

Press Release

Inter-American Court of Human Rights

I/A Court H.R._PR-101/2022 English

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I/A Court H.R.

Protecting Rights

ECUADOR IS RESPONSIBLE FOR VIOLATING THE RIGHT TO A FAIR TRIAL, RIGHT TO PERSONAL LIBERTY, AND RIGHT TO HUMANE TREATMENT AGAINST A FORMER MEMBER OF THE ARMED FORCES

San Jose, Costa Rica, December 15, 2022. – Today the Inter-American Court of Human Rights posted its Judgment on the Case of *Cortez Espinoza v. Ecuador*, holding the State of Ecuador internationally responsible for violating the right to a fair trial, right to personal liberty, and right to personal integrity of Gonzalo Orlando Cortez Espinoza.

The official summary of the Judgment can be found [here](#) in Spanish, and the full text of the Judgment, also in Spanish, is [here](#).

Mr. Cortez was a member of the Ecuadorian Forces from 1978 to 1994. On January 21, 1997, he was arrested by order of military judicial authorities and questioned by a military prosecutor regarding an alleged illegal activity involving the removal of equipment from an aircraft. He was held incommunicado and was released the next day. On July 11 of the same year, he was again arrested and held in solitary confinement inside a military facility for 17 or 19 days. During this time, Mr. Cortez claimed to have been beaten and not allowed to sleep. After posting the bond, Mr. Cortez was released on December 19, 1997.

The Court of Military Justice voided all the proceedings against Mr. Cortez on November 12, 1999, in view of his civilian status. It ordered the file to be sent to the ordinary courts. The Third Criminal Court of Pichincha issued an order on January 28, 2000, for Mr. Cortez to be held in pretrial detention, based on article 177 of the Criminal Procedural Code in effect at the time. He was arrested on February 28 of that year. His formal arrest warrant was issued the following March 3.

Mr. Cortez filed writs of habeas corpus with the Mayor of Quito on March 8 and March 29, 2000, but they were declared unfounded. The Constitutional Court delivered a ruling on May 9, 2000, reversing the Mayor's decision and ordering the release of Mr. Cortez, holding that his arrest had taken place in the absence of a warrant by a qualified judge. Mr. Cortez was released on May 11, 2000. The Third Criminal Court of Pichincha declared on September 2, 2009, that the criminal case against Mr. Cortez had lapsed under the statute of limitations. This was upheld on January 3, 2011, by the Provincial Court of Pichincha, and the case file was set aside on January 17.

The Inter-American Court alerted in its Judgment that the criminal process in the ordinary courts had lasted nearly 11 years, and the record showed no action at all during nine of those years. It, therefore, held that the delay was unwarranted, and that Mr. Cortez had experienced a violation of his right to be judged within a reasonable period.

The Court also commented that the arrests in January and July of 1997 had been ordered and completed by military authorities, who had no jurisdiction. Moreover, the second time Mr. Cortez was arrested, he was held in solitary confinement for at least 17 days, which exceeds the 24-hour period allowed under the Constitution. Mr. Cortez was the victim of cruel and unusual punishment on that occasion.

All three times he was arrested, Mr. Cortez suffered a violation of the right to judicial oversight of his incarceration by a competent authority.

The pretrial detention of Mr. Cortez in 1997 was illegal because it had been ordered by a military court, which had no jurisdiction. The pretrial detention order against him in January 2000 was arbitrary and counter to the principle of presumption of innocence.

The Court, therefore, ordered several measures of reparation.

The composition of the Court for this Judgment were: Ricardo C. Pérez Manrique, President (Uruguay), Humberto Antonio Sierra Porto, Vice-President (Colombia), Eduardo Ferrer MacGregor Poisot (Mexico), Nancy López (Costa Rica), Verónica Gómez (Argentina), Patricia Pérez Goldberg (Chile), and Rodrigo Mudrovitsch (Brazil).

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