007. Series C No. 164

Monitoring Compliance with Judgment

- 1) Order of the Inter-American Court of Human Rights of July 5, 2011

V) Case of Kimel v. Argentina

A well-known journalist, writer, and investigative historian published a book describing the findings of his research into the murder of five clergymen, criticizing how the authorities handled the case. On October 28, 1991, the State brought criminal proceedings against him for libel. Upon the conclusion of the criminal proceedings, he was convicted of libel and sentenced to one-year imprisonment and payment of \$ 20,000.00 as damages. The Court found that the State violated the American Convention on Human Rights.

Key Words: Access to Legal Procedures; Criminal Justice; Arbitrary Arrest and Detention

Merits, Reparations and Costs

Judgment of May 2, 2008. Series C No. 177

Monitoring Compliance with Judgment

- 1) Order of the Inter-American Court of Human Rights of May 18, 2010
- 2) Order of the Inter-American Court of Human Rights of November 15, 2010
- 3) Order of the Inter-American Court of Human Rights of February 5, 2013

VI) Case of Bayarri v. Argentina

On November 18, 1991, Mr. Juan Carlos Bayarri was detained as a suspected kidnapper in Buenos Aires. Mr. Bayarri was then detained for almost thirteen years based on a confession obtained during torture. Despite the fact that the Federal National Criminal and Correctional Appeals Chamber of Argentina recognized that Mr. Bayarri had been subjected to torture, Argentina failed to punish those responsible for his unlawful detention and did not provide any reparation for the violations he suffered. The Court found that the State violated the American Convention on Human Rights and the Inter-American Convention to Prevent and Punish Torture.

Key Words: Freedom of Expression; Freedom of Information; Economic, Social, and Cultural Rights; Criminal Justice; Access to Legal Procedures; Arbitrary Arrest and Detention

Preliminary Objection, Merits, Reparations and Costs

Judgment of October 30 2008. Series C No. 187

Monitoring Compliance with Judgment

- 1) Order of the Inter-American Court of Human Rights of November 22, 2010
- 2) Order of the Inter-American Court of Human Rights of June 20, 2012

VII) Case of Torres Millacura v. Argentina

On October 2, 2003, Mr. Iván Eladio Torres Millacura was detained and tortured by State agents and subsequently disappeared. Mr. Torres Millacura's family was denied judicial protections and guarantees relating to the failure to adequately investigate and punish the officials allegedly responsible for his torture and disappearance. The Court found that the State violated the American

Convention on Human Rights, the American Convention to Prevent and Punish Torture and the American Convention on Forced Disappearance of Persons.

Key Words: *Abduction; Extrajudicial Killing; Access to Legal Procedures; Arbitrary Arrest and Detention; Civil and Political Rights; Forced Disappearances; Economic, Social, and Cultural Rights; Freedom from Torture and other Cruel, Inhumane and Degrading Treatment*

Merits, Reparations and Costs

Judgment of August 26, 2011. Series C No. 229

Monitoring Compliance with Judgment

[None]

VIII) Case of Grande v. Argentina

On July 29, 1980 Jorge Fernando Grande, Head of Loans for the Murillo Credit Union, was arrested for the alleged fraudulent handling of loans granted. Prosecution of Mr. Grande was marred by irregularities and undue delay, and was based on evidence that was later invalidated. However, the Court found that the State did not violate the American Convention.

Key Words: *Access to Legal Procedures; Criminal Justice; Arbitrary Arrest and Detention*

Preliminary Objections and Merits

Judgment of August 31, 2011. Series C No. 231

Monitoring Compliance with Judgment

[None]

IX) Case of Fontevecchia and D'Amico v. Argentina

This case involves the State's violation of freedom of thought and expression of Mr. Jorge Fontevecchia and Mr. Héctor D'Amico, director and editor, respectively, of the Magazine Noticias, after they published an article on November 1995 that referred to the existence of an illegitimate child belonging to Mr. Carlos Saúl Menem, the President of Argentina at that time. A civil sentence was imposed on the journalists for a violation of Mr. Menem's private life. The Court found that the State violated the American Convention on Human Rights.

