

Press Release

Inter-American Court of Human Rights

I/A Court H.R._PR-82/2023 English

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I/A Court H.R.
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ARGENTINA IS INTERNATIONALLY RESPONSIBLE FOR THE VIOLATION OF THE RIGHTS OF DUE PROCESS AND JUDICIAL PROTECTION OF A PERSON SUBJECT TO CRIMINAL PROCEEDINGS

San José, Costa Rica, November 7, 2023.- In the judgment in the *Case of Álvarez v. Argentina*, notified today, the Inter-American Court of Human Rights declared Argentina internationally responsible for the violation of several human rights to the detriment of Guillermo Antonio Álvarez, in the context of the criminal proceedings against him (Case No. 1048) before the Oral Juvenile Court No. 1 of the Federal Capital.

Argentina partially recognized its responsibility for the violation of the right to presumption of innocence, keeping Mr. Álvarez handcuffed during the oral trial, violation of the right to appeal the decision for review by a higher court or judge, and the lack of action by the courts to correct the deficiencies of the defense counsel. The Court valued the State's position since it is a positive contribution to the development of the proceedings, the validity of the principles that inspire the American Convention and the satisfaction of the victim's need for reparation.

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

In the Judgment, the Inter-American Court concluded that the Oral Juvenile Court (Tribunal Oral de Menores, TOM) did not grant Mr. Álvarez a term to appoint as defense counsel an attorney of his own choosing, due to the revoking of the power granted to the person that was representing him in the processing of the case. Rather, it decided that he would be represented by the official public defender that was helping another person jointly accused in the proceedings. Moreover, the official public defender only had one hour to speak with Mr. Álvarez before the oral hearing began, which is not enough time to prepare an adequate defense strategy. During several hearings held over different days, the witnesses summoned gave their statements without the accused being present; the Oral Juvenile Court did not provide the grounds for this decision and it did not analyze the damage that this would cause to the exercise of defense, since it violated the right of the accused to examine the witnesses that appeared to give their statements during the oral proceedings.

In addition, the Court indicated that during the processing of the appeals of the decision of the Oral Juvenile Court, the official public defender (who was granted representation after the private legal counsel appointed by Mr. Álvarez withdrew) was deficient. The judicial authorities had knowledge of the deficiencies in the technical defense, which were attributable to the official public defender appointed. However, they did not adopt the measures necessary to correct the situation and guarantee that the right to judicial protection of the accused was effective. The Court noted evident negligence in the exercise of the right to defend oneself, given that it was known by the judicial authorities but they infringed the rights of Mr. Álvarez.

Consequently, the Court declared that Argentina is responsible for the violation of Articles 8(1) (right to a fair trial), 8(2) (presumption of innocence), 8(2)(c) (right of the accused to adequate time and means for the preparation of his defense), 8(2)(d) (right of the accused to be assisted by legal counsel of his own choosing), 8(2)(e) (right to an effective technical defense), 8(d)(f) (right of the defense to examine witnesses present in the court) and 25(1) (judicial protection) of the American Convention on Human Rights, in relation to Article 1(1) thereof (obligation to respect and guarantee rights). It also declared the responsibility of the State for the violation of Article 8(2)(h) (right to appeal the judgment to a higher court) of the American Convention on Human Rights, in relation to Articles 1(1) and 2 (obligation to adopt domestic legal effects) thereof.

Based on these violations, the Court ordered the State of Argentina to perform several reparation measures.

Judge Eduardo Ferrer Mac-Gregor Poisot and Judge Nancy Hernández López disclosed their joint concurring opinions.

The Court's composition for the issue of this Judgment was as follows: Judge Ricardo C. Pérez Manrique, President (Uruguay); Judge Eduardo Ferrer Mac-Gregor Poisot, Vice President (Mexico); Judge Humberto Antonio Sierra Porto (Colombia); Judge Nancy Hernández López (Costa Rica); Judge Patricia Pérez Goldberg (Chile) and Judge Rodrigo Mudrovitsch (Brazil). Judge Verónica Gómez, of Argentinian nationality, did not participate in the processing of this case or deliberation and signing of this judgment, in conformity with Articles 19(1) and 19(2) of the Rules of Procedure of the Court.

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