

**ORDER OF THE PRESIDENT OF THE
INTER-AMERICAN COURT OF HUMAN RIGHTS
OF AUGUST 1, 2012
CASE OF MENDOZA *ET AL.* v. ARGENTINA**

HAVING SEEN:

1. The brief presenting the case submitted by the Inter-American Commission on Human Rights (hereinafter "the Inter-American Commission" or "the Commission") to the Inter-American Court of Human Rights (hereinafter "the Inter-American Court" or "the Court") on June 17, 2011, in which it offered three expert opinions and indicated their purpose, but only identified the person who would provide the second expert opinion.
2. The note of June 23, 2011, in which, *inter alia*, the Secretariat of the Court (hereinafter "the Secretariat") informed the Commission that it was still awaiting the names of the two expert witnesses who had not been identified as well as the curricula vitae of all the expert witnesses.
3. The communication of July 4, 2011, in which, among other matters, the Commission forwarded as "Annex 32" the curriculum vitae in English of one person without indicating the expertise that this person would provide. The note of September 5, 2011, in which the Secretariat asked the Inter-American Commission to specify the expert opinion that this person would provide and to send his curriculum vitae in Spanish.
4. The communication of July 5, 2011, in which, among other matters, the Inter-American Commission indicated the name of the person who will provide the first expert opinion and forwarded his curriculum vitae (*supra* having seen paragraph 1).
5. The communication of September 16, 2011, in which the Commission submitted the curriculum vitae of the third expert witness in Spanish, and specified the expert opinion that they would provide (*supra* having seen paragraph 3).
6. The brief with pleadings, motions and evidence (hereinafter the "pleadings and motions brief") presented by the representative of the presumed victims (hereinafter "the representative") on December 20, 2011, in which she offered 17 statements by alleged victims and three expert opinions. In addition, she presented a request by the alleged victims to access the Victims' Legal Assistance Fund of the Inter-American Court (hereinafter "the Victims' Assistance Fund" or the "Assistance Fund") to cover some specific costs related to the production of evidence during the proceedings before the Court.
7. The Order of the President of the Court of May 8, 2012 (hereinafter "the President's Order"), in which he declared that the presumed victims' request to access the Assistance

Fund was admissible and decided that they would be granted the necessary financial assistance to present a maximum of five statements, either by affidavit or at a public hearing.

8. The brief of April 20, 2012, in which the Argentine Republic (hereinafter "the State" or "Argentina") presented its brief with preliminary objections, answering the submission of the case and with observations on the brief with pleadings, motions and evidence (hereinafter the "answering brief"). The State did not offer testimonial or expert evidence.

9. The note of the Secretariat of June 19, 2012, in which it asked the representative and the Commission to submit their respective final lists of proposed deponents (hereinafter "final lists") by June 28, 2012, at the latest, and that, for reasons of procedural economy, they should indicate those who could provide their statements or expert opinions by affidavit.

10. The communication of June 27, 2012, in which the Inter-American Commission requested an extension of the time frame for the submission of its final list of deponents. The note of the Secretariat of June 28, 2010, in which the Commission was granted an extension until July 3, 2012, to submit its final list of deponents (*supra* having seen paragraph 9).

11. The briefs of June 25 and July 3, 2012, in which the representative and the Inter-American Commission, respectively, submitted their final lists of deponents and indicated those who could provide their expert opinion and/or statement by affidavit and those who could do this during the public hearing.

12. The note of the Secretariat of July 6, 2012, in which the Inter-American Commission, the representative and the State were granted 10 days to present any observations they deemed pertinent on the final lists of deponents.

13. The briefs of July 6 and 7, 2012, in which the Inter-American Commission and the representative, respectively, presented their observations on the preliminary objections filed by the State (*supra* having seen paragraph 8).

14. The communication of July 11, 2012, in which the Commission indicated it had no observations to make on the representative's final list of deponents and asked the Court to allow it "to pose questions, either orally or in writing, as relevant and reasonable, to the expert witness [Liliana] Gimol Pinto," whose expert opinion was offered by the representative. The representative did not present observations on the Inter-American Commission's final list of deponents.

15. The brief of July 13, 2012, in which the State asked for "a reasonable extension to the time limit initially granted" for the presentation of their observations on the final lists of deponents of the Commission and the representative. The note of July 17, 2012, in which, on the instructions of the President of the Court, the Secretariat informed the State that the request for an extension was inadmissible. Argentina did not present observations on the final list of deponents of the Inter-American Commission and representative.

16. The brief of July 31, 2012, in which the representative indicated that presumed victim Marta Graciela Olgún, who had been proposed to testify during the public hearing, would be unable to attend the hearing, and therefore asked that her testimony be received by affidavit.

