

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

**APRIL 14, 2011**

**VICTIMS' LEGAL ASSISTANCE FUND**

**CASE OF TORRES *ET AL.* v. ARGENTINA**

**HAVING SEEN:**

1. The brief of April 18, 2010 and its annexes, 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 complaint against the Republic of Argentina (hereinafter "Argentina" or "the State") in this case.

2. The brief of September 19, 2010 and its annexes, in which the representatives of the alleged victims<sup>1</sup> (hereinafter "the representatives") submitted their pleadings, motions and evidence (hereinafter the "brief of pleadings and motions") relating to this case, and requested access to the Victims' Legal Assistance Fund of the Inter-American Court (hereinafter "the Assistance Fund of the Court" or "Fund") to "cover the costs of litigation" of the case before the Court, and specifically to gather certain evidence during the proceedings and for the "technical defense." In this regard, they indicated that a "socio-environmental report and budgets are attached."

3. The note of the Secretariat of the Court (hereinafter "the Secretariat") of November 22, 2010, in which, following the instructions of the President of the Court (hereinafter "the President"), the representatives were asked to submit additional information and to clarify certain aspects concerning their request. Specifically, pursuant to Articles 2 and 3 of the Court's Rules for the Operation of the Victims' Legal Assistance Fund (hereinafter the "Rules of the Assistance Fund of the Court") the representatives were asked to: (i) present the evidence as required by aforementioned Article 2 of the Rules, in particular an affidavit sworn before a notary public regarding the alleged lack of sufficient financial resources to

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<sup>1</sup> Initially, the alleged victims had appointed Silvia de los Santos and Verónica Heredia as their representatives through AMICIS-Clínica Jurídica y Social Patagónica. However, on February 18, 2011 the Court was informed that the alleged victims had revoked "the power granted to AMICIS [...]" and had appointed Verónica Heredia and Jose Raúl Heredia as their representatives.

cover the costs of presenting evidence before the Court, and (ii) specify certain aspects related to gathering and presenting the testimony of Mr. Miguel Ángel Sánchez.

4. The brief of December 23, 2010, in which the representatives submitted the additional information requested by the President of the Court (*supra* Having Seen paragraph 3).

5. The note of January 21, 2011, in which the Secretariat informed the representatives that the request, together with the additional information submitted, would be brought to the attention of the President of the Court.

#### **CONSIDERING THAT:**

1. Argentina ratified the American Convention on Human Rights (hereinafter “the American Convention” or “the Convention”) on September 5, 1984, and recognized the contentious jurisdiction of the Court on that same date, according to Article 62 of the Convention.

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 Assistance Fund of the Inter-American System”) and entrusted its regulation to the Permanent Council of the OAS<sup>2</sup>, which adopted the respective Rules of Procedure in November, 2009<sup>3</sup>. Said 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.”<sup>4</sup> As established in the aforementioned Rules of Procedure approved by the Permanent Council, the Assistance Fund of the Inter-American System maintains two separate accounts: one for the Inter-American Commission and the other for the Court. As to the financing of the Assistance Fund of the Inter-American System, this is currently comprised of “voluntary capital contributions from Member States of the OAS, the Permanent Observer States, and other States and donors that may wish to collaborate with the Fund.”<sup>5</sup> Likewise, pursuant to Article 4 of the Rules of Procedure approved by the Permanent Council, the Court shall determine the eligibility requirements for requesting assistance, and the procedure for approving such assistance.

3. Accordingly, on February 4, 2010 the Court adopted the Rules for the Operation of the Victims’ Legal Assistance Fund, which entered into force on June 1, 2010, and whose purpose is to “regulate the operation of, and access, to the [...] Fund, for the litigation of

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<sup>2</sup> AG/RES. 2426 (XXXVIII-O/08) Resolution adopted by the General Assembly of the OAS during the XXXVIII Ordinary Period of Sessions of the OAS, 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.

<sup>3</sup> CP/RES. 963 (1728/09), Resolution adopted by the Permanent Council of the OAS, on November 11, 2009, “*Rules of Procedure for the Operation of the Legal Assistance Fund of the Inter-American Human Rights System*.”

