

Press Release

Inter-American Court of Human Rights

I/A Court H.R._PR-25/2023 English

Should you have any trouble viewing this message, please click [HERE](#)



I/A Court H.R. Protecting Rights

MEXICO IS RESPONSIBLE FOR VIOLATING THE RIGHT TO PERSONAL FREEDOM AND PRESUMPTION OF INNOCENCE FOR APPLYING HOUSE ARREST AND DISCRETIONARY PRETRIAL DETENTION

San José, Costa Rica, April 12, 2023.- Today the Inter-American Court of Human Rights released its Judgment on the case of *García Rodríguez et al. v. Mexico*, holding the State of Mexico responsible for violating the right to personal integrity, right to personal liberty, right to judicial guarantees, right to equal protection of the law, and right to judicial protection against Daniel García Rodríguez and Reyes Alpízar Ortiz, who had been detained and held in custody as part of a criminal process against them.

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

Daniel García was arrested on February 25, 2002, and Reyes Alpízar, on October 25, 2002. The day they were detained, they were interrogated and placed under house arrest for terms of 47 days and 34 days. These two orders for house arrest remained in place until the criminal trials against them were officially opened. The victims were subsequently held in pretrial detention for over 17 years, after which alternative measures of imprisonment were adopted and were still in effect when a court verdict was handed down. The Judgment delivered on May 12, 2022, convicted them of homicide and ordered 35-year prison sentences. This verdict was appealed.

The case before the Court called for analysis of two mechanisms established under Mexican law: house arrest and discretionary pretrial detention.

House arrest was created in 2000 under article 154 of the Criminal Procedural Code of the State of Mexico. The Court found that, because it is a measure of pretrial confinement for investigative purposes, it violates the right to personal liberty, the right to be heard, and the presumption of innocence of the person being held, as part of the obligation to adopt domestic legal effects under Article 2 of the American Convention.

The other measure ordered in this case, discretionary pretrial detention, is covered by Article 319 of the Criminal Procedural Code of the State of Mexico, adopted in 2000, and Article 19 of the Constitution under the 2008 reforms. The Court found that this mechanism, as established, runs counter to the American Convention. The Court reasoned that this is because the law makes no mention of the purposes for pretrial detention or the procedural hazards it is intended to prevent; nor does it require any analysis of the need for the measure by comparison with other options that could be less injurious to the rights of the accused. The measure is applied automatically for crimes of particular severity, and the law requires no examination of arguments for exercising caution due to the particular circumstances of the case. Judges are unable to exercise any real control over the appropriateness of the measure of confinement. The Court thus concluded that the State had violated the right not to be held in custody arbitrarily, the right to judicial review of detention, the right to equality and non-discrimination and the right to

be presumed innocent, all in injury of the victims who had come under the application of this mechanism.

The Court also found that the arrests of Daniel García Rodríguez and Reyes Alpízar Ortiz did not satisfy any of the hypotheses allowed under domestic law for apprehending a person, such as a judicial arrest warrant or having been caught *in flagrante delicto*. The Court also found that the State had violated the victims' right to be informed of the grounds for arrest. Daniel García was first taken before judicial authorities after 47 days in detention, and Reyes Alpízar, after being held for 31 days, which violated their right to be taken without delay before "a judge or other officer authorized by law to exercise judicial power."

The Court also found that the victims had been subjected to coercion and torture, and these claims had not been not duly investigated by the State.

The Court saw that the victim's statements taken under conditions of coercion and torture had been used in several processes in the criminal trial against them. The Court found that the State had violated Daniel García's right of defense, as he had no access to a defense attorney during the early stages of his detention and house arrest. The Court added that the principle of a reasonable period had been violated in the criminal trials against both victims.

In view of the violations specified in the Judgment, the Court ordered the State to extend several measures of reparation: (a) conclude the still-unfinished criminal trials as expeditiously as possible; (b) review the appropriateness of continuing with the precautionary measures; (c) carry out investigations of the acts of torture against the victims and the other human rights violations they had experienced; (d) repeal the provisions on pretrial house arrest in its domestic system; (e) reform the domestic legal system for discretionary pretrial detention; and (f) provide training programs for staff members in the Office of the Assistant Prosecutor of Tlalnepantla.

**

The Judges sitting on the Court for this case were: Ricardo C. Pérez Manrique, President (Uruguay), Humberto Antonio Sierra Porto (Colombia), Nancy Hernández López (Costa Rica), Verónica Gómez (Argentina), Patricia Pérez Goldberg (Chile), and Rodrigo Mudrovitsch (Brazil).

Vice-President Eduardo Ferrer Mac-Gregor Poisot, who is Mexican by nationality, did not take part in the deliberation or signing of the Judgment, in accordance with the provisions of Articles 19(1) and 19(2) of the Rules of Procedure of the Court.

**

This press release was produced by the Secretariat of the Inter-American Court of Human Rights, which is the only responsible for its content.

For the latest information please visit the website of the Inter-American Court, <http://www.corteidh.or.cr/index-en.cfm>, or send an email to Pablo Saavedra Alessandri, Secretary, at corteidh@corteidh.or.cr. For press inquiries please contact Matías Ponce at prensa@corteidh.or.cr.

You can subscribe to the information services of the Court [here](#). You can sign up for updates from the Court here or unsubscribe sending an email to comunicaciones@corteidh.or.cr. You can also follow the activities of the Court on [Facebook](#), [Twitter](#) (@CorteIDH for the Spanish account and @IACourtHR for the English account), [Instagram](#), [Flickr](#), [Vimeo](#) and [Soundcloud](#).

Inter-American Court of Human Rights, 2023.  BY-NC-ND

Esta obra está bajo una [Licencia Creative Commons Atribución-NoComercial-SinDerivadas 3.0 Unported](#)

Avenida 10, Calles 45 y 47 Los Yoses, San Pedro, San José, Costa Rica.



www.corteidh.or.cr
corteidh@corteidh.or.cr



(506) 2527-1600



10th Av, between street 45
and street 47, Los Yoses, San
Pedro, San Jose, Costa Rica.

Follow us:

