

**ORDER OF THE PRESIDENT OF THE
INTER-AMERICAN COURT OF HUMAN RIGHTS**

OF MAY 31, 2011

VICTIMS' LEGAL ASSISTANCE FUND

CASE OF FORNERÓN AND DAUGHTER *v.* ARGENTINA

HAVING SEEN:

1. The brief of November 29, 2011, and its attachment, in which the Inter-American Commission on Human Rights (hereinafter "the Inter-American Commission" or "the Commission") submitted to the Inter-American Court of Human Rights (hereinafter "the Inter-American Court" or "the Court") a case against the Argentine Republic (hereinafter "Argentina" or "the State").

2. The brief of April 1, 2011, in which the representatives of the presumed victims¹ (hereinafter "the representatives") presented their brief with pleadings, motions and evidence concerning this case (hereinafter also the "pleadings and motions brief"), and requested access to the Victims' Legal Assistance Fund of the Inter-American Court (hereinafter "the Court's Assistance Fund" or "the Fund") "for Leonardo Aníbal Javier Fornerón, Gustavo Baridón, Margarita Nicoliche and [...] Susana Terenzi, in order to cover the expenses of travel, and transfers, accommodation and meals in San José, Costa Rica, owing to lack of sufficient resources to pay the costs of the litigation before the Court."

3. The notes of April 18 and May 3, 2011, in which, among other matters, the Secretariat advised the parties that the President of the Court (hereinafter "the President") would be informed of this request, together with the probative information forwarded.

CONSIDERING THAT:

1. Argentina has been a State Party to the American Convention on Human Rights (hereinafter "the American Convention" or "the Convention") since September 5, 1984, and accepted the compulsory jurisdiction of the Court that same day.

¹ Mr. Fornerón appointed Susana Ana María Terenzi and Margarita Rosa Nicoliche, from the *Centro de Estudios Sociales y Políticos para el Desarrollo* [Center for Social and Political Development Studies] as his representatives..

2. In 2008, the General Assembly of the Organization of American States (hereinafter the "OAS") created the Legal Assistance Fund of the Inter-American Human Rights System (hereinafter "the Inter-American System's Assistance Fund) and commissioned the OAS Permanent Council to draft the rules of procedure for the Fund.² This Assistance Fund was created "to facilitate access to the inter-American human rights system by persons who currently lack the resources needed to bring their cases before the system."³ According to the Rules of Procedure adopted by the Permanent Council in November 2009,⁴ the Inter-American System's Assistance Fund has two separate accounts: one corresponding to the Inter-American Commission and the other to the Inter-American Court. As regards the financing of the Inter-American System's Assistance Fund, currently this depends on "voluntary capital contributions from the Members States of the OAS, the Permanent Observer States, and other States and donors that may wish to collaborate with the Fund."⁵ In addition, according to article 4 of the Rules of Procedure approved by the Permanent Council, it corresponded to the Court to establish the formal requirements for eligibility to request assistance, and also the approval procedure.

3. Consequently, on February 4, 2010, the Court adopted the Rules of Procedure of the Court's Assistance Fund, which came into force on June 1, 2010, with the purpose of "regulat[ing] the operation of, and access to, the Victims' Legal Assistance Fund [...] for the litigation of cases before it."⁶ As established in these Rules of Procedure, in order to use this Fund, a presumed victim must fulfill three requirements: (1) request this in the brief with pleadings, motions and evidence; (2) prove, by means of a sworn affidavit and other appropriate evidence that satisfies the Court, that they lack sufficient financial resources to cover the costs of litigation before the Inter-American Court, and (3) indicate precisely the aspects of their participation in the proceedings that require the use of the resources of the Court's Assistance Fund.

4. As stipulated in article 3 of the Rules of Procedure of the Court's Assistance Fund, on receiving a request to use these resources, the Secretariat of the Court must conduct a preliminary review of the request for assistance and requires the requesting party to present any additional background information required for the request to be submitted to the consideration of the President of the Court, who will assess the petition and take the pertinent decision within three months of receiving all the required information.

5. The President observes that, regarding the request for resources from the Court's Assistance Fund, the representatives forwarded, together with the attachments to the pleadings and motions brief received on April 1, 2011, a receipt for Mr. Fornerón's salary corresponding to January 2011, a sworn statement by Mr. Fornerón regarding the income he receives from his salary, and institutional documentation on the *Centro de Estudios Sociales y Políticos para el Desarrollo* (hereinafter also "CESPPEDH") corresponding to: (i) minutes of the organization's assembly held on March 26, 2010; (ii) a treasurer's report of

² AG/RES. 2426 (XXXVIII-O/08) Resolution adopted by the thirty-eighth OAS General Assembly, at the fourth plenary session, held on June 3, 2008, "*Establishment of the Legal Assistance Fund of the Inter-American Human Rights System*," operative paragraph 2(b).

³ AG/RES. 2426 (XXXVIII-O/08), *supra* note 2, *operative paragraph 2(a)*, and Resolution CP/RES. 963 (1728/09), *supra* note 2, article 1(1).

