

Press Release

Inter-American Court of Human Rights

I/A Court H.R._PR-36/2021 English

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I/A Court H.R. Protecting Rights

ECUADOR IS RESPONSIBLE FOR THE VIOLATION OF THE RIGHT TO HEALTH, DISCRIMINATION, DISAPPEARANCE, LACK OF GUARANTEES AND JUDICIAL PROTECTION OF A PERSON WITH DISABILITIES

San José, Costa Rica, June 23, 2021. In the Judgment of the *Case of Guachalá Chimbo et al. v. Ecuador*, notified today, the Inter-American Court of Human Rights found the State of Ecuador internationally responsible for violations of: i) the right to recognition of legal personality, life, integrity of person, personal liberty, dignity, privacy, access to information, equality, and health, in relation to the obligations to respect and guarantee rights without discrimination and the duty to adopt domestic legal effects, to the detriment of Luis Eduardo Guachalá Chimbo; ii) the right to an effective remedy, and to judicial guarantees and protection, to the detriment of Luis Eduardo Guachalá Chimbo and his relatives, Zoila Chimbo Jarro and Nancy Guachalá Chimbo; and iii) the right to personal integrity and the right to know the truth, to the detriment of Zoila Chimbo Jarro and Nancy Guachalá Chimbo.

The official summary of the Judgment can be accessed [here](#) and the Judgment's full text can be accessed [here](#).

23-year-old Luis Eduardo Guachalá Chimbo, a person with a disability who suffered from epilepsy, was hospitalized on January 10, 2004, at the Julio Endara Hospital in Quito, with his mother having signed the committal authorization. Mr. Guachalá Chimbo was committed at the hospital until January 17, 2004, at which time, according to his clinical history, he left the hospital, and from that moment on, his whereabouts have been unknown. Ms. Zoila Chimbo filed a complaint with the authorities that, following an investigation by the Office of the Public Prosecutor of Pichincha, was dismissed permanently on July 19, 2006, by the courts.

On November 29, 2004, the representatives of Ms. Chimbo filed a writ of *habeas corpus* before the mayor of Quito. Given the lack of a response, in 2005, they filed suit before the Constitutional Tribunal, which ruled that the investigations must continue until Guachalá Chimbo's whereabouts were located, something that to this day has not happened.

In its Judgment, the Court concluded that the committal and medical treatment received by Mr. Guachalá Chimbo at the Julio Endara Psychiatric Hospital did not have his informed consent; the facility was not accessible or of good quality; and the necessary measures were not taken to guarantee his right to life and integrity, nor his right to health without discrimination. Based on this, it was determined that the State violated the rights to recognition of legal personality, life, integrity, personal liberty, dignity, privacy, access to information, equality, and health, in relation to the obligations to respect and guarantee rights without discrimination and the duty to adopt domestic legal effects.

With the disappearance of Mr. Guachalá Chimbo, the Court found that the State failed to comply with its obligations to launch an *ex officio* investigation without delay; undertake a serious search for the alleged victim; investigate what happened with due diligence; guarantee an effective habeas corpus remedy for addressing Mr. Guachalá's disappearance; and investigate the facts

within a reasonable period of time. For these reasons, the Court found that the rights to an effective remedy, truth, judicial guarantees and protection were violated.

The Court also established in its Judgment that Zoila Chimbó Jarro and Nancy Guachalá Chimbó, the mother and sister of Mr. Guachalá Chimbó, respectively, have experienced intense suffering and distress to the detriment of their psychological and moral integrity, violating their right to personal integrity.

In its Judgment, the Court highlighted that the use of the victim's disability to argue that his informed consent was not necessary for his committal and medication, and the lack of access to the necessary medications, amounted to discrimination based on disability.

In view of these violations, the Court ordered the State to undertake a number of measures of reparation.

Judges Eugenio Raúl Zaffaroni and Ricardo Pérez Manrique released concurring opinions. Judge Eduardo Vio Grossi issued a partially dissenting opinion, and Judge Humberto Antonio Sierra Porto released his concurring and partially dissenting opinion.

The composition of the Court for issuing this Judgment was as follows: Judge Elizabeth Odio Benito, President (Costa Rica); Judge Eduardo Vio Grossi (Chile); Judge Humberto Antonio Sierra Porto (Colombia); Judge Eduardo Ferrer Mac-Gregor Poisot (Mexico); Judge Eugenio Raúl Zaffaroni (Argentina); and Judge Ricardo Pérez Manrique (Uruguay). Judge Patricio Pazmiño Freire, an Ecuadorian national, did not take part in the processing, deliberation, or signature of this Judgment, in accordance with the provisions of Article 19(1) and (2) of the Court's Rules of Procedure.

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