

Press Release

Inter-American Court of Human Rights
I/A Court H.R._PR-72/2020 English

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I/A Court H.R. Protecting Rights

THE INTER-AMERICAN COURT OF HUMAN RIGHTS HELD ITS 135TH REGULAR SESSION VIRTUALLY



San José, Costa Rica, August 7, 2020. The Inter-American Court has concluded its 135th regular session, which was held virtually between June 1 and July 31, 2020.

The President of the Inter-American Court, Judge Elizabeth Odio Benito, indicated that “adapting itself to current circumstances, the Inter-American Court is continuing its work using information and communication technologies to perform its task.”

During this regular session, which lasted two months, the Court met virtually, deliberating judgments, holding hearings on requests for an advisory opinion, issuing orders on monitoring compliance with judgment, and examining different issues related to provisional measures and administrative matters.

The use of communication technologies allowed the judges and the Court’s Secretariat staff to work from their homes to reduce the risk of contagion, and also permitted representatives of OAS Member States, the Inter-American Commission on Human Rights, and more than 60 delegations from different countries of the hemisphere to take part in the hearings.

I. Hearings on requests for an advisory opinion

The Court held two virtual hearings on requests for an advisory opinion, which were transmitted live by the Inter-American Court’s social networks.

a) Hearing on the request for an advisory opinion on the human rights obligations of a State that has denounced the American Convention on Human Rights, presented by Colombia

The hearing was held on Monday, June 15, Tuesday, June 16 and Wednesday, June 17, 2020. Participants in the hearing included representatives of the State that presented the request, the Republic of Colombia, and other OAS Member States such as the Federative Republic of Brazil, the United States of America, the Republic of Honduras and the Republic of Nicaragua. The Inter-American Commission on Human Rights also took part in the procedure.

During the hearing, the Court also received the opinions of 24 delegations from non-governmental organizations, academic institutions, and members of civil society who participated from Argentina, Brazil, Colombia, Dominican Republic, Ecuador, England, Mexico and Venezuela.

The general purpose of the request was to obtain the Court's interpretation of three issues:

- 1) The scope of the international obligations to ensure the protection and promotion of human rights of an OAS Member State that has denounced the American Convention;
- 2) The effects on these obligations on the fact that the said State, later, takes the extreme measure of denouncing the constituent instrument of the said regional organization and seeks to withdraw from it, and
- 3) The mechanisms available, on the one hand, to the international community and, in particular, the OAS Member States, to require compliance with those obligations and make them effective and, on the other hand, to the individuals subject to the jurisdiction of the denouncing State, to require the protection of their human rights when confronted with a situation of gross and systematic violation of those rights.

Further information on this request for an advisory opinion is available [here](#).

b) Hearing on the request for an advisory opinion on the scope of State obligations with regard to the guarantee of trade union freedom, its relationship to other rights, and its application from a gender perspective, presented by the Inter-American Commission on Human Rights

The public hearing was held on Monday, July 27, Tuesday, July 28 and Wednesday, July 29, 2020. Participants in the hearing included the Inter-American Commission on Human Rights in its capacity as the requesting institution, and 38 delegations, including representatives of the States of the Republic of Costa Rica, the Republic of Honduras and the Republic of Argentina. In addition, delegations from international organizations, non-governmental organizations, academic institutions, trade unions, and members of civil society took part from Argentina, Brazil, Chile, Colombia, Costa Rica, Honduras, Mexico, Panama, Peru, United States of America and Venezuela.

Among other aspects, the purpose of the request was for the Inter-American Court to clarify the meaning and scope of the obligations in relation to guarantees in the processes for the establishment of trade unions, and in election and internal governance procedures, and in the expressions of the relationship between trade union freedom, collective bargaining and freedom of association, and between trade union freedom, freedom of expression, the right to strike and the right of assembly. Furthermore, the request referred to determination of the scope of the obligations in relation to specific guarantees to ensure trade union freedom in the face of gender-based discrimination or violence in the workplace to ensure the effective participation of women as union members and leaders in compliance with the principle of equality and non-discrimination.

Further information on this request for an advisory opinion is available [here](#).

II. Judgments

The Court deliberated and adopted judgments in the following contentious cases:

a) Case of Roche Azaña et al. v. Nicaragua

This case relates to the alleged extrajudicial execution of Pedro Bacilio Roche Azaña and the injuries caused to his brother, Patricio Roche Azaña, on April 14, 1996, as a result of shots fired by members of the police against the vehicle in which they were traveling which drove through two immigration control posts, allegedly without obeying the signs to stop. It was alleged that the use of lethal force was arbitrary, and violated the rights to life and to personal integrity of the presumed victims. In addition, the presumed violation of the right to judicial guarantees and judicial protection was alleged. Specifically, these violations were alleged owing to the absence of reasoning in the jury's verdict declaring the innocence of the state agents who fired the shots, to the legal impossibility of appealing this verdict, and to Patricio Roche Azaña's alleged lack of participation in the proceedings.

