

**Order of the
Inter-American Court of Human Rights
of November 17, 2004
Case of Garrido and Baigorria v. Argentina
(Monitoring Compliance with Judgment)**

HAVING SEEN:

1. The Judgment on merits that the Inter-American Court of Human Rights (hereinafter "the Court" or "the Inter-American Court") delivered on February 2, 1996, wherein it decided, *inter alia*,

1. To take note of the acceptance made by Argentina of the acts stated in the application.
2. To take note as well of Argentina's acceptance of international responsibility for those acts.
3. To grant the parties a period of six months from the date of the [...] judgment to reach an agreement on reparations and compensation.

[...]

2. The Judgment on reparations, delivered by the Court on August 27, 1998, where it decided:

1. To set at US\$111,000.00 or the equivalent in national currency the sum that the Argentine State [was to] pay as reparations to the next of kin of Mr. Adolfo Garrido, and US\$64,000.00 or its equivalent in national currency as reparations to the next of kin of Raúl Baigorria. These payments [were] to be made by the State in the form and under the conditions set forth in the body of [the] judgment.
2. To set at US\$45,500.00 or the equivalent in national currency the sum that the State [was to] pay to the victims' families to reimburse them for costs incurred as a result of [the] process; of this amount, US\$20,000.00 or the equivalent in national currency [were for] attorneys' fees for attorneys Carlos Varela-Álvarez and Diego J. Lavado.
3. That the Argentine State [was to] search for and identify the two natural children of Mr. Raúl Baigorria, by every means possible.
4. That the Argentine State [was to] investigate the facts leading to the disappearance of Adolfo Garrido and Raúl Baigorria and prosecute and punish their authors, accomplices, accessories after the fact and all those who may have had some part in [the] events.
5. That the payments stipulated in operative paragraphs 1 and 2 [were to] be made within six months from the date of notification of [the] judgment.
6. That the compensation and reimbursement of costs ordered in [the] judgment [were to] be exempt from any national, provincial or municipal tax or duty.
7. To supervise compliance with [the] judgment and close the case only after such compliance.

3. The submissions that the State of the Argentine Republic (hereinafter "the State" or "Argentina"), the Inter-American Commission on Human Rights

(hereinafter "the Commission") and the representatives of the victims and their next of kin (hereinafter "the representatives") submitted in the period between March 1999 and November 2003 on the subject of compliance with the Judgments delivered in this case.

4. The Court's Order of November 27, 2002, wherein it decided

1. That the State ha[d] the obligation to take all necessary measures to comply effectively and promptly with the judgment on reparations of August 27, 1998, delivered by the Inter-American Court of Human Rights in the *Case of Garrido and Baigorria*, pursuant to Article 68(1) of the American Convention on Human Rights.

2. That the State [was to] present to the Court, by March 30, 2003, at the latest, a detailed report on the measures taken to comply with the order of the Court in the eighth considering paragraph of the [...] Order on compliance.

3. That the representatives of the victims and their next of kin and the Inter-American Commission on Human Rights [were to] submit their comments on the State's report within two months of receiving it.

[...]

5. The Court's Order of November 27, 2003, wherein it declared the following:

1. That the State ha[d] complied with the provisions of the first and second operative paragraphs of the judgment on reparations delivered by this Court on August 27, 1998, as regards:

a) Payment of the amounts corresponding to the reparations to the next of kin of Adolfo Garrido and Raúl Baigorria, with the exception of the compensation corresponding to the natural children of Raúl Baigorria, as mentioned in the twelfth considering paragraph of [the] Order; and

b) Reimbursement of the costs in favor of the said next of kin of Messrs. Garrido and Baigorria and