Key Words: *Civil and Political Rights; Criminal Justice; Freedom of Expression*

Merits, Reparations and Costs

Judgment of November 29, 2011. Series C No. 238

Monitoring Compliance with Judgment

1) Order of the Inter-American Court of Human Rights of September 1, 2015

X) Case of Forneron and Daughter v. Argentina

Mr. Fornerón's infant daughter was handed over by her mother for pre-adoptive care to a married couple without the consent of her biological father. The father had no access to the child. Despite numerous requests by Mr. Fornerón over a period of ten years, the State courts failed to order and implement a visiting regime. The Court found that the State violated the American Convention on Human Rights.

Key Words: *Family; Minors/Children; Reproductive Rights; Women's Rights; Due Process Rights*

Merits, Reparations and Costs

Judgment of April 27, 2012. Series C No. 242

Monitoring Compliance with Judgment

[None]

XI) Case of Furlan and Family v. Argentina

On December 21, 1988, Sebastián Claus Furlan, at the age of 14, entered an abandoned Argentinian army grounds to play. The army grounds had been previously used as military training circuit and had no perimeter wall, wire fencing, or any other type of barrier to block or prevent access to the territory, which gave easy access and became a common child's play area. Once on the premises, Sebastián attempted to hang from a crossbeam and a beam, fell on him, hitting him on the head and causing serious injury that led to mental disability and irreversible disorders of the cognitive and motor area. On December 18, 1990, Danilo Furlan, Sebastián's father, filed suit in a civil court for damages stemming from Sebastián's disability caused by the accident. The State failed to timely respond to judicial authorities and caused an excessive delay in the resolution of the action, on which Sebastián's medical treatment depended. The Court found that the State violated the American Convention on Human Rights.

Key Words: *Judicial Protection (Right to); Housing, Land, and Property Rights; Freedom of Expression; Civil and Political Rights; Economic, Social, and Cultural Rights*

Preliminary Objections, Merits, Reparations and Costs

Judgment of August 31, 2012. Series C No. 246

Monitoring Compliance with Judgment

- 1) Order of the Inter-American Court of Human Rights of November 13, 2015

XII) Case of Mohamed v. Argentina

This case concerns violations committed after Mr. Carlos Alberto Mohamed's criminal conviction for manslaughter from a traffic accident in which a person died. Specifically, the State disregarded a number of guarantees, including the principles of legality and non-retroactivity, the right to defense, the right to appeal a conviction, and the right to effective recourse to provide redress for those violations.

Key Words: *Access to Legal Procedures; Criminal Justice; Judicial Protection (Right to)*

Preliminary Objections, Merits, Reparations and Costs

Judgment of November 23, 2012. Series C No. 255

Monitoring Compliance with Judgment

[None]

XIII) Case of Mendoza et al. v. Argentina

This case refers to the State's imposition of life sentences on Mr. César Alberto Mendoza, Mr. Lucas Matías Mendoza, Mr. Ricardo David Videla Fernández, and Mr. Saúl Cristian Roldán Cajal, and reclusion for life on Mr. Claudio David Núñez for events that occurred when they were minors. The Court found that the State violated the American Convention on Human Rights and the American Convention to Prevent on Punish Torture. This case is important because it addresses the State's juvenile justice system, which allowed minors to be treated as adult offenders and subjected them to life imprisonment sentences, improper prison conditions, and torture.

Key Words: *Minors/Children; Criminal Justice; Prison and Detention Conditions; Freedom from Torture and other Cruel, Inhumane and Degrading Treatment*

Preliminary Objections, Merits and Reparations

Judgment of May 14, 2013. Series C No. 260

Monitoring Compliance with Judgment

[None]

XIV) Case of Mémoli v. Argentina

The case concerns the alleged violation of the right to freedom of expression of Mr. Carlos Mémoli and Mr. Pablo Carlos Mémoli. The two were criminally convicted for publicly denouncing the irregular sale of burial niches in the local cemetery by the executive officers of a cultural association in their town. Accordingly, the Court found that the State violated the American Convention on Human Rights.

