

Press Release

Inter-American Court of Human Rights
I/A Court H.R._PR-63/2023 English

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I/A Court H.R.
Protecting Rights

INTER-AMERICAN COURT OF HUMAN RIGHTS HELD ITS 160TH REGULAR SESSION



San José, Costa Rica, September 13, 2023. - The Inter-American Court held its 160th Regular Session from August 21 to September 6, 2023, combining virtual and in-person activities.

The Regular Session included a Public Hearing in a Contentious Case, the deliberation of nine Judgments and two private hearings of Monitoring Compliance with Judgment.

I. Public Hearings on Contentious Cases

The Court held a public hearing on the following Contentious Case:

1) Case of Yangali Iparraguirre v. Peru

This case is related to the alleged international responsibility of the State of Peru for the violation of the rights to judicial guarantees and judicial protection of Gino Ernesto Yangali Iparraguirre, as a result of noncompliance with a judgment that ordered the payment of compensation for damages regarding the arbitrary dismissal from his position as judge of

the Superior Court of Justice of Lima. According to the Commission, Mr. Yangali Iparraguirre was removed from the position of judge in 1992, and after several judicial proceedings he was reinstated on March 2, 2004. However, he was denied the accrued wages and other work benefits. Consequently, he filed judicial actions to claim damages, and on April 6, 2016, a judgment which ordered the corresponding compensation.

Notwithstanding the aforementioned judgment, the public entities subject of the claim: the Judicial Branch and the Presidency of the Council of Ministers, did not comply with that ordered and the State did not adopt the measures necessary for effective compliance. Consequently, the Commission asked the declaration of the responsibility of the State of Peru for the violation of Articles 8.1 and 25.2 c) of the American Convention on Human Rights, in relation to Article 1.1 thereof, to the detriment of Mr. Yangali Iparraguirre.

The public hearing was held in person on Thursday, August 31st.

The recording of the public hearing can be accessed [here](#).

II. Judgments

The Court deliberated on the following Contentious Cases:

1. Case of Guzmán Medina et al. v. Colombia¹

This case refers to the alleged disappearance of Arles Edison Guzmán Medina, which took place in Medellín, Colombia, on November 30, 2002. The Inter-American Commission on Human Rights determined in its Report on Merits No. 58/19 that it was a forced disappearance, considering that on that date Mr. Guzmán Medina was taken from a restaurant by two persons identified as paramilitaries, allegedly to be interrogated by a commander.

The Commission indicated that the facts occurred within the context of Operation Orion, which took place weeks before the disappearance of Mr. Guzmán Medina. In addition, it noted the existence of a link between paramilitary groups and members of the security forces in Colombia, in the specific context of collaboration in Comuna 13, where the events took place, as well as the link between the actions of the prosecutor's office and state agents. It also noted that the State did not begin an investigation ex officio, rather, it was until the Ombudsman's Office filed a complaint, at the request of the alleged victim's brother.

Further information on this case can be accessed [here](#).

2. Case of Baptiste et al. v. Haiti

This case relates to the alleged international responsibility of the State for the lack of protection of the rights of Baptiste Willer and his next of kin from multiple threats and attempted murders to which they were subjected between 2007 and 2009, as well as the lack of due diligence in the investigation and the impunity surrounding the death of his brother. The events in the instant case allegedly took place in the context of continuous threats and harassment by gang members acting with impunity. On February 4, 2007, Mr. Willer's brother was murdered by the same individuals who had attempted to kill Mr. Willer a few hours earlier. The alleged victim alerted the authorities that his life and that of his family were in danger, and he requested judicial assistance by means of a letter addressed to various authorities, providing information on the identity of the suspects and the type of threats and harassment to which he was subjected. He also informed them that, fearing for his and his family's safety, he had been forced to leave his place of residence. It is claimed

that after having informed the authorities of what had happened, and without receiving any protection, assistance or response from the State, Baptiste Willer, his wife and minor children continued to be displaced, experiencing a permanent sense of insecurity and being victims of continuous threats by telephone and in person, as well as several attacks.

Further information on this case can be accessed [here](#).

3. Case of María et al. v. Argentina²

This case relates to the alleged international responsibility of the State, within the context of the administrative and judicial process of granting custody and adoption of the child "Mariano," to the detriment of the child, his mother "María" (who at the time of his birth was only 13 years old) and the mother of "María."