CONSIDERING THAT:

1. The offer and admission of evidence, as well as the summons of alleged victims, witnesses and expert witnesses, are regulated by Articles 35(1)(f), 40(2)(c), 41(1)(c), 46, 47, 48, 50, 57 and 60 of the Rules of Procedure of the Court.
2. The Commission offered as evidence three expert opinions and the representatives offered the statements of 17 alleged victims and also three expert opinions. The evidence was offered at the appropriate procedural moment (*supra* having seen paragraphs 1 and 6). For its part, the State did not offer any testimonial or expert evidence (*supra* having seen paragraph 8).
3. The Court has guaranteed the parties the right to defense regarding the offers of evidence in the brief submitting the case, in the pleadings and motions brief, and in the final lists of deponents (*supra* having seen paragraph 12). Neither the Inter-American Commission nor the representatives formulated observations on the final lists of deponents.
4. For its part, the State did not present observations on the final lists of deponents presented by the Commission and the representative (*supra* having seen paragraphs 11 and 15). However, in its answering brief, it contested testimonial and expert evidence offered by the Commission and the representative when submitting the case and in the pleadings and motions brief, respectively (*supra* having seen paragraphs 1 and 6). The President observes that the contested evidence was confirmed by the Commission and the representative when presenting their final lists of deponents. Therefore, the President will take these objections into consideration in this Order. The following aspects will be addressed below: (a) expert evidence offered by the Inter-American Commission; (b) testimonial and expert evidence offered by the representative; (c) the Inter-American Commission's request to question one of the expert witnesses offered by the representative; (d) method for receiving the statements of the presumed victims and the expert opinions; (e) application of the Victims' Legal Assistance Fund, and (f) final oral and written observations and arguments.

A. *Expert evidence offered by the Inter-American Commission*

5. According to Article 35(1)(f) of the Rules of Procedure, the "possible appointment of expert witnesses" may be made by the Inter-American Commission "when the inter-American public order of human rights is affected in a significant manner," and the grounds and purpose must be adequately substantiated. This provision means that the appointment of experts by the Commission is exceptional and subject to this requirement, which is not complied with by the mere fact that the evidence that it is intended to produce is related to an alleged violation of human rights. "The inter-American public order of human rights [must be] affected in a significant manner," and the Commission must substantiate this situation.¹
6. The Inter-American Commission offered as evidence the expert opinions of: (a) Miguel Cillero Bruñol, to testify on "the international human rights standards concerning juvenile criminal justice, including the principle of the specificity of the applicable substantive and procedural norms; the imposition of deprivation of liberty as a measure of last resort and for the shortest time possible; the inadmissibility of imposing life sentences

¹ Cf. *Case of Pedro Miguel Vera Vera et al. v. Ecuador*. Order of the President of the Inter-American Court of Human Rights of December 23, 2010, ninth considering paragraph, and *Case of the Santo Domingo Massacre v. Colombia*. Order of the President of the Inter-American Court of Human Rights of June 5, 2012, twenty-third considering paragraph.

on adolescents with a disproportionate amount of time passing before release, among other aspects[, and on] Argentina's legal framework for juvenile criminal justice in light of the said standards"; (b) Alberto Bovino, to testify on the "scope of the right established in Article 8(2)(h) of the American Convention, particularly with regard to the exclusion *a priori* of the possibility of reviewing issues of fact and evidence owing to the apparent conflict between the principles of certain criminal procedural systems and the right to appeal a judgment," and (c) Lawrence O. Gostin to testify on the "applicable international human rights standards with regard to mental health in detention centers, and the State's obligations arising from these standards."

7. In its communication of July 3, 2012 (*supra* having seen paragraph 11), in which the Commission submitted its final list of deponents, it indicated that the expert opinion of Miguel Cillero Bruñol would be very useful owing to "the conceptual elements" that it can offer, as outlined, contributing to "addressing an innovative issue in the jurisprudence" of the Court that could have "an impact on the institutional and legal policies of other States" in the region. Furthermore, the Commission considered that the purpose of the statement has a relevant impact on the inter-American public order of human rights. With regard to the expert opinion of Alberto Bovino, the Commission emphasized that this offers the Court the opportunity to "rule on the apparent conflict between the principles of the criminal procedural systems of an accusatory nature" in Argentina and other countries in the region, and the scope of the right to an extensive review, taking into account that "the limitations with regard to the review based on an appeal for annulment in the instant case occurred owing to the alleged persistence of a legal framework and judicial practice that remains incompatible with the scope and content of the right established in Article 8(2)(h) of the American Convention." Lastly, the Commission indicated that the expert opinion of Lawrence O. Gostin would enable the Court to "develop relevant standards on the State's obligations in relation to the mental health of those who are in its custody, and its special position of guarantor of their life and personal integrity."

8. In the answering brief (*supra* having seen paragraph 8) the State contested the expert evidence offered by the Commission because the latter "attempts to obtain an opinion on matters being debated in these proceedings that are the exclusive competence of the judges" of the Court. The State referred to the nature and characteristics of expert evidence and, lastly, indicated that "the expert opinions are questionable, because the answers required from the expert witness are those that should be given by the judges of the Court, since they have the greatest expertise to decide on this matter."