Key Words: *Freedom of Expression; Civil and Political Rights; Criminal Justice; Housing, Land, and Property Rights*

Preliminary Objections, Merits, Reparations and Costs

Judgment of August 22, 2013. Series C No. 265

Monitoring Compliance with Judgment

[None]

XV) Case of Gutiérrez and Family v. Argentina

This case concerns the murder of Assistant Commissioner Jorge Omar Gutiérrez on August 29, 1994 while he was investigating a case of corruption involving important businessmen and high-ranking government officials. An investigation into the murder was opened in the ordinary criminal jurisdiction. However, the investigation was fraught with fundamental irregularities. Ultimately, the State failed to adopt the necessary measures to clarify the facts of the case and the corresponding responsibilities of the State. Seventeen years after the execution of Assistant Commissioner Gutiérrez, there was still no certainty about the circumstances of his death, and no one had been sanctioned for the incident. The Court found that the State violated the American Convention on Human Rights.

Key Words: *Life (Right to)*

Merits, Reparations and Costs

Judgment of November 25, 2013. Series C No. 271

Monitoring Compliance with Judgment

[None]

XVI) Case of Argüelles et al. v. Argentina

This case involves twenty members of the armed forces who were accused of various crimes in connection with the misappropriation of State military funds. The victims were all arrested and detained beginning in 1980; two were held in detention for one year, while eighteen remained in detention for seven years. In 1989, the State military tribunal found all twenty guilty of the crimes they had been accused of. The victims sought recourse before the domestic courts of the State, which resulted in one acquittal and a reduction of the others' sentences. The Court found that the State violated the American Convention on Human Rights because of the State's prolonged detention of the victims, and the failure to adjudicate their cases within a reasonable time.

Key Words: *Access to Legal Procedures; Arbitrary Arrest and Detention; Judicial Protection (Right to); Suspension and Restrictions on Rights*

Preliminary Objections, Merits, Reparations and Costs

Judgment of November 20, 2014. Series C No. 288

Monitoring Compliance with Judgment

[None]

B) Provisional Measures (Art 63.2)

- 1) Matter of Reggiardo Tolosa regarding Argentina [November 19, 1993]
- 2) Matter of Reggiardo Tolosa regarding Argentina [January 19, 1994]
- 3) Matter of the Mendoza Prisons regarding Argentina [November 22, 2004] (Available only in Spanish)
- 4) Matter of the Mendoza Prisons regarding Argentina [June 18, 2005] (Available only in Spanish)

- 5) Matter of the Mendoza Prisons regarding Argentina [March 30, 2006]
- 6) Matter of the Millacura Llaipén et al. regarding Argentina [June 21, 2006] (Available only in Spanish)
- 7) Matter of the Millacura Llaipén et al. regarding Argentina [July 6, 2006]
- 8) Matter of the Mendoza Prisons regarding Argentina [August 22, 2007]
- 9) Matter of the Mendoza Prisons regarding Argentina [November 27, 2007]
- 10) Matter of the Millacura Llaipén et al. regarding Argentina [February 6, 2008]
- 11) Matter of the Mendoza Prisons regarding Argentina [October 17, 2008] (Available only in Spanish)
- 12) Matter of the Mendoza Prisons regarding Argentina [September 10, 2010] (Available only in Spanish)
- 13) Matter of the Mendoza Prisons regarding Argentina [November 26, 2010]
- 14) Matter of the Mendoza Prisons regarding Argentina [July 1, 2011]
- 15) Matter of the Millacura Llaipén et al. regarding Argentina [November 25, 2011]
- 16) Matter of the Millacura Llaipén et al. regarding Argentina [November 21, 2012]
- 17) Matter of the Millacura Llaipén et al. regarding Argentina [February 13, 2013]
- 18) Matter of Flores et al. in relation to the case of Torres Millacura et al v. Argentina [November 26, 2013]
- 19) Case of Torres Millacura et al. regarding Argentina [June 23, 2015] (Available only in Spanish)