⁴ CP/RES. 963 (1728/09), Resolution adopted on November 11, 2009, by the OAS Permanent Council, "*Rules of Procedure for the Operation of the Legal Assistance Fund of the Inter-American Human Rights System*."

⁵ Rules of procedure of the Inter-American System's Assistance Fund, *supra* note 4, article 2(1).

⁶ Rules of procedure of the Inter-American Court of Human Rights on the Operation of the Victims' Legal Assistance Fund approved by the Court on February 4, 2010, Article 1.

December 31, 2009; (iii) a document on the organization's assets at December 31, 2009, and (iv) other financial statements.

6. The representatives based their request on "the lack of sufficient resources to cover the costs of the litigation before Court" (*supra* having seen paragraph 2). In this regard, they attached a sworn statement by Mr. Fornerón, in which he indicated his monthly income, which also appears on the salary voucher for January 2011, provided by the representatives. In addition, the institutional documents with the financial statements and statement of assets of CESPEDH indicated the amount corresponding to the losses incurred by the organization in 2009.

7. First, the President has verified that the request to use the Court's Assistance Fund was presented on the appropriate occasion with the pleadings and motions brief (*supra* having seen paragraph 2). However, he notes that the representatives made the request on behalf of the presumed victim and of themselves to cover the costs of the litigation. In this regard, the President emphasizes that it has already been indicated that it is the presumed victims "who should benefit from the [Assistance] Fund."⁷

8. To this end, the President considers sufficient the sworn statement provided by Mr. Fornerón and the salary voucher (*supra* fifth considering paragraph) as evidence of his lack of financial resources to pay certain costs of the litigation of this case before the Inter-American Court. In addition, he takes note of the institutional documents provided by the representatives.

9. The request to benefit from the Court's Assistance Fund was presented to cover the costs of travel, transfers, accommodation and meals in San José of the presumed victim, Mr. Fornerón, and of Gustavo Fabián Baridón, both proposed by the representatives to provide testimonial evidence in their pleadings and motions brief, as well as to ensure the presence of both representatives, Margarita Nicoliche and Susana Terenzi, in the eventual public hearing held in this case.

10. The President recalls that the Court's Assistance Fund is made up of voluntary contributions from cooperating sources (*supra* second considering paragraph), and that these limited resources are insufficient to cover all the expenses relating to the appearance and eventual presentation of evidence before the Court by the presumed victims and their representatives. Consequently, in each case, the President must assess the request for assistance in relation to the available funds, taking into account the needs for assistance that could arise in other cases before the Court, in order to ensure the proper administration and fair distribution of the Fund's limited resources.

11. The President takes note that, at the current stage of the proceedings, it has not been determined which of the testimonies offered by the representatives will be received by the Court, or in what form they will be received.

12. Based on the foregoing considerations, the President finds the request of the presumed victims, through their representatives, to use the Legal Assistance Fund of the Court admissible. In view of the resources currently available in the Fund, the presumed victims will be awarded the necessary financial assistance for the presentation, charged to

⁷ *Case of Contreras et al. v. El Salvador*. Request presented by the presumed victims. Resolution of the President of the Inter-American Court of Human Rights of March 4, 2011, ninth considering paragraph.

the Fund, of a maximum of two testimonies either by affidavit or at the public hearing, and for the appearance of one of the representatives at the public hearing convened in this case. In addition, the President finds it appropriate to postpone the determination of the specific purpose and object of the financial assistance that will be provided to the presumed victims until such time as the President, or the Court, rules on the admissibility and relevance of the testimonial and expert evidence offered, and the opening of the oral proceedings, in accordance with Article 50(1) of the Court's own Rules of Procedure, in order to be certain about which testimonies will be received by the Court, and also the way in which they will be presented (*supra* tenth considering paragraph).

THEREFORE:

THE PRESIDENT OF THE INTER-AMERICAN COURT OF HUMAN RIGHTS,

in exercise of his authority in relation to the Victims' Legal Assistance Fund of the Court and in accordance with Article 31 of the Court's Rules of Procedure and article 3 of the Rules of Procedure of the Legal Assistance Fund of the Court,

DECIDES:

1. To declare admissible the request submitted by the presumed victims, through their representatives, to use the Victims' Legal Assistance Fund of the Inter-American Court of Human Rights, so that the necessary financial assistance will be granted for the presentation of a maximum of two testimonies, and the appearance of one representative at the public hearing, and that the specific purpose and object of this assistance will be defined when deciding on the presentation of testimonial and expert evidence, and the opening of the oral proceedings in accordance with Article 50 of the Court's Rules of Procedure, as established in the twelfth considering paragraph of this order.

2. To require the Secretariat of the Court to notify this order to the representatives of the presumed victims, the Argentine Republic, and the Inter-American Commission on Human Rights.

Diego García-Sayán
President

Pablo Saavedra Alessandri
Secretary

So ordered,

Diego García-Sayán
President

Pablo Saavedra Alessandri
Secretary