9. In this regard, the President considers that, even though the expert witnesses have law degrees, since these are international proceedings, the relevant point is that, according to the information provided, they have specialized legal knowledge on criminal, juvenile criminal, and procedural criminal matters and the right to health that, applied to the elements on which the parties are in dispute, may be used for this international human rights court's analysis of the merits of the instant case. In many cases, the Inter-American Court has admitted and used expert opinions of jurists with knowledge of specific matters or areas of law that may be relevant for the Court to decide whether or not there has been a violation of human rights.² Consequently, the State's objection is inadmissible.

10. The President also finds that the expert opinion of Miguel Cillero Bruñol would provide the Court with more information to rule, in contentious proceedings, on the scope of

² Cf., *inter alia*, *Case of Fermín Ramírez v. Guatemala. Merits, reparations and costs*. Judgment of June 20, 2005. Series C No. 126, para. 47 and *Case of Mohamed v. Argentina*. Order of the President of the Inter-American Court of Human Rights of June 18, 2012, sixteenth considering paragraph.

international standards for juvenile criminal justice in light of the American Convention. Moreover, the expert opinion of Alberto Bovino can help clarify the impact at the regional and state level of criminal procedure of an accusatory nature, the possible conflict between its principles and the alleged restriction in Argentina of the right to appeal a judgment established in Article 8(2)(h) of the American Convention. Lastly, the expert opinion of Lawrence O. Gostin relates to a matter that has not been widely developed by the Court, particularly with regard to State obligations in relation to the mental health of individuals in State custody. Therefore, the President finds that the expert opinions proposed by the Commission can contribute to strengthening the standards of protection of the inter-American system of human rights in these matters, and that they transcend the specific facts of the instant case and the particular interest of the parties to the litigation and, therefore, are issues that are relevant to inter-American public order.

11. Based on the above, the President finds it pertinent that the Court receive the expert opinions of Miguel Cillero Bruñol, Alberto Bovino and Lawrence O. Gostin. The usefulness of the opinions will be assessed at the appropriate opportunity, in the context of the existing body of evidence and according to the rules of sound judicial discretion. The purpose and method of receiving these expert opinions are determined in the operative paragraphs of this Order (*infra* operative paragraphs 1 and 5).

B. Testimonial and expert evidence offered by the representative

12. Firstly, with regard to the testimonial evidence offered, Argentina contested “the evidence provided in relation to the violation of Articles 4 and 5 of the Convention to the detriment of Ricardo David Videla Fernández; the evidence regarding the detention conditions in the prisons of the province of Mendoza, that relating to the measures requested with regard to access to work, education, visits and transfers as well as the procedural demands of Cristian Saúl Roldán Cajal.” In this regard, for the President to be able to assess adequately the pertinence of the objections raised by the parties to the statements of the presumed victims or witnesses, the party that raises the objection must refer precisely to the specific evidence it is contesting and the reasons or arguments that substantiate its objections. In the instant case, the State did not specify the statements that it contests. The President recalls that the representative offered 17 statements of presumed victims (*supra* having seen paragraph 6). Therefore, as formulated, the State’s objection is inadmissible.

13. Therefore, and also taking into account that the Inter-American Commission did not present observations (*supra* having seen paragraph 14), the President finds it desirable to receive the statements of the presumed victims offered by the representative. Their probative value will be assessed by the Court at the appropriate procedural moment. The purpose of these statements and the method of receiving them are determined in the operative paragraphs of this Order (*infra* operative paragraphs 1 and 5).

14. Second, the State contested the expert opinion of Sofía Tiscornia considering that it “exceeds the purpose of the application,”³ and the expert opinion of Laura Dolores Sobredo because it refers to “issues discussed, agreed on, and being resolved in the context of

³ The expert opinion was offered for Sofía Tiscornia to refer to: “the impact of life imprisonment on the life of children and adolescents, including their affective and social ties and their education and vocational training”; also, to “the practice of detention centers of systematically transferring persons deprived of liberty, and the consequences of this practice in relation to the declared purposes of prison sentences,” and to “the effects of this type of sentence on the families of those who are convicted.”

proceedings unrelated to the instant case (Mendoza Prisons)."⁴ The State did not contest the expert opinion of Liliana Gimol Pinto, also offered by the representative. The President finds that the objections raised by the State are related to the arguments of some of the preliminary objections filed in the answering brief (*supra* having seen paragraph 8).⁵ In this regard, and since the Court has not ruled on these preliminary objections, without prejudging the merits of the case, the President finds it pertinent to receive the expert opinions of Sofía Tiscornia and Laura Dolores Sobredo. The Court will determine their admissibility and probative value on the appropriate procedural occasion. Furthermore, since neither the Inter-American Commission nor the State presented observations on the expert evidence of Lilian Gimol Pinto, the Court deems it pertinent to receive this expert opinion considering it useful for deciding this case. The purpose of the three expert opinions offered by the representative and the method of receiving them are determined in the operative paragraphs of this Order (*infra* operative paragraphs 1 and 5).

