

Press Release

Inter-American Court of Human Rights

I/A Court H.R._PR-90/2023 English

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I/A Court H.R.
Protecting Rights

ECUADOR HAS COMPLIED WITH JUDGMENT IN THE CASE OF FLOR FREIRE

San José, Costa Rica, December 4, 2023.- In conformity with that set forth in the Order on Monitoring Compliance with Judgment issued by the Court on October 18, 2023, Ecuador has complied with the execution of all of the reparations ordered in the Judgment of August 31, 2016. Therefore, the Inter-American Court decided to conclude and archive the case. For more information, the Judgment of August 31, 2016, can be accessed [here](#) and the Order of October 18, 2023, which declares the archiving of the case, can be accessed [here](#).

On August 31, 2016, the Inter-American Court of Human Rights issued a Judgment whereby it declared the Republic of Ecuador (hereinafter “the State” or “Ecuador”) internationally responsible for the violation of the rights to equal protection and non-discrimination, right to privacy and the guarantee of impartiality, to the detriment of Homero Flor Freire.

These violations occurred as part of military disciplinary proceedings against Mr. Flor Freire, which resulted in his dismissal from the Ecuadorian Armed Forces for allegedly engaging in homosexual acts inside the military quarters. Mr. Flor Freire denied the occurrence of sexual relations with another man and stated that he does not identify as homosexual. The Court considered it necessary to clarify whether there was discrimination against Mr. Flor Freire in the disciplinary proceedings based on a different sexual orientation, whether perceived or real. In this regard, the Court concluded that Mr. Flor Freire’s dismissal from the Armed Forces due to his perceived sexual orientation was an act of discrimination because it was based on the application of internal regulations that punished homosexual acts more severely than non-homosexual acts.

Based on these violations, the Court ordered in its Judgment the following six reparation measures:

- i) grant Mr. Flor Freire the rank held by his colleagues at the time of compliance with this measure; assign to him the status of a military officer in retirement or passive service that had retired voluntarily, as well as all of the corresponding social benefits of his colleagues;
- ii) recognize and pay Mr. Flor Freire the social security obligations (for future retirement and severance payment) which he would have had access to had he voluntarily resigned from the Armed Forces, calculated at the time when the State makes the payment, taking into account the rank of his graduation colleagues at the time of payment;
- iii) adopt all domestic measures necessary to ensure that no administrative acts or decisions adopted in the disciplinary proceedings, declared contrary to the rights recognized in the American Convention, have any legal effects on the social and severance rights that would correspond to Mr. Flor Freire had he retired voluntarily from the Ecuadorian Armed Forces;

- iv) publish the Judgment and the official summary, indicated in paragraph 231 thereof;
- v) implement continuous training programs for members of the Armed Forces and the agents in charge of military disciplinary proceedings about the right to non-discrimination based on sexual orientation, to ensure that sexual orientation, whether real or perceived, is not a reason used to justify discriminatory behavior, and
- vi) pay the amounts established in the judgment to the victim as compensation for pecuniary and non-pecuniary damages.

In addition, it ordered the State to reimburse the Victims' Legal Assistance Fund of the Inter-American Court of Human Rights for the amount indicated in paragraph 267 of the judgment.

Monitoring Compliance with Judgment

In the Monitoring Compliance with Judgment stage, the President of the Inter-American Court of Human Rights issued an order on December 13, 2021, in which it declared that the State reimbursed the Assistance Fund, and the Court issued three orders, on October 7, 2019, April 5, 2022 and October 18, 2023, in which it confirmed that the State of Ecuador fully complied with the six reparation measures ordered in the Judgment, and declared the archiving of this case. The orders can be viewed [here](#).

The Court's composition for the Order of October 18, 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); Judge Verónica Gómez (Argentina); Judge Patricia Pérez Goldberg (Chile) and Judge Rodrigo Mudrovitsch (Brazil).

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