

Press Release 68/2024 English

VENEZUELA IS RESPONSIBLE FOR THE ARBITRARY DETENTION AND VIOLATION OF THE JUDICIAL GUARANTEES OF RETIRED GENERAL JESÚS POGGIOLI PÉREZ

San José, Costa Rica, October 3, 2024. - In the Judgment in the *Case of Poggioli Pérez v. Venezuela*, notified today, the Inter-American Court of Human Rights declared the State of Venezuela responsible for the violation of the rights to personal liberty, personal integrity, protection of honor, judicial guarantees and judicial protection, to the detriment of Ovidio Jesús Poggioli Pérez, Brigadier General retired from the Venezuelan Army, due to the illegal and arbitrary detention as well as the violation of due process that the victim was subject to in two proceedings before the criminal military jurisdiction.

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

The facts of this case occurred in the context of the social mobilization in Venezuela from December 2001 to April 2002. On April 19, 2002, the Minister of Defense ordered the opening of a procedure in the military jurisdiction against Mr. Poggioli for alleged military crimes, without specifying the charges. Mr. Poggioli's defense filed an appeal for constitutional protection, requesting the annulment of the criminal proceedings, which was admitted by the Constitutional Chamber; the case was suspended in 2002. In December 2003, Mr. Poggioli was detained without an arrest warrant by the Directorate of Military Intelligence and without information on the reasons for said deprivation of liberty. In 2004, criminal proceedings were opened for a second time, in which he was accused of instigating military rebellion. In 2005 he was sentenced to two years, five months and 10 days of prison, and he obtained full liberty in 2006.

In its considerations, the Court confirmed its jurisprudence, noting that the military jurisdiction shall apply solely to military personnel in active duty. In this case Mr. Poggioli, who was not an active-duty soldier, was prosecuted by military justice, which entails a violation of the right to be heard by a competent court. Moreover, the Court found that the State violated his right to be informed in detail of the charges against him in the proceedings initiated in 2002 and determined that the Constitutional Chamber of the Supreme Court of Justice did not provide adequate grounds for the request for legal protection, which entailed another infringement of the right to a fair trial.

The Court determined that the detention of Mr. Poggioli by the Military Intelligence Directorate was illegal, since there was no arrest warrant and no situation of flagrancy, and the right to be informed of the reasons for his detention was violated. In addition, the four-month delay to bring him before a judicial authority violated his right to be brought promptly before a judge or other officer authorized by law to exercise judicial functions. On the other hand, the publication of posters offering a reward for capturing him, after he had voluntarily gone to the authorities, affected his honor, dignity and presumption of innocence. The Court also concluded that the entry and search of his home in 2004, without a warrant, violated the right to not be subject to arbitrary interference in his home. Lastly, the Court concluded that the conditions of his detention in March of 2005 violated his right to personal integrity.

Based on the violations declared in the judgment, the Court ordered several reparation measures: i) to adopt judicial, administrative and any other type of measure necessary to annul the military criminal proceedings against Mr. Poggioli for the facts subject of the judgment; ii) hold a public act of acknowledgment of responsibility; iii) publish the judgment of the Inter-American Court and its summary; iv) establish, through its legislation, limits to the jurisdiction of the military courts so that it only applies to active-duty soldiers, and to pay the sums established in the judgment for pecuniary and non-pecuniary damages and the sums established for costs and expenses.

The Court's composition for the issuing of this Judgment was as follows: Judge Nancy Hernández López, President (Costa Rica); Judge Rodrigo Mudrovitsch, Vice-President (Brazil); Judge Humberto Antonio Sierra Porto (Colombia); Judge Eduardo Ferrer Mac-Gregor Poisot (Mexico); Judge Ricardo C. Pérez Manrique (Uruguay); Judge Verónica Gómez (Argentina) and Judge Patricia Pérez Goldberg (Chile).

This press release was drafted by the Registrar's Office of the Inter-American Court of Human Rights; it is solely responsible for this document.

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