Press Release
Inter-American Court of Human Rights
I/A Court H.R._PR-69/2022 English

I/A Court H.R.
Protecting Rights

ARGENTINA IS NOT RESPONSIBLE FOR THE VIOLATION OF THE RIGHTS TO MOVEMENT AND RESIDENCE, TO NATIONALITY, TO CHILDHOOD, TO PERSONAL FREEDOM, TO THE PRINCIPLE OF LEGALITY, TO EQUALITY BEFORE THE LAW, AND TO A FAIR TRIAL AND JUDICIAL PROTECTION, TO THE DETRIMENT OF MRS. RAGHDA HABBAL AND HER SON AND DAUGHTERS

San José, Costa Rica, October 4, 2022. In the Judgment, notified today, in the *Case of Habbal et al. v. Argentina*, the Inter-American Court of Human Rights declared that the State of Argentina is not internationally responsible for the violation of the rights to movement and residence, to nationality, to childhood, to personal liberty, to equality before the law, and to a fair trial and judicial protection, to the detriment of Mrs. Raghda Habbal, her three daughters, Monnawar Al Kassar, Hifaa Al Kassar, and Natasha Al Kassar, and son, Mohamed René Al Kassar.

The official summary of the Judgment can be found here and the full text of the Judgment can be found here.

Mrs. Raghda Habbal was born in 1964 in Damascus, Syria. On June 21, 1990, she traveled from Spain to Argentina with her three daughters Monnawar Al Kassar, Hifaa Al Kassar, and Natasha Al Kassar. On December 23, 1991, Mohamed René Al Kassar was born in Argentina, the son of Mrs. Habbal and her spouse, Monzer Al Kassar. On June 21, 1990, Mr. Al Kassar, as the spouse of Mrs. Habbal, requested the definitive settlement in the Republic of Argentina for his wife and daughters from the National Directorate of Population and Migration of Argentina. In said request, Mr. Al Kassar stated that he was in the country legally and that he had been admitted as a permanent resident. On July 4, 1990, through Resolution No. 241 547/90, the National Directorate of Population and Migration admitted Mrs. Habbal and her daughters as permanent residents in Argentina.

On December 31, 1991, Mrs. Habbal applied for a citizenship card from the Judiciary of Argentina. On March 24, 1992, she presented an additional document to her application in which she stated that, although she lacked three months to complete the required two years as a resident to apply for citizenship, she replaced the fulfillment of that requirement by availing herself of Article 3, subsection c, of the regulations of law 23,059. In this respect, she claimed to comply with said provision "with the acquisition of a lot in joint ownership with my husband in the province of Mendoza, worth one million two hundred thousand US dollars, in order to set up an industry of balanced products for fattening bovine animals". She was also informed of the purchase of a property in the federal capital for a value of one hundred twenty-five thousand US dollars and attached copies of the documentation accrediting both acquisitions. On April 4, 1992, the Federal Judge of Mendoza decided to grant citizenship to Mrs. Habbal.

On May 11, 1992, the National Director of Population and Migration issued Resolution No. 1088, in which it declared "absolutely null and void" the residency granted to Mrs. Habbal and her daughters. As a result, it declared her presence in the territory of Argentina illegal, ordered her

expulsion to her country of origin or previous residence, and provided for her precautionary detention. In the recitals of the said decision, it was stated that, through Resolution No. 972/92, the residency granted to Mr. Al Kassar was annulled, and, consequently, the residencies granted to Mrs. Habbal and her daughters were also null and their presence in the territory was illegal. The expulsion and detention orders were not executed but remained in force until June 1, 2020, the date on which it was revoked.

On October 27, 1994, the Acting Federal Judge issued a judgment declaring the act granting Mrs. Habbal citizenship as void and canceled her national identity document and any identity document that had been granted to her as an Argentine citizen. In the recitals, the ruling states that Article 15 of Decree 3213/84 establishes the possibility of cancellation of citizenship if there has been fraud to obtain it. It also pointed out that the case law recognizes that the title of citizen can be canceled if it is proven that the person who obtained it did not meet the essential conditions established by the Constitution. In this specific case, it pointed out that "a series of situations are evident that indicate the existence of a fraudulent action to obtain the title of Argentine citizen when there were no legal conditions for this to occur."

Mrs. Habbal's lawyers filed an appeal for annulment against the Acting Federal Judge's decision. On June 20, 1995, the Mendoza Court of Appeals rejected the appeals filed against the judgment of the Acting Federal Judge. In its recitals, the judgment indicates that none of the questions raised constituted a sufficient reason to annul the contested judgment, since they lacked substance to affect the right to defense or to disqualify the judgment as a valid jurisdictional act. Mrs. Habbal's lawyers filed an extraordinary appeal before the Federal Court of Appeals, which was denied on the grounds that there was no evidence of a federal case, although the formal requirements of the appeal were met. On November 3, 1995, Mrs. Habbal's lawyers filed a complaint with the Supreme Court of Justice, which was declared inadmissible.

Ms. Raghda Habbal traveled to the Republic of Argentina on several occasions in 1994, 1995, and 1996. In those visits, as recorded in the National Registry of Entry and Exit of Persons to the National Territory of Argentina, the registered nationality of Ms. Habbal was Syrian, Spanish, and Argentine. Similarly, on March 10, 1987, Mrs. Habbal was registered entering Argentina with Brazilian nationality by presenting a passport issued in Rio de Janeiro. On June 1, 2020, the National Migration Directorate "in the framework of the conclusions set forth by the Inter-American Commission on Human Rights [through Report No. 140/19 of September 28, 2019]" revoked Resolution 1088 of 11 May 1992.

Concerning the aforementioned facts, in its judgment, the Court found that although Resolution No. 1088 was contrary to the Convention due to its content, it never materially affected the rights of the alleged victims. The Court indicated that the absence of participation of the presumed victims in the proceedings before it prevented it from knowing whether, beyond those aspects arising from the evidence provided in the proceedings, Mrs. Habbal, her daughters, and her son suffered specific effects from the authorities' order of expulsion and precautionary detention. Finally, the Court considered that the revocation of Resolution 1088 ended the main fact that generated the breach of the State's obligations contained in the American Convention, and that it was repaired. Therefore, the Court concluded that the State is not responsible for the violation of the rights to movement and residence, to personal liberty, to childhood, to judicial guarantees, and to equality before the law, to the detriment of Mrs. Habbal and her daughters.

Regarding the right to nationality, the Court concluded that, in the circumstances of this case, it is evident that there was no risk that the alleged victim would find herself in a situation of statelessness after the cancellation of her Argentine nationality, and therefore it did not conclude that the actions of the Acting Federal Judge constituted a violation of Article 20 of the American Convention.

Furthermore, the Court noted that Mrs. Habbal had various legal remedies at her disposal to resolve her claims regarding the violations of her rights to nationality and due process. Said remedies were effective insofar as the judicial authorities that heard them analyzed and responded to the arguments presented by Mrs. Habbal without noting omissions that could infer

a breach of the State's obligations as established in Articles 8 and 25 of the Convention. In this sense, the Court reiterated that the effectiveness of the remedies should not be evaluated based on whether they produce a favorable result for the complainant. Therefore, it concluded that the State had not violated the right to judicial protection enshrined in Article 25(1) of the Convention, in relation to Article 1(1) therein.

As the international responsibility of the State had not been established, the Court ruled that it was not appropriate to rule on reparations, costs, and expenses and ordered the file to be archived.

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The composition of the Court for the delivery of this Judgment was as follows: Judge Ricardo C. Pérez Manrique, President, Judge Humberto Antonio Sierra Porto, Vice President, Judge Eduardo Ferrer Mac-Gregor Poisot, Judge Nancy López, Judge Patricia Pérez Goldberg, and Judge Rodrigo de Bittencourt Mudrovitsch.

Judge Verónica Gómez did not participate in the deliberation and signing of the Judgment, due to her Argentine nationality, in accordance with the provisions of Articles 19(2) of the Statute and 19(1) of the Court's Rules of Procedure.

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