<sup>4</sup> AG/RES. 2426 (XXXVIII-O/08), *supra* note 2, operative paragraph 2.a, and Resolution CP/RES. 963 (1728/09), *supra* note 3, Article 1.1.

<sup>5</sup> Rules of Procedure for the Operation of the Legal Assistance Fund of the Inter-American System, *supra* note 3, Article 2.1.

cases before it.”<sup>6</sup> As established therein, alleged victims wishing to access the Fund must follow three steps: 1) request assistance in the written brief containing pleadings, motions and evidence; 2) indicate, by means of a sworn affidavit and other probative evidence that will satisfy the Court, that they lack the financial resources necessary to cover the cost of litigation before the Inter-American Court, and 3) state precisely the aspects of their participation in the proceedings that require the use of resources of the Victims’ Legal Assistance Fund.

4. As stipulated in Article 3 of the Rules of the Court’s Assistance Fund, in response to a request to have recourse to the Fund’s resources, the Secretariat of the Court will conduct a preliminary review of the request and will require the requesting party to present the background information necessary so that the request may be submitted to the consideration of the Presidency. The President of the Court will then evaluate the request and make a decision within three months from the date on which the required background information is received.

5. The representatives requested “access” to the Assistance Fund to cover: a) the “witness testimony of Mrs. María Leontina Millacura Llaipén. For this purpose, her presence must be guaranteed at the public hearing to be held;” b) the “witness testimony of Miguel Ángel [Sánchez]. It will be necessary to receive his testimony in the city of Río Grande, in Tierra del Fuego Province”; c) the “expert witness report on forced disappearance in Argentina. For this purpose, the presence of the expert witness Nora Cortiñas must be guaranteed at the public hearing to be held;” d) the “technical defense,” to guarantee “the presence of the representatives at the public hearing to be held,” and e) “in addition [,] an expert handwriting assessment should be carried out in the city of La Plata, Argentina, if this cannot be carried out by experts attached to the Supreme Court of Costa Rica.”

6. As an annex to their brief of pleadings and motions (*supra* Having Seen paragraph 2), the representatives submitted a document entitled “Socio-environmental Report,” referring to the living conditions of María Leontina Millacura Llaipén and her lack of financial resources to cover the costs of litigation before the Court. The representatives also submitted a document entitled “Budgets” which, with reference to the request for access to the Assistance Fund, mentions the possible costs of obtaining the witness statement of Mr. Miguel Ángel Sánchez. However, this document does not specify the possible costs of obtaining the witness statement of Mrs. María Leontina Millacura Llaipén, or of the expert reports on “handwriting” and on “forced disappearances in Argentina,” or of the presence of the representatives in the public hearing to be held in this case.

7. In response to the request by the Secretariat, following the instructions of the President of the Court (*supra* Having Seen paragraph 3), the representatives submitted a sworn statement on behalf of “AMICIS CLÍNICA JURÍDICA Y SOCIAL PATAGÓNICA” stating that “it has no funds collected, in general or in particular, for the year 2011, and therefore at present it does not have a budget item to cover the costs of litigation before the Inter-American Court [...] in the case [...] of Torres [et al. V. Argentina].” Likewise, the representatives submitted the sworn affidavit of María Leontina Millacura Llaipén, mother of Iván Eladio Torres, stating that “she has no job or any other source of income that would enable her to meet the costs of the trial for the forced disappearance of her son, before the Inter-American Court of Human Rights” (*supra* Having Seen paragraph 4). They also stated that “the money requested would also be used [...] to transport the representatives to the

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<sup>6</sup> Rules for the Operation of the Victims’ Legal Assistance Fund of the Inter-American Court of Human Rights, approved by the Court on February 4, 2010, Article 1.

city of Río Grande and to cover expenses related to obtaining the affidavit of Miguel Ángel Sánchez."

8. Firstly, the President confirmed that the request for access to the Court's Assistance Fund had been submitted at the appropriate time, in the brief of pleadings and motions (*supra* Having Seen paragraph 2). However, he pointed out that in this case, the representatives had not submitted the request on behalf of the alleged victims, but rather on their own behalf. In this regard, the President emphasized that it has already been determined that the alleged victims "are the ones who should benefit from the [Assistance] Fund."<sup>7</sup>

9. To that effect, the President considered the sworn affidavit of Mrs. María Leontina Millacura Llaipén (*supra* Considering paragraph 6) as sufficient evidence of her lack of financial resources to cover the costs of bringing this case before the Inter-American Court.

9. The request to benefit from the Court's Assistance Fund was submitted in order to cover the costs of gathering evidence, consisting of two witness statements and two expert reports, and to cover the attendance of two representatives of the alleged victims at the public hearing to be held in this case.

10. The President noted that the estimate of costs submitted by the representatives would imply only one witness testimony, offered by Mr. Miguel Ángel Sánchez. In this regard, the representatives presented two documents in *Word* format, consisting of copies of what appear to be electronic pages with seemingly different information concerning flights from the city of Buenos Aires to Comodoro Rivadavia, and from Buenos Aires to Río Grande, Argentina. However, given the format in which these were presented, it is not possible to understand the estimated costs for that item. As mentioned previously, the representatives specified that the gathering of evidence includes the transfer of two representatives to the city of Río Grande (*supra* Considering paragraph 7).

11. The President recalled that the Assistance Fund of the Court is comprised of voluntary contributions from donor sources (*supra* Considering paragraph 2), and that these limited resources are insufficient to cover all the expenses related to the possible appearance of the alleged victims, their representatives and the presentation of evidence before the Court. Therefore, in each specific case, a request for financial assistance must be considered on the basis of the resources available and bearing in mind the need for assistance that might arise in other cases before the Court, in order to ensure the correct administration and fair distribution of the Fund's limited resources.

12. The President noted that, at the present stage of the proceedings, it has not been decided which of the testimonies offered by the representatives will be received by the Court, or the means by which these will be obtained.

13. Based on the foregoing considerations, the President considered valid the request submitted by the alleged victims, through their representatives, to have recourse to the Court's Legal Assistance Fund, on the understanding that these funds would be used to cover expenses related to the appearance of deponents, expert witnesses and representatives of the alleged victims at the public hearing to be held in this case, and for the presentation of witness statements and expert reports to the Court. Accordingly, having

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<sup>7</sup> *Case of Contreras et al. V. El Salvador*. Petition submitted by the Alleged Victims. Order of the President of the Inter-American Court of Human Rights, issued on March 4, 2011, Considering paragraph 9.

regard to the resources currently available in the Fund, the alleged victims shall be granted the financial assistance necessary for the presentation of a maximum of one witness and one expert witness, either by affidavit or at the hearing, and for one of the representatives to appear at the public hearing to be held in this case. If the Court should order the gathering of oral testimony from Mr. Miguel Ángel Sánchez, then the relevant financial assistance would include the transfer of one of the representatives to the city of Río Negro. Furthermore, the President decided to defer a decision on the specific amount, recipients and purpose of the financial assistance to be provided to the alleged victims, until such time as the Presidency, or the Court, determines the validity and relevance of the evidence from experts and witnesses and the opening of the oral proceedings, under the terms of Article 50.1 of the Rules of Procedure of the Court, in order to have certainty regarding which of the testimonies will be received by the Court, and the means by which these will be obtained. (*supra* Considering paragraph 12).

**THEREFORE:**

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

in the exercise of his authority in relation to the Victim's Legal Assistance Fund of this Court, and pursuant to Article 31 of the Rules of Procedure of the Court and Article 3 of the Rules of the Assistance Fund,

**DECIDES:**

1. To declare admissible the request submitted by the alleged victims, through their representatives, to have recourse to the Victims' Legal Assistance Fund of the Inter-American Court of Human Rights, and to grant the financial assistance necessary to present a maximum of one witness, one expert witness and for the appearance of a representative at the public hearing. The specific amount, recipients and purpose of this assistance shall be determined at the moment that a decision is made on the taking of evidence from experts and witnesses and the opening of the oral proceedings, under the terms of Article 50 of the Court's Rules of Procedure, in accordance with preambular paragraph 13 of this Resolution.
2. To order the Secretariat of the Court to notify the representatives of the alleged victims, the Republic of Argentina and the Inter-American Commission on Human Rights of this Decision.

Diego García-Sayán  
President

Pablo Saavedra Alessandri  
Secretary