

**ORDER OF THE
INTER-AMERICAN COURT OF HUMAN RIGHTS
OF JANUARY 19, 1994**

**PROVISIONAL MEASURES REQUESTED BY THE
INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
IN THE MATTER OF THE REPUBLIC OF ARGENTINA**

REGGIARDO TOLOSA CASE

The Inter-American Court of Human Rights, composed of the following judges:

Sonia Picado-Sotela, President
Héctor Fix-Zamudio, Judge
Alejandro Montiel-Argüello, Judge
Hernán Salgado-Pesantes, Judge
Asdrúbal Aguiar-Aranguren, Judge;

also present:

Manuel E. Ventura-Robles, Secretary
Ana María Reina, Deputy Secretary

issues the following order:

1. On November 8, 1993, the Inter-American Commission on Human Rights (hereinafter "the Commission") sent the Inter-American Court of Human Rights (hereinafter "the Court") a resolution adopted the previous month with regard to Case Nº 10.959 involving Argentina, in which it requested "*provisional measures relating to the mental integrity of minors Gonzalo Xavier and Matias Angel . . .*" whose true last names are Reggiardo-Tolosa. According to the Commission, the minors in question were born in April 1977 during the captivity of their mother and were immediately seized and later registered as the children of Samuel Miara, a former assistant police inspector of the Federal Police, and his wife, Beatriz Alicia Castillo. The minors are aware that the Miara couple are not their real parents and the Commission is therefore requesting the Court, in application of Article 63(2) of the American Convention on Human Rights, to "*require the Government of Argentina to order the immediate transfer of the minor children to ensure that they be placed under temporary custody in a substitute location and be provided adequate psychological treatment until such time as the matter of their delivery to their legitimate family is settled.*"

2. The President of the Court, Judge Rafael Nieto-Navia, recused himself from hearing this request for provisional measures on the grounds that he is a "*member and President of the Argentina-Chilean Arbitral Tribunal to delimit the boundary between Milestone 62 and Mount Fitz Roy.*" Consequently, the Presidency has been assumed by Judge Sonia Picado-Sotela, Vice-President of the Court.

3. The President of the Court (hereinafter "the President"), exercising the authority conferred on her by Article 24(4) of the Rules of Procedure of the Court,

issued an order dated November 19, 1993, the operative portion of which reads as follows:

1. To enjoin the Government of the Republic of Argentina to adopt without delay whatever measures are deemed necessary to protect the mental integrity of, and avoid irreparable damage to, minors Gonzalo Xavier and Matias Angel Reggiardo-Tolosa, in strict compliance with its obligation to respect and guarantee human rights under Article 1(1) of the Convention, in order to ensure that the provisional measures that the Court may adopt during its next regular session, to be held from January 10 to 21, 1994, will have the requisite effect.
2. To request the Government of Argentina to submit a report on the measures taken pursuant to this order to the President of the Court no later than December 20, 1993, to enable her to bring this information to the attention of the Court.
3. To instruct the Secretariat to promptly transmit to the Inter-American Commission on Human Rights the report to be received from the Government of the Republic of Argentina.

The Order was notified to the Commission and to the Government of Argentina (hereinafter "the Government"), by courier service to the Ministry of Foreign Affairs as well as through its Embassy in San José, Costa Rica.

4. The Government, in turn, addressed a note to the President dated December 20, 1993, regarding the order transcribed. The note asserts that:

[t]his Embassy is pleased to inform you that the judicial authorities have already handed down a judgment on this matter, which is being sent to this mission by diplomatic pouch. Upon receipt of the judgment, it will be transmitted to the Court.

This notwithstanding, it is expected that the judgment will order the "lifting of the provisional custody of the minors . . . ," "placing a substitute family in charge thereof," and " . . . attempting to bring about closer ties between the minors and their biological family."

It must be pointed out that the Office for Human Rights and Women of the Ministry of Foreign Affairs of Argentina has today informed this Embassy that the minors, Gonzalo Xavier and Matías Angel Reggiardo-Tolosa, are currently living with their Tolosa uncle and aunt, members of their legitimate family.

5. In a letter dated January 14, 1994, the Commission informed the Court of the following:

that the Secretariat of the Inter-American Commission on Human Rights has established contact with the petitioners in Case No. 10.959 regarding the Reggiardo-Tolosa minor children, which is currently before the Commission. The petitioners have stated that, in their opinion, the Government of Argentina has complied with the provisional measures requested by the Commission from the Inter-American Court.

WHEREAS:

The Court has taken note of the measures adopted by the Government in order to protect the mental integrity of minors Gonzalo Xavier and Matías Angel Reggiardo-Tolosa, which measures have been confirmed by the Commission, which complied with the above mentioned order issued by the President.

THEREFORE:

THE INTER-AMERICAN COURT OF HUMAN RIGHTS,

taking into consideration Article 63(2) of the American Convention on Human Rights and exercising the authority conferred on it by Articles 24 and 45 of the Rules of Procedure of the Court,

DECIDES:

1. That in view of the compliance by the Government of the Republic of Argentina with the order of the President of November 19, 1993, it is no longer necessary to act on the request for provisional measures presented by the Inter-American Commission on Human Rights.
2. That the instant order be transmitted to the Government of the Republic of Argentina and to the Inter-American Commission on Human Rights.
3. That the matter be struck from the docket.

Done in Spanish and English, the Spanish text being authentic, at the seat of the Court in San José, Costa Rica, this nineteenth day of January, 1994.

Sonia Picado-Sotela
President

Héctor Fix-Zamudio

Alejandro Montiel-Argüello

Hernán Salgado-Pesantes

Asdrúbal Aguiar-Aranguren

Manuel E. Ventura-Robles
Secretary