It is claimed that the State did not adopt the measures for the minor to be raised by his biological family, did not exhaust the measures for this to happen, and did not ensure that the adoption decision was free and in the best interest of minors.

Furthermore, the intervening judge's decision to appoint as pre-adoption guardians of the unborn baby a married couple outside of the family had no legal grounds or justification. Moreover, there were several delays in the medical and forensic processes for "María" to meet with and reconnect with her son. The latter process was plagued with difficulties due to the vulnerability of the alleged victim and the lack of flexibility and timely responses by the intervening court. Therefore, it is claimed that the State has failed to comply with its duty to guarantee the rights of the family of the alleged victims and has violated the following rights: to humane treatment, judicial guarantees, a family life, protection of the family, equal protection and judicial protection, to the detriment of the alleged victims.

Further information on this case is available [here](#).

4. Case of Córdoba et al. v. Paraguay³

This case relates to the alleged international responsibility of the State of Paraguay for the violation of the rights of Arnaldo Javier Córdoba and the child "D", in the context of a process for international restitution of the minor. The facts of this case began in January 2006, after the child "D" (of Argentinian nationality) was transferred by his mother (of Paraguayan nationality) from Argentina, where the parents lived, to Paraguay, without the father's consent. Therefore, the latter began an international restitution process in Paraguay.

In that process, in June of 2006 a decision of first instance set forth the international restitution of child "D". In August 2006, the Court of Appeals of Children and Adolescents, confirmed in full the judgment of first instance. In September of that year, through a resolution confirmed by the Supreme Court of Paraguay, it was decided to perform the restitution and a restitution hearing was convened. The mother did not attend the hearing, and in spite of the steps taken and the search by INTERPOL, the authorities did not find her until 2015. At that time a precautionary measure was issued that granted custody of D to his maternal aunt, and a plan for progressive familiarization was established between D, Mr. Córdoba and the paternal extended family. After several measures for accompaniment and psychological appraisals that sought to create a connection between the father and the child, in March of 2017 a precautionary measure was issued which ordered "D" to remain in Paraguay.

It is claimed that the State did not act in a diligent manner or with the speed required to guarantee the rights of the child and of his father. This allegedly entailed a lack of legal protection of the rights to not suffer arbitrary interference in his family life and lack of protection of the family, according to the best interests of the child.

Further information on this case can be accessed [here](#).

5. Case of Bendezú Tuncar v. Peru

This case relates to the alleged international responsibility of the State for the violation of the rights of Leónidas Bendezú Tuncar, in the context of his dismissal from the position of Office Assistant at the Faculty of Financial and Accounting Sciences of Universidad de San Martín de Porres. Mr. Bendezú worked at that University since 1981. However, he was fired from his position after a disciplinary proceeding carried out by the University, which found him responsible for serious misconduct in conformity with the Law to Promote Employment, Supreme Decree No. 05-95-TR.

However, it is claimed that his dismissal was an act of retaliation. The alleged victim filed an appeal for annulment before the 15th Labor Court of Lima, which was admitted, declaring his dismissal as arbitrary and ordering his restitution. However, the University appealed the decision and the appeal was admitted. Subsequently, Mr. Bendezú filed an appeal for review by a higher court before the Constitutional and Social Chamber of the Supreme Court of Justice and it was declared inadmissible.

Further information on this case can be accessed [here](#).

6. Case of the Community Garifuna of San Juan and its members v. Honduras

This case concerns the international responsibility of the State for the lack of protection of the ancestral lands of the Communities Garifuna of San Juan and Tornabé, as well as the alleged threats to several of their leaders. It is an undisputed fact that the Community Garifuna of San Juan does not have a collective property title that recognizes all of its ancestral land and territories. In this regard, although in the year 2000 the National Agrarian Institute granted a title recognizing a portion of the ancestral land claimed, the State has not complied with giving the title to the community's entire territory, which has prevented the community from using and enjoying its land peacefully.

Moreover, in this scenario of legal uncertainty regarding its ancestral territories events have occurred such as the granting of titles to third parties that are not part of the community; the granting and operation of hotel projects; expansion of the urban area of the Municipality of Tela; and the creation of a National Park in territory claimed by the community. Consequently, the State's failure to: provide ownership title for the entire territory to the Community of San Juan, ensure peaceful ownership and non-interference by third parties, and adopt a law in conformity with international standards, has violated the right to collective property to the detriment of the Community Garifuna of San Juan and its members.