C. Request of the Inter-American Commission to question one of the experts offered by the representative

15. The Commission asked for "the opportunity to pose questions, either orally or in writing, as relevant and reasonable, to the expert witness [Liliana] Gimol Pinto, offered by the representative, whose opinion is related to both inter-American public order and the matter to be dealt with by one of the expert opinions offered by the Inter-American Commission" (*supra* having seen paragraph 14). In this regard, it indicated that the expert opinion to be provided by "Miguel Cillero [Bruñol, offered by the Commission], is directly related to the first part of the expert opinion of [Liliana] Gimol Pinto, [...] because the said purpose includes the 'the standards of international human rights law for juvenile criminal justice.'" The Commission based its request on the "importance of permitting interrelated expert opinions to offer a variety of perspectives [...] on the issues they are intended to develop, in order to increase the information available to the Court when it decides the instant case."

⁴ The expert opinion of Laura Dolores Sobredo was offered so that she would refer to: "the destructive effects and the impact on mental health related to the condition of life imprisonment to which Lucas Matías Mendoza, César Alberto Mendoza, Claudio David Núñez and Saúl Cristian Roldán Cajal have been subjected." In addition, about "the effects on the mental health, if any, of the said situation on the families of those previously mentioned and on the next of kin of Ricardo David Videla Fernández. The specialist will also provide information on the characteristics of the emotional development of the adolescents, particularly in relation to the progressive acquisition of a sense of responsibility, the differentiated impact that prison produces on children, as well as the different consequences that a prolonged period of confinement generates on mental health, taking into special consideration their possibility of developing their persona and realizing their life project." Lastly, the expert opinion was offered so that Ms. Sobredo could refer to "the recommended therapies to provide the victims with a process of rehabilitation of their mental health that enables them to recover to the greatest extent possible from the extreme living conditions to which they have been exposed since childhood."

⁵ The State filed the following preliminary objections: "the arguments of the representative of the presumed victims regarding the imposition of life sentences, execution of sentence, and observance of the guarantee of review of the conviction, exceed the procedural purpose on which the case before the IACHR was substantiated"; "preliminary objection (Article 47(d) of the Convention): the arguments of the IACHR and of the representative of the petitioners regarding the detention conditions in the Mendoza Prisons, as well as the death of Ricardo David Videla Fernández and the judicial investigations opened regarding this event are essentially a replication of a previous petition. Violation of the principle of 'international *res judicata*'; "the detention conditions of Claudio David Núñez, Lucas Matías Mendoza y César Alberto Mendoza in juvenile institutions and establishments belonging to the Federal Penitentiary Service, as well as the supposed negative consequences of the transfers on their rehabilitation processes exceed the procedural purpose of the application"; "the procedural claims of the representative of the petitioners with regard to Saúl Cristian Roldán Cajal became theoretical," and "preliminary objection of the lack of competence of the Inter-American Court of Human Rights to deal with the claims for pecuniary reparation requested by the representative of the alleged victims."

16. Regarding the Commission's request, the President recalls the provisions of the Rules of Procedure regarding the reception of statements proposed by the Commission, as well as in relation to its authority to question the deponents offered by the other parties.⁶ In particular, the provisions of Article 50(5) of the Rules of Procedure should be recalled, which establish that "[t]he alleged victims or their representatives, the respondent State, and, if applicable, the petitioning State may formulate questions in writing for the deponents offered by the opposing party and, if applicable, by the Commission, who have been convened by the Court to render their statements by affidavit." This provision should be read in conjunction with Article 52(3) of the Rules of Procedure, which establishes the possibility for the Commission to question the expert witnesses presented by the parties, "if authorized by the Court upon receiving a well-founded request therefor, when the inter-American public order of human rights is affected in a significant manner and the statement in question regards a topic included in the statement of an expert witness offered by the Commission." Thus, in each case, the Commission must substantiate the relationship with both inter-American public order and the matter to which the opinion of the expert witness relates, so that the Court or its President may assess the request opportunely and, if appropriate, authorize the Commission to pose its questions.⁷

17. In this regard, the President observes that the Commission expressed its desire to pose questions, either orally or in writing, to expert witness Lilian Gimol Pinto, taking into account the alleged relationship between the first component of her expert opinion and one of the components of the opinion of Miguel Cillero Bruñol; in other words, the "standards of international human rights law for juvenile criminal justice." In addition, it substantiated its request regarding the "variety of perspectives" that these opinions, taken as a whole, may provide to the Court. In this regard, the President verified that the purposes of the two expert opinions overlap partially, as mentioned; that both go beyond the facts of the instant case, and that they have an impact on inter-American public order. Also, in this Order, the President has already considered it pertinent to receive the expert opinion of Lilliana Gimol Pinto, offered by the representative, and the expert opinion of Miguel Cillero Bruñol, offered by the Commission (*supra* considering paragraphs 11 and 14). Therefore, the President finds that the Inter-American Commission's request to question Liliana Gimol Pinto is admissible. The questions should be limited to the "standards of international human rights law for juvenile criminal justice," which is the aspect mentioned in the purposes of the two expert opinions.