Further information on this case is available [here](#).

b) Case of Spoltore v. Argentina¹

This case relates to the alleged delay and denial of justice for Victorio Spoltore in the context of labor proceedings against Cacique Camping S.A., with regard to a claim for compensation as a result of an occupational disease processed before Labor Court No. 3. It was alleged that these proceedings commenced on June 30, 1988, and culminated on August 16, 2000, when the Supreme Court of Justice of the province of Buenos Aires rejected the appeals filed by Mr. Spoltore against the first instance judgment that had also rejected his claim for compensation. It was alleged that the proceedings lasted 12 years, one month and 16 days. Therefore, it was argued that the duration of more than 12 years of the judicial claim for compensation filed by the presumed victim in the labor jurisdiction had not been duly justified by the State and, consequently, it was excessive and violated the guarantee of a reasonable time. In addition, it was argued that the said proceedings had not constituted an effective remedy for Mr. Spoltore to assert a claim for what he considered he was entitled to under domestic law.

Further information on this case is available [here](#).

c) Case of Guzmán Albarracín et al. v. Ecuador²

This case related to the alleged sexual violence suffered by the child Paola del Rosario Guzmán Albarracín and her subsequent suicide. The Inter-American Commission on Human Rights alleged that the presumed victim had suffered sexual violence at the hands of the Vice Principal and the doctor of the college she attended, both public officials, and that there had been a causal nexus between this and her decision to take her own life. The Commission understood that the State, in addition to presumably violating the obligation to respect human rights, had failed to comply with the prevention component of its obligation to ensure rights because, presumably, it had no "preventive and early detection tools" that were appropriate for situations such as those that occurred in this case. The Commission also concluded that the alleged situation of impunity in the case was due to the presumed lack of due diligence of the authorities.

Further information on this case is available [here](#).

d) Case of Petro Urrego v. Colombia³

This case relates to alleged human rights violations committed during a disciplinary procedure that culminated with the dismissal of Gustavo Francisco Petro Urrego as Mayor of Bogotá, Colombia. According to the Inter-American Commission on Human Rights, on December 9, 2013, the Attorney General had imposed the sanctions of dismissal from office and general disqualification from holding office for 15 years on Mr. Petro.

The Commission concluded that these sanctions had violated Mr. Petro's political rights because, according to the American Convention on Human Rights, these two sanctions should be imposed by a criminal judicial authority in a final judgment. Therefore, the Commission indicated that imposing sanctions of this type in the administrative jurisdiction could affect the democratic

process because, in principle, it is the role of the electorate to determine the suitability of candidates by exercising their vote.

Further information on this case is available [here](#).

e) Case of Workers of the Fireworks Factory of Santo Antônio de Jesus et al. v. Brazil

This case relates to the presumed international responsibility of the State of Brazil for the alleged violation of the right to life of 64 persons and to personal integrity of 6 other individuals as a result of the explosion in a firework factory on December 11, 1998. 22 of those concerned were children.

According to the Inter-American Commission on Human Rights, the State was aware that dangerous industrial activities were being carried out in the factory. Therefore, the State should have inspected and monitored it and, consequently, known that the factory presumably employed child labor and that serious irregularities were being committed that involved significant risk and imminent danger for the life, personal integrity and health of all the workers. The case also relates to the alleged violation of the rights to work and to the principle of equality and non-discrimination, taking into account that, presumably, at the time of the facts the manufacture of fireworks was the main, and apparently even the only, employment option for the inhabitants of the municipality who, in light of their situation of poverty, had no other alternative than to accept high-risk low-paid work, without adequate safety measures.

Further information on this case is available [here](#).

f) Case of Valle Ambrosio et al. v. Argentina⁴

This case relates to the alleged violation of the right of Messrs. Del Valle Ambrosio and Domínguez Linares to appeal the judgment of the Ninth Criminal Chamber of Córdoba, which had convicted them as accomplices in the crime of fraud and sentenced them to three years and six months' imprisonment. In this regard, it was alleged that the decision on the appeals was issued in the context of a judicial practice of restrictive interpretation, and also that, taking into account that it was the only remedy available against the first instance judgment, the presumed victims were not able to obtain a comprehensive review before a higher authority that would reconsider the facts and the assessment of the evidence. Consequently, it was argued that the State had violated Articles 8(2)(h) and 25, in relation to Articles 1(1) and 2 of the American Convention.

Further information on this case is available [here](#).

The judgments will be notified shortly and can be found [here](#).

III. Monitoring compliance with judgment

During this session, the Court monitored compliance with several of its judgments and issued orders in the following cases:

- Case of Huilca Tecse v. Peru
- Case of I.V. v. Bolivia⁵
- Case of Valle Jaramillo et al. v. Colombia⁶
- Case of Cabrera García and Montiel Flores v. Mexico⁷
- Case of Villaseñor Velarde et al. v. Guatemala⁸
- Case of Munárriz Escobar et al. v. Peru
- Case of Zegarra Marín v. Peru
- Case of Órdenes Guerra et al. v. Chile⁹
- Case of Torres Millacura et al. v. Argentina¹⁰
- Case of the Miguel Castro Casto Prison v. Peru

The orders that have been notified are available [here](#).