In addition, the lack of prior consultation regarding the granting of tourism projects in part of the land and territories claimed by the community, as well as the inexistence of a legal framework to enable such consultations to take place, violated the community's rights to collective property, access to information and participation in matters likely to affect them.

Finally, it is an undisputed fact that on February 26, 2006, the community members Gino Eligio López and Epon Andrés Castillo were shot by state agents, resulting in their death. The use of lethal force by state agents was unjustified, unnecessary, disproportionate and lacked a legitimate purpose; therefore, these were extrajudicial killings that violated the right to life of Gino Eligio López and Epon Andrés Castillo.

Further information on this case can be accessed [here](#).

7. Case of Rodríguez Pacheco et al. v. Venezuela

The instant case is related to the alleged international responsibility of the State of Venezuela for deficiencies in the healthcare provided to Ms. Rodríguez Pacheco at a private medical center and for the violation of judicial guarantees and protection, due to the lack of diligent investigation and adequate reparation for alleged medical malpractice committed after the victim underwent a cesarean section. The Commission concluded that there were deficiencies in the health care provided to Ms. Rodríguez at a private medical center, which were not investigated, punished or adequate reparation provided by the public authorities who performed the investigation process, who therefore violated the judicial guarantees and protection enshrined in Articles 8.1 and 25.1 of the American Convention, in relation to the rights to humane treatment (personal integrity) and to health included in Articles 5 and 26 of the Convention, as well as Article 1.1 thereof. Moreover, the Commission requested the declaration of responsibility of the State for the violation of Article 7 of the Convention of Belém do Pará to the detriment of Balbina Francisca Rodríguez Pacheco, and the right to mental and moral integrity set forth in Article 5.1 to the detriment of her next of kin.

Further information on this case can be accessed [here](#).

The Court analyzed the following Contentious Cases, which it will continue deliberating in its following Regular Session:

8. Case of Tavares Pereira et al. v. Brazil⁴

This case relates to the alleged responsibility of the State for the murder of rural worker Antonio Tavares Pereira and the injuries allegedly sustained by 185 other workers, members of the Landless Rural Workers' Movement (MST), by military police officers. The facts took place on May 2, 2000, in the state of Paraná, during a march for agrarian reform by the workers. The case also refers to the alleged impunity of the facts to date and falls within a suspected context of violence in response to the demands for land and agrarian reform in Brazil.

The Commission concluded that the State did not provide an explanation that would allow it to consider that the death of Mr. Tavares Pereira was the result of a legitimate use of force. It noted that the shot fired by the police officer that caused the death of Mr. Tavares Pereira did not have a legitimate purpose, nor was it suitable, necessary or proportional.

Further information on this case can be accessed [here](#).

9. Case of Members of the José Alvear Restrepo Lawyers Collective (CAJAR) v. Colombia⁵

The instant case concerns alleged facts of violence, intimidation, harassment and threats against the members of the José Alvear Restrepo Collective Lawyers Corporation (CAJAR) since the 1990s and up to the present day, linked to their activities in defense of human rights. The members of CAJAR have allegedly been victims of multiple threats, harassment and being followed in various places by people whose identity was not confirmed to be able to establish whether they were state agents. However, it is claimed that the State performed actions that actively contributed to the materialization of such acts of violence, such as arbitrary intelligence work and stigmatizing rulings issued by high officials.

Further information on this case can be accessed [here](#).

The Court deliberated **Interpretation of Judgments** in the following cases:

- a. *Nissen Pessolani v. Paraguay*
- b. *Valencia Campos et al. v. Bolivia*
- c. *Leguizamón Zaván et al. v. Paraguay*

- d. *Mina Cuero v. Ecuador*
- e. *Sales Pimenta v. Brazil*⁶

Once the judgments are notified, they will be available [here](#).

III. Private hearings

The Court held one private hearing on Monitoring of Compliance with Judgment and one hearing on a request for Provisional Measures.

1. Private hearing on Monitoring of Compliance with Judgment in the Case of Heliodoro Portugal v. Panama

The private hearing of Monitoring Compliance with Judgment was held on August 24, 2023.

2. Private hearing to request Provisional Measures in the Matter of Salas Arenas et al. regarding Peru

The private hearing to request Provisional Measures was held on August 29, 2023.