D. Method of receiving the statements of the alleged victims and the expert opinions

18. It is necessary to ensure the most extensive presentation of the facts and arguments by the parties on everything that is pertinent for deciding disputed matters, guaranteeing both the latter's right to defend their respective positions and also the Court's ability to give adequate attention to the cases submitted to its consideration, taking into account that their number has increased significantly and is growing constantly. It must also be ensured that the proceedings are completed within a reasonable time, as required by effective access to justice. Consequently, it is necessary to receive the greatest possible number of statements

⁶ *Case of González Medina and Family Members v. Dominican Republic*. Order of the President of the Inter-American Court of Human Rights of June 3, 2011, forty-eighth considering paragraph, and *Case Mohamed v. Argentina*. Order of the President of the Inter-American Court of Human Rights of June 4, 2012, fortieth considering paragraph.

⁷ *Cf. Case of Contreras et al. v. El Salvador*. Order of the President of the Inter-American Court of Human Rights of April 14, 2011, twenty-fifth considering paragraph, and *Case of Mohamed v. Argentina*, *supra* note 6, fortieth considering paragraph.

by affidavit and to hear the presumed victims and expert witnesses whose direct testimony is truly essential at the public hearing, taking into account the circumstances of the case and the purpose of the testimony and opinions.

D.1. Statements to be provided by affidavit

19. Taking into account the provisions of Article 50(1) of the Rules of Procedure, the information provided by the Inter-American Commission and the representative with their final lists of deponents and in the brief of July 31, 2012 (*supra* having seen paragraphs 11 and 16), the purpose of the statements offered, as well as the principle of procedural economy, the President finds it desirable to receive, by affidavit, the statements of the following presumed victims: César Alberto Mendoza; Claudio David Núñez; Lucas Matías Mendoza; Saúl Cristian Roldán Cajal; Isolina del Carmen Herrera; Ana María del Valle Brito; Florinda Rosa Cajal; Romina Beatriz Muñoz; Jorgelina Amalia Díaz; Dora Noemí Mendoza; Yolanda Elizabeth Núñez; Omar Maximiliano Mendoza; Elizabeth Paola Mendoza; Yohana Elizabeth Roldán, Marilyn Estefanía Videla and Marta Graciela Olguín, all offered by the representative. In addition, the President finds it pertinent to receive by affidavit the expert opinions of Laura Dolores Sobredo and Liliana Gimol Pinto, offered by the representative, and of Alberto Bovino and Lawrence O. Gostin, offered by the Inter-American Commission.

20. In application of the provisions of Article 50(5) of the Rules of Procedure, the President proceeds to grant the State and the representative the opportunity, if they so wish, to submit the questions they deem pertinent to the deponents and expert witnesses of the representative and of the Inter-American Commission referred to in the preceding paragraph. Furthermore, in accordance with the provisions of Article 52(3) of the Rules of Procedure, the President grants the Inter-American Commission the opportunity to question expert witness Liliana Gimol Pinto, offered by the representative, in keeping with the terms of considering paragraph 17 of this Order. When preparing their affidavits, the alleged victims and the expert witnesses must answer these questions, unless the President determines otherwise. The corresponding time frames will be established in the second operative paragraph of this Order. The said statements will be forwarded to the Inter-American Commission, the representative, and the State. In turn, the State and the representative may submit any observations they deem pertinent within the time frame indicated in this Order (*infra* fourth operative paragraph). The probative value of these statements will be determined opportunely by the Court, which will consider all the points of view, if applicable, expressed by the representative and the State in the exercise of their right to defense.

D.2. Statements of alleged victims and expert opinions to be received at the public hearing

21. This case is ready for the opening of the oral proceedings with regard to the preliminary objections and eventual merits, reparations, and costs; consequently, the President finds it pertinent to convene a public hearing in order to receive the statement of alleged victim Stella Maris Fernández, offered by the representative, and the expert opinions of Miguel Cillero Bruñol and Sofía Tiscornia, offered by the Inter-American Commission and the representative, respectively.

E. Application of the Victims' Legal Assistance Fund

22. In the Order adopted by the President on May 8, 2012 (*supra* having seen paragraph 7), it was decided to declare admissible the request filed by the presumed victims, through their representative, to access the Court's Assistance Fund; thus, the necessary financial

assistance would be granted for the presentation of a maximum of five statements, either by affidavit or at the public hearing.

23. Having determined which statements of alleged victims and expert opinions offered by the representative will be received by the Court and how they will be provided, the specific amount, use and purpose of the said assistance must be now established.

24. In this regard, the President establishes that the financial assistance will be allocated, first, to cover the necessary travel and accommodation expenses for presumed victim Stella Maris Fernández (*supra* considering paragraph 21) to appear before the Court so that she may testify during the public hearing to be held in this case.

25. Second, the said Order of May 8, 2012, placed on record that the representative had requested the use of the Assistance Fund to ensure the presence at the hearing, on the one hand, of Marta Graciela Olguín, who will no longer testify during the hearing, but rather by affidavit (*supra* having seen paragraph 16 and considering paragraph 19) and, on the other hand, of expert witnesses Liliana Gimol Pinto and Sofía Tiscornia. In the case of these two experts, the representative requested that the Assistance Fund also cover the expenses resulting from the “production of [the] expert opinions, which will inevitably entail the travel, transfers, accommodation and per diems of the experts to visit the places of detention of César Alberto Mendoza, Claudio David Núñez, Lucas Matías Mendoza [and] Saúl Cristian Roldán Cajal, and the places of residence of their next of kin, as well as of the Videla Fernández family[, corresponding to Ricardo David Videla Fernández, presumed victim who is deceased]. The representative also indicated that, if the expert opinions were not received during the hearing, she requested that the expenses resulting from producing them by affidavit be covered. In addition, the representative requested funds in order to “pay the expenses [...] incurred for the reception by affidavit [...] of the expert opinion of [Laura] Dolores Sobredo.”

26. In this Order the President has authorized that the expert opinion of Sofía Tiscornia be provided during the public hearing, while the expert opinions of Liliana Gimol Pinto and Laura Dolores Sobredo will be provided by affidavit. Therefore, based on the representative’s request, the President finds that the financial support of the Assistance Fund should cover, up to a maximum of US\$7,000.00 (seven thousand United States dollars), the expenses of the preparation of the expert opinions of Sofía Tiscornia and Liliana Gimol Pinto. These expenses will be reimbursed to the representative and, to this end, she must submit previously the vouchers for the relevant expenses. The Assistance Fund must also cover all the necessary travel and accommodation expenses for Ms. Tiscornia to appear before the Court to provide her expert opinion orally during the public hearing. In addition, the Assistance Fund will cover the expenses for receiving by affidavit the expert opinions of Liliana Gimol Pinto and Laura Dolores Sobredo, and the testimony of Marta Graciela Olguín.

27. The Court will take the necessary and pertinent measures to cover the transfer, accommodation and living expenses of Stella Maris Fernández and Sofía Tiscornia with resources from the Victims’ Assistance Fund, so that they may appear at the public hearing. Furthermore, the representative should send the Court an estimate of the cost of preparing and notarizing the expert opinions of Liliana Gimol Pinto and Laura Dolores Sobredo, and the statement of Marta Graciela Olguín in Argentina, and forwarding them to the Court, by the deadline established in the eighth operative paragraph of this Order.

28. As stipulated in Article 4 of the Rules for the Operation of the Victims' Legal Assistance Fund of the Inter-American Court of Human Rights⁸ (hereinafter "the Rules of the Assistance Fund"), the Secretariat is ordered to open an expenses file in order to record and account for all the expenditures that are made with resources from the Assistance Fund.

29. Lastly, the President recalls that, in accordance with Article 5 of the Rules of the Assistance Fund, the respondent State shall be informed of the expenditures made from this Fund so that it may submit observations, if it so wishes, by the established deadline.

F. Final oral and written arguments and observations

30. The representative and the State may submit their respective final oral arguments on the preliminary objections and the eventual merits, reparations and costs to the Court, after the statements of the alleged victims and the expert opinions provided at the public hearing. As established in Article 51(8) of the Rules of Procedure, when the arguments of the representative and the State have concluded, the Inter-American Commission will present its final oral observations.

31. In accordance with Article 56 of the Rules of Procedure, the presumed victims or their representative, the State and the Commission may present their final written arguments and observations, respectively, regarding the preliminary objections and eventual merits, reparations and costs, within the time frame established in the twelfth operative paragraph of this Order.

THEREFORE:

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

pursuant to Articles 24(1) and 25(2) of the Statue of the Court, Articles 4, 15(1), 26, 31(2), 35(1), 40(2), 41(1), 42, 45, 46, 50 to 56 and 60 of the Court's Rules of Procedure, and in exercise of his authority with regard to the Victims' Legal Assistance Fund,

DECIDES:

1. To require, for the reasons indicated in this Order (*supra* considering paragraphs 18 to 20), in accordance with the principle of procedural economy and in exercise of the authority granted to him by Article 50(1) of the Court's Rules of Procedure, the following persons to provide their statements and expert opinions, as applicable, by affidavit:

A) Alleged victims proposed by the representative:

1) César Alberto Mendoza, Claudio David Núñez, Lucas Matías Mendoza and Saúl Cristian Roldán Cajal, who will testify on: the alleged impact on the different aspects of their life of their life imprisonment for acts attributed to them when they were minors. In addition, they will testify on the characteristics of their detention in different domestic prisons; the alleged living conditions they faced in prison and how these supposedly affected the exercise of their rights; on their plans for the future after so many years of imprisonment and, lastly, on how their imprisonment

⁸ Adopted by the Inter-American Court of Human Rights on February 4, 2010, and in force since June 1, 2010.

allegedly affected their families of origin and the families they have established, including their children in the case of César Alberto Mendoza, Claudio David Núñez and Lucas Matías Mendoza, or partner with regard to Saúl Cristian Roldán Cajal.

2) *Marta Graciela Olguín, Isolina del Carmen Herrera, Ana María del Valle Brito and Florinda Rosa Cajal*, who will testify on: the alleged impact that the life sentences had on the personal life and relationships of their sons, Lucas Matías Mendoza, César Alberto Mendoza, Claudio David Núñez and Saúl Cristian Roldán Cajal, respectively; on the supposed consequences that their sons' sentences to life imprisonment had on family life and on the social and work relationships of each member of their family, as well as on the conditions of means, time and place in relation to their visits to their sons in prison.

3) *Romina Beatriz Muñoz, former partner of César Alberto Mendoza, and Jorgelina Amalia Díaz, partner of Claudio David Núñez*, who will testify on: the alleged consequences on their life and on that of their children of the life sentences of César Alberto Mendoza and Claudio David Núñez; on the characteristics of the ties that they and their children established after the imprisonment of Mr. Mendoza and Mr. Núñez; on the frequency and characteristics of the supposed visits to the different detention centers and, lastly, on the future prospects for bonding between their children and César Alberto Mendoza and Claudio David Núñez following the sentences they are serving.

4) *Dora Noemí Mendoza, Yolanda Elizabeth Núñez, Omar Maximiliano Mendoza, Elizabeth Paola Mendoza and Yohana Elizabeth Roldán*, who will testify on: the supposed consequences on each family member of the life imprisonment of their brothers César Alberto Mendoza, Claudio David Núñez, Lucas Matías Mendoza and Saúl Cristian Roldán Cajal, respectively, while minors; on the frequency and conditions of means, time and place of the supposed visits to the different detention centers, and on the alleged consequences on their own life plan, and on that of their families, of the fact that their brothers have been imprisoned since their adolescence.

5) *Marilyn Estefanía Videla*, who will testify on: the alleged consequences on each member of the family of the life sentence imposed on her brother Ricardo David Videla Fernández, while he was a minor; on the frequency and conditions of means, time and place of the supposed visits to the different detention centers, and on the alleged consequences that the death of her brother in prison and the failure to clarify what supposedly occurred has had on her own life plans, and on those of her family.

B) *Expert witnesses proposed by the representative:*

6) *Laura Dolores Sobredo*, who will provide an expert opinion on: the supposed destructive effects and the presumed impact on mental health related to the situation of life imprisonment to which Lucas Matías Mendoza, César Alberto Mendoza, Claudio David Núñez and Saúl Cristian Roldán Cajal have supposedly been subjected, and on the supposed effects, if any, of this situation on the mental health of the families of the said individuals and on the next of kin of Ricardo David Videla Fernández. In addition, the expert witness will refer to the characteristics of the emotional development of such individuals, especially with regard to the supposed progressive acquisition of a sense of responsibility, the differentiated impact that prison produces in children as well as the different consequences that an extended process of confinement causes on mental health, particularly considering the

possibility of developing their persona and realizing their life plans. Lastly, the expert witness will refer to the recommended therapies to provide the presumed victims with a process of rehabilitation of their mental health that enables them to recover to the greatest extent possible from the extreme living conditions to which they have been exposed since childhood.

7) Lilitana Gimol Pinto, who will provide an expert opinion on: the standards of international human rights law for juvenile criminal justice, contrasting them with the laws in force in Argentina, in particular, the domestic laws that are invoked as grounds for imposing life sentences on minors. Ms. Pinto will also refer to the State's obligations concerning the living conditions to which minors deprived of their liberty are entitled.

C) Experts proposed by the Inter-American Commission:

8) Alberto Bovino, who will provide an expert opinion on: the scope of the right established in Article 8(2)(h) of the American Convention; particularly on the exclusion *a priori* of the possibility of reviewing matters of fact or evidence owing to the apparent conflict between the principles of certain criminal procedural systems and the right to appeal a judgment.

9) Lawrence O. Gostin, who will provide an expert opinion on: the international human rights standards applicable with regard to mental health in detention centers, and the State's obligations arising from these standards.

2. To require the State and the representative, if they deem pertinent, to forward any questions they consider it relevant to submit, through the Inter-American Court, to the presumed victims and expert witnesses indicated in the first operative paragraph of this Order. Furthermore, to require the Inter-American Commission to forward the questions it deems pertinent to pose to expert witness Lilitana Gimol Pinto, in the terms of considering paragraph 17 of this Order. The questions of the representative, the State, and the Inter-American Commission must be submitted before the non-extendible time limit that expires on August 8, 2012. The statements required in the first operative paragraph must be submitted by the parties and the Inter-American Commission by August 24, 2012, at the latest.

3. To require the representative and the Inter-American Commission to coordinate and take the necessary measures so that, when the questions of the representative, the State and the Inter-American Commission, respectively, have been received, the deponents and the proposed expert witnesses include the corresponding answers in their statements and expert opinions provided by affidavit, in accordance with considering paragraph 20 of this Order.

4. To ensure that, when the statements and expert opinions required in the first operative paragraph have been received, the Secretariat of the Inter-American Court forwards them to the Inter-American Commission, the representative, and the State. If the representative and the State deem necessary, they can submit their observations to the said statements and expert opinions together with their final written arguments at the latest.

5. To convene the Inter-American Commission on Human Rights, the representative, and the Argentine Republic to a public hearing to be held during the Court's ninety-sixth regular session, which will take place at its seat in San José, Costa Rica, on August 30,

2012, starting at 9 a.m., to receive their final oral arguments and final oral observations, respectively, on the preliminary objections and eventual merits, reparations and costs, as well as to receive the statements and expert opinions of the following:

A) *Presumed victim proposed by the representative:*

1) *Stella Maris Fernández*, who will testify about: the supposed impact of the life sentence on the personal life and relationships of her son Ricardo David Videla Fernández, and on family life; about the supposed consequences of the death of her son, the presumed failure to clarify what happened; and about her expectations concerning the judgment of the Inter-American Court.

B) *Expert witness proposed by the Inter-American Commission*

2) *Miguel Cillero Bruñol*, who will provide an expert opinion on: the international human rights standards concerning juvenile criminal justice, including the principle of the specificity of the applicable substantive and procedural norms; the imposing of deprivation of liberty as a measure of last resort and for the shortest time possible, and the inadmissibility of imposing life sentences on adolescents with a disproportionate amount of time passing before release. He will also refer to Argentina's legal framework for juvenile criminal justice in light of the said standards.

C) *Expert witness proposed by the representative:*

3) *Sofía Tiscornia*, who will provide an expert opinion on: the supposed impact of life imprisonment on the life of children and adolescents, including their affective and social ties and their education and vocational training. In addition, she will refer to the supposed practice of detention centers of systematically transferring persons deprived of liberty, and the consequences of this practice in relation to the declared purposes of prison sentences. Lastly, she will refer to the supposed effects of this type of sentence on the families of those convicted.

6. To call upon the Argentine Republic to facilitate the exit from and entry into its territory of the deponents and expert witnesses, if they reside or are in that country, who have been summoned in this Order to testify and provide expert opinions at the public hearing on preliminary objections and eventual merits, reparations and costs in this case, in accordance with the provisions of Article 26(1) of the Court's Rules of Procedure.

7. To require the Inter-American Commission and the representative to communicate this Order to the persons they have proposed and who have been summoned to testify and provide expert opinions, in accordance with the provisions of Article 50(2) and 50(4) of the Rules of Procedure.

8. To inform the Inter-American Commission and the representative that they must cover the costs arising from producing or contributing the evidence they propose, in accordance with the provisions of Article 60 of the Rules of Procedure, notwithstanding the provisions of considering paragraphs 24 to 27 of this Order. Additionally, to require the representative to forward an estimate of the cost of preparing and notarizing the expert opinions of Liliana Gimol Pinto and Laura Dolores Sobredo, and the statement of Marta Graciela Olguín in Argentina, and forwarding them to the Court by August 8, 2012, at the latest.

9. To require the Commission and the representative to inform the persons summoned by the Court to testify and to provide their expert opinion that, under the provisions of Article 54 of the Rules of Procedure, the Court will advise the State of any case in which those summoned to appear or to testify, do not appear or refuse to testify without legitimate cause, or when, in the Court's opinion, they have violated their oath or solemn declaration, for the purposes established in the relevant domestic laws.

10. To inform the representative, the State, and the Inter-American Commission that, following the statements and expert opinions provided during the public hearing, they may present to the Court their final oral arguments and final oral observations, respectively, on the preliminary objections and eventual merits, reparations and costs in the instant case.

11. To require the Secretariat of the Court, in accordance with the provisions of Article 55(3) of the Rules of Procedure, to notify the Inter-American Commission, the representative, and the State, as soon as possible after the public hearing, of the link where the recording of the public hearing of this case will be available.

12. To inform the Inter-American Commission, the representative, and the State that they have until September 30, 2012, to present their final written arguments and final written observations, respectively, with regard to the preliminary objections and eventual merits, reparations and costs in this case. This time frame is non-extendible.

13. To require, in accordance with Article 4 of the Court's Rules for the Operation of the Victims' Legal Assistance Fund, that the Secretariat of the Court open an expenses file, in which each outlay of resources from the Victims' Legal Assistance Fund is documented.

14. To require the Secretariat of the Inter-American Court to notify this Order to the Inter-American Commission of Human Rights, the representative of the presumed victims, and the Argentine Republic.

Diego García-Sayán
President

Pablo Saavedra Alessandri
Secretary

So ordered,

Diego García-Sayán
President

Pablo Saavedra Alessandri
Secretary