

Press Release

Inter-American Court of Human Rights

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MEXICO IS RESPONSIBLE FOR FORCED DISAPPEARANCES OCCURRED WITHIN THE FRAMEWORK OF CITIZEN SECURITY WORK

San Jose, Costa Rica, December 20, 2018. - In the judgment published today in the Case *Alvarado Espinoza et al. v. Mexico*, the Inter-American Court of Human Rights (hereinafter, "the Court" or "Tribunal"), declared that the State of Mexico is internationally responsible for the forced disappearances of Nitza Paola Alvarado Espinoza, José Ángel Alvarado and Rocio Irene Alvarado Reyes, which occurred during the implementation of the Joint Operation Chihuahua and the fight against organized crime in Mexico, with the participation of the armed forces in security tasks. The Court also found the State responsible for the lack of due diligence and reasonable time in the framework of the investigations of the acts. Additionally, the State violated its duty to guarantee the rights of the relatives that were forced to move, suffered threats and harassment. The official summary of the judgment can be found [here](#) and the entire text of the judgment [here](#) (in Spanish).

The Court took into consideration the partial recognition of responsibility made by the State, with regard to the facts and rights, mainly in relation to the referral of the case for a period of time to the military justice, the lack of legislation on the matter of forced disappearance and the ineffectiveness of the *amparo* appeal at the moment of the facts.

The relevant forced disappearances took place in Ejido Benito Juárez (state of Chihuahua) on December 29, 2009 and were executed by state officials. The tribunal stated that the referred testimonies and observations of internal bodies, in light of the prevailing context at the time of the facts, lead in a cogent manner to proving the participation of state officials in the detentions of the victims. Previous to the disappearances different factors of impunity contributed to the lack of clarification of the facts and the sanctioning of those responsible for them. On another hand, relatives of the missing victims suffered different acts of harassment or threats. These were forced to move from their place of origin.

The Court noted that the increased participation of the army in tasks of civil security has been constant in Mexico since the year 2006. In that scenario, the use of military forces in the fight against crime turned into a recurring practice through the implementation of the denominated "Joint Operation" in whose intervention forces of the police and military worked together.

Regarding the participation of the armed forces in tasks of civil security, the Court interpreted the obligations established in Articles 1.1 and 2 of the Convention, as well as Article 32.2 of the Convention, regarding the duty of the States to guarantee and maintain the security and public order, acknowledging the serious threat to the community imposed by organized crime. The Court acknowledged that, to tackle said problem, it is important for the States to act within its limits and according to the proceedings that ensure the preservation of both public security and human rights at every time. In that sense, the Court reaffirmed that, as a general rule, the preservation of internal public order and civil security have to be primarily reserved to the civilian police bodies. However, when they would exceptionally intervene in tasks of security, the participation of the armed forces has to be:

- a) *Extraordinary*, in that every intervention has to be justified and exceptional, temporary and restricted to the strictly necessary according to the circumstances of the case;
- b) *Subordinated and complementary* to the work of the civil bodies, without the possibility of their tasks being extended to the own faculties of the institutions of procurement of justice or judicial police or ministerial;
- c) *Regulated* through legal mechanisms and protocols about the use of force, according to the principles of exceptionality, proportionality and absolute necessity and according with the respective training in the subject;
- d) *Audited* by competent, independent and technically capable civil bodies.

Additionally, the Court reiterated its jurisprudence in the sense that the State must provide simple and expedite resources to report the violation of human rights, as well as to address such complaints before the ordinary jurisdiction instead of the military, which must be investigated effectively and in that particular case, those responsible have to be sanctioned.


In view of these violations, the Court ordered as measures of integral reparation, *inter alia*, that the State: investigate the whereabouts of the victims as well as the facts; provide measures of rehabilitation for the relatives; publish the judgment; hold a public event of recognition of responsibility; repair the damages to the project of life; adopt measures for the creation of a record of missing persons; provide trainings about the safeguarding of public safety; ensure protection to relatives and guarantees of return as well as the granting of corresponding indemnities.

The Court's composition for the judgment included the following: Judge Eduardo Vio Grossi, (Chile), acting President; Judge Humberto Antonio Sierra Porto (Colombia); Judge Elizabeth Odio Benito (Costa Rica); Judge Eugenio Raúl Zaffaroni (Argentina) and Judge L. Patricio Pazmiño Freire (Ecuador). Judge Eduardo Ferrer Mac-Gregor Poisot did not participate in the deliberation and adoption of this judgment, in accordance with Article 19.1 of the Rules of the Court.

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