IV. Provisional measures

During this session, the Court adopted orders on provisional measures in the following cases and matters:

- Case of the 19 Traders v. Colombia¹¹
- Case of Durand and Ugarte v. Peru
- Matter of the Members of the Choréachi Indigenous Community with regard to Mexico¹²
- Case of Fernández Ortega et al. v. Mexico¹³
- Case of Mack Chang et al. v. Guatemala
- Matter of Certain Venezuelan Prisons. Humberto Prado. Marianela Sánchez Ortiz and family with regard to Venezuela.
- Case of Vélez Loor v. Panama

The orders that have been notified are available [here](#).

Virtual public hearing on the request for provisional measures made by the victim's representatives, and the urgent measures issued by the President of the Court in the Case of Vélez Loor v. Panama

On July 9, a virtual public hearing was held on the request for provisional measures made by the victim's representatives and the urgent measures issued by the President of the Court in the Case of Vélez Loor v. Panama, in the context of the procedure on the request for provisional measures in this case that is at the stage of monitoring compliance with judgment.

During the hearing, the Court received the arguments of the victim, Mr. Vélez Loor, the victim's representatives, and the State in this regard, as well as those of the Panamanian Ombudsman and the Inter-American Commission on Human Rights. Subsequently, the Inter-American Court adopted provisional measures.

V. Civil identification and gender identity: the impact of OC 24 in the life of the individual

On July 16, a meeting was held between the President of the Inter-American Court of Human Rights, Judge Elizabeth Odio Benito, accompanied by Judge Eduardo Ferrer Mac-Gregor, Judge Raúl Zaffaroni and Judge Ricardo Pérez Manrique, and the Universal Civil Identity Program in the Americas (PUICA), Synergía – Initiatives for Human Rights, and the National Population and Personal Identification Registry (RENAPO) of Mexico.

The purpose of the meeting was to present the report "Panorama of the legal recognition of gender identity in the Americas" to the Court. The report describes current practices in the Americas to guarantee the right of people to have their gender identity officially recognized as they perceive it.

Based on this compilation, the report describes a compendium of regional benchmark practices, as well as the challenges still to be resolved. The document allows it to be understood how the standards for recognition of self-perceived gender identity contained in Advisory Opinion 24/2017 on "State obligations in relation to change of name, gender identity, and rights deriving from a relationship between same-sex couples," are respected within each State in the region.

VI. Signature of institutional agreements

The President of the Inter-American Court of Human Rights, Judge Elizabeth Odio Benito, signed a series of institutional cooperation agreements with universities, public institutions and civil society organizations, including:

- Universidad Nacional del Rosario (Argentina)
- Universidad Nacional de Catamarca (Argentina)
- Office of the Ombudsman, Ecuador

- Colegio de Abogados y Abogadas de Costa Rica
- Asociación Madres de la Plaza de Mayo (Argentina)

¹ Judge Raúl Zaffaroni, an Argentine national, did not take part in the discussion or deliberation of this judgment.

² Judge Patricio Pazmiño Freire, an Ecuadorian national, did not take part in the discussion or deliberation of this judgment.

³ Judge Humberto Antonio Sierra Porto, a Colombian national, did not take part in the discussion or deliberation of this decision.

⁴ Judge Raúl Zaffaroni, an Argentine national, did not take part in the discussion or deliberation of this decision.

⁵ Judge Raúl Zaffaroni did not take part in the discussion or deliberation of this decision.

⁶ Judge Humberto Antonio Sierra Porto, a Colombian national, did not take part in the discussion or deliberation of this decision.

⁷ Judge Eduardo Ferrer Mac-Gregor, a Mexican national, did not take part in the discussion or deliberation of this decision.

⁸ Judge Patricio Pazmiño Freire did not take part in the discussion or deliberation of this decision for reasons beyond his control.

⁹ Judge Eduardo Vio Grossi, a Chilean national, did not take part in the discussion or deliberation of this decision.

¹⁰ Judge Raúl Zaffaroni, an Argentine national, did not take part in the discussion or deliberation of this decision.

¹¹ Judge Humberto Antonio Sierra Porto, a Colombian national, did not take part in the discussion or deliberation of this decision.

¹² Judge Eduardo Ferrer Mac-Gregor, a Mexican national, did not take part in the discussion or deliberation of this decision.

¹³ Judge Eduardo Ferrer Mac-Gregor, a Mexican national, did not take part in the discussion or deliberation of this decision.

The composition of the Court for this session was as follows: Judge Elizabeth Odio Benito, President (Costa Rica); Judge Patricio Pazmiño Freire, Vice President (Ecuador); Judge Eduardo Vio Grossi (Chile); Judge Humberto Antonio Sierra Porto (Colombia); Judge Eduardo Ferrer Mac-Gregor (Mexico); Judge Eugenio Raúl Zaffaroni (Argentina) and Judge Ricardo Pérez Manrique (Uruguay).

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