IV. Orders on Monitoring Compliance with Judgment

The Court issued orders on Monitoring Compliance with Judgment in the following cases:

1. *Case of López et al. v. Argentina*⁷
2. *Case of Sales Pimenta v. Brasil*⁸
3. *Case of the Ituango Massacres v. Colombia*⁹
4. *Case of the Afro-descendant Communities displaced from the Cacarica River Basin (Operation Genesis) v. Colombia*¹⁰
5. *Case of Carvajal Carvajal v. Colombia*¹¹
6. *Case of Cortez Espinoza v. Ecuador*
7. *Case of Escaleras Mejía et al. v. Honduras*

Once the orders are notified, they will be available [here](#).

V. Orders on Provisional Measures

The Court deliberated orders on **Request for Provisional Measures** in the following cases and matters:

1. *Case of Molina Theissen v. Guatemala*
2. *Case of Vera Rojas et al. v. Chile*¹²
3. *Matter of Salas Arenas et al. regarding. Peru*

The Court deliberated an order to lift provisional measures in the following case:

1. *Case of Kawas Fernández v. Honduras. Provisional Measures in favor of Dencen Andino Alvarado*

Once the orders are notified, they will be available [here](#).

VI. Visit of the President of Colombia, Gustavo Petro



On August 28 the full Court received at the seat of the Inter-American Court of Human Rights the President of Colombia, His Excellency Gustavo Petro Urrego.

During the meeting with the Judges of the Court, President Petro addressed the importance of the Inter-American System for the Protection of Human Rights for the countries in the region and the key role of the Inter-American Court in defending human rights. Moreover, he confirmed Colombia's commitment to mandatory compliance with the Judgments issued by the Court.

The President of the Inter-American Court reiterated Colombia's historical role in the Inter-American System for the Protection of Human Rights and in the development of international human rights law, recalling the 75th anniversary of the adoption of the American Declaration of the Rights and Duties of Man in the city of Bogotá. In addition, he thanked President Petro for the opportunity to hold the Court's session in Colombia during October 2023.

VII. Visit of the President of the Inter-American Commission on Human Rights



During the Regular Session, the full court of the Inter-American Court of Human Rights and the Assistant Secretary received the President of the Inter-American Commission on Human Rights, Commissioner Margarete May Macaulay, at the seat of the Court.

VIII. Signing of Agreements

a. Agreement with the Ombudsman's Office of Colombia

The Cooperation Agreement between the Inter-American Court of Human Rights and the Ombudsman's Office of Colombia was renewed. The participants on behalf of the Court were the President, Judge Ricardo C. Pérez Manrique, accompanied by Judge Humberto Antonio Sierra Porto, Judge Nancy Hernández López, Assistant Secretary Romina I. Sijniensky and lawyer Gabriela Pacheco Arias, Director of Monitoring Compliance with Judgments. The participants on behalf of the Ombudsman's Office were Carlos Camargo Assis, Ombudsman of Colombia and Nelson Felipe Vives, Private Secretary of the Ombudsman's Office.

b. Agreement with the Costa Rican Psychologists' Association

On August 30, the President of the Inter-American Court, Judge Ricardo C. Pérez Manrique and the President of the Board of Directors of the Costa Rican Psychologists' Association, Ángel Argüello Castro, signed an agreement that will begin on January 1, 2024, regarding counseling services for individuals who testify before the Court. The Assistant Secretary of the I/A Court H.R., Romina I. Sijniensky, and personnel of the Association and the Court participated in the act for signing of the agreement.

c. Agreement with Universidad Católica de Santa María in Peru

A Cooperation Agreement was signed between Universidad Católica de Santa María in Peru and the Inter-American Court of Human Rights.

d. Agreement with the Ministry of the Superior Court of Justice of Brazil, the National Judicial School of Brazil (Enfam) and the I/A Court H.R.

During the Regular Session a Cooperation Agreement was signed by the Ministry of the Superior Court of Justice of Brazil, the National Judicial School for Formation and Development (Enfam) and the Inter-American Court of Human Rights.

The following individuals participated on behalf of the court: Judge Ricardo C. Pérez Manrique, President; Judge Eduardo Ferrer Mac-Gregor, Vice President, Judge Nancy Hernández López, Judge Rodrigo Mudrovitsch, Pablo Saavedra, Secretary and Romina I. Sijniensky, Assistant Secretary.

