

Press Release

Inter-American Court of Human Rights

I/A Court H.R._PR-67/2023 English

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I/A Court H.R.
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I/A COURT H.R. ARCHIVED THE CASE OF XIMENES LOPES V. BRAZIL

San José, Costa Rica, October 28th, 2023. - In conformity with that set forth in the Order of Monitoring Compliance with Judgment issued on September 25th, 2023, the Court has concluded the *Case of Ximenes Lopes*, given that Brazil complied with the four reparation measures ordered in the Judgment of July 4th, 2006, and the Court declared the conclusion of the monitoring of compliance with the obligation to investigate, prosecute and, if applicable, punish those responsible for the facts of this case. For more information, the Judgment of July 4th, 2006, can be accessed [here](#) and the Order of September 25th, 2023, which declares the archiving of the case, can be accessed [here](#).

On July 4th, 2006, the Inter-American Court of Human Rights issued a Judgment in which it admitted the partial acknowledgment of international responsibility made by the Federal Republic of Brazil, and it declared the international responsibility of the State for the violation of the rights to life and to humane treatment to the detriment of Damião Ximenes Lopes, as well as the violation of the rights to humane treatment, to a fair trial (judicial guarantees) and to judicial protection to the detriment of the mother, father, brother and sister of Mr. Ximenes Lopes.

The aforementioned violations occurred when Damião Ximenes Lopes, who suffered from a mental illness (an intellectual disability), was hospitalized on October 1, 1999, as part of a psychiatric treatment in Casa de Reposo Guararapes, a private psychiatric clinic that operated in the public health system of Brazil, called the Uniform Health System (SUS). The Court declared that the State "fail[ed] its duty to respect, prevent and protect, in relation to the death and cruel, inhumane and degrading treatment suffered by Damião Ximenes Lopes" while he was hospitalized at that institution. In addition, it concluded that the State failed "its duty to regulate and supervise medical attention, which are special duties derived from the obligation to guarantee the rights" to life and to humane treatment. The Court also determined that in the investigation into the death of and mistreatment suffered by Mr. Ximenes Lopes, the rights to a fair trial and to judicial protection of the next of kin were violated, insofar as the State did not act with due diligence as required in these types of cases and the investigation was not carried out within a reasonable term.

Based on the aforementioned violations, the Court ordered in its Judgment the following five reparation measures:

- i) to guarantee, within a reasonable term, that the domestic proceedings instituted in order to investigate and punish those responsible for the facts of the instant case are operative, as set forth in paragraphs 245 to 248 of the Judgment;
- ii) to publish the Judgment, as indicated in paragraph 249 thereof;
- iii) to continue developing an education and training program for staff in health care, psychiatry, psychology, nursing, and for any person involved in mental health services, in particular, covering the principles that govern treatment to patients with mental illness, according to international standards and the provisions of the Judgment, as set forth in paragraph 250 thereof;

- iv) to pay the victims the amounts determined in the judgment for pecuniary and non-pecuniary damages; and
- v) to pay Albertina Viana-Lopes, mother of Damião Ximenes Lopes, the amount determined in paragraph 253 of the Judgment as reimbursement of legal costs and expenses.

Monitoring Compliance with Judgment

From 2008 to 2023, the Court issued six orders of Monitoring Compliance with Judgment in this case, which are available [here](#). Between 2008 and 2010, the Court declared full compliance with the measures of: publication and dissemination of the Judgment; payment of compensation and reimbursement of costs and expenses.

Regarding the obligation to investigate the facts, prosecute and, if applicable, punish those responsible, in the Order of 2021 the Court confirmed that the criminal proceedings had concluded and the facts had remained in absolute impunity. In that order the Court explained the reasons why it considered that the lack of due diligence and the negligent actions of the State caused the situation of impunity and declared that Brazil did not comply with the referred obligation. Moreover, since there was no event that prevented the application of the statute of limitations on the criminal proceedings, the Court declared the conclusion of the monitoring of that measure.

In the Order of September 25th, 2023, the Court declared compliance with the last measure that was being monitored, regarding the training of personnel who provide health services to patients with mental illnesses on the rights and the principles that must govern their care, given that in April of this year the State held the first edition of the course "Human Rights and mental health – Damião Ximenes Lopes permanent Course." Therefore, considering that the State has complied with four measures and the monitoring of compliance with the obligation to investigate has concluded, the Court declared the archiving of this case.

The Court's composition for the Order of September 25th, 2023, 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) and Judge Patricia Pérez Goldberg (Chile). Judge Rodrigo Mudrovitsch, of Brazilian nationality, did not participate in the hearing or deliberation of this order, in conformity with that set forth in Article 19(1) of the Rules of Procedure of the Court. Judge Verónica Gómez (Argentina) did not participate in the deliberation and signing of this Order due to reasons of force majeure.

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