The delegation of Brazil was composed of Mauro Campbell, Minister; Arnaldo Camanho, Judge of the Court of Justice of the Federal District; Fabiano da Rosa Tesolin, Executive Secretary of the National Judicial School for Formation and Development; Cássio André Borges, General Secretary of the National Judicial School for Formation and Development and Guilherme Pupe, Judge of the Regional Electoral Court of the Federal District.

The agreements subscribed seek to strengthen the relationship between the aforementioned bodies and disseminate the international instruments to promote and defend human rights.

e. Cooperation Agreement between the Latin American Council of International and Comparative Law Scholars of the Dominican Republic and the Inter-American Court of Human Rights

A Cooperation Agreement was subscribed by the Latin American Council of Scholars of International and Comparative Law (COLADIC) of the Dominican Republic and the Inter-American Court of Human Rights. The President, Judge Ricardo C. Pérez Manrique and Assistant Secretary Romina I. Sijniensky participated on behalf of the Court; for the Council the participants were José L. Almánzar Paulino, Director, and Juan Antonio Patiño Cáceres, Member of the Disciplinary Council.

This agreement seeks to stimulate and promote the study of international human rights law and to expand knowledge of the inter-American system and comparative law.

IX. Monitoring Compliance with Judgments, Provisional Measures and administrative matters

The Court also monitored compliance with various Judgments and the implementation of Provisional Measures that it has ordered, as well as the processing of Cases and Provisional Measures. It also addressed several administrative matters.

¹ Judge Humberto Antonio Sierra Porto, of Colombian nationality, did not participate in the deliberation of this Judgment, in conformity with Art. 19 of the Rules of Procedure of the Court.

² Judge Verónica Gómez, of Argentinian nationality, did not participate in the deliberation of this Judgment, in conformity with Art. 19 of the Rules of Procedure of the Court.

³ Judge Verónica Gómez excused herself from participating in the deliberation of this Judgment due to reasons of force majeure.

⁴ Judge Rodrigo Mudrovitsch, of Brazilian nationality, did not participate in the deliberation of this Judgment, in conformity with Art. 19 of the Rules of Procedure of the Court.

⁵ Judge Humberto Antonio Sierra Porto, of Colombian nationality, did not participate in the deliberation of this Judgment, in conformity with Art. 19 of the Rules of Procedure of the Court. Judge Verónica Gómez excused herself from participating in the deliberation of this Judgment due to reasons of force majeure.

⁶ Judge Rodrigo Mudrovitsch, of Brazilian nationality, did not participate in the deliberation of this Judgment, in conformity with Art. 19 of the Rules of Procedure of the Court.

⁷ Judge Verónica Gómez, of Argentinian nationality, did not participate in the deliberation of this Judgment, in conformity with Art. 19 of the Rules of Procedure of the Court.

⁸ Judge Rodrigo Mudrovitsch, of Brazilian nationality, did not participate in the deliberation of this Judgment, in conformity with Art. 19 of the Rules of Procedure of the Court.

⁹ Judge Humberto Antonio Sierra Porto, of Colombian nationality, did not participate in the deliberation of this Judgment, in conformity with Art. 19 of the Rules of Procedure of the Court.

¹⁰ Judge Humberto Antonio Sierra Porto, of Colombian nationality, did not participate in the deliberation of this Judgment, in conformity with Art. 19 of the Rules of Procedure of the Court.

¹¹ Judge Humberto Antonio Sierra Porto, of Colombian nationality, did not participate in the deliberation of this Judgment, in conformity with Art. 19 of the Rules of Procedure of the Court.

¹² Judge Patricia Pérez Goldberg, of Chilean nationality, did not participate in the Public Hearing in this case, in conformity with Art. 19 of the Rules of Procedure of the Court.

The Court's composition for this Regular Session was as follows: Judge Ricardo C. Pérez Manrique President (Uruguay), Judge Eduardo Ferrer Mac-Gregor Poisot Vice President (Mexico), Judge Humberto Antonio Sierra Porto (Colombia), Judge Nancy Hernández López (Costa Rica), Judge Verónica Gómez (Argentina); Judge Patricia Pérez Goldberg (Chile) and Judge Rodrigo Mudrovitsch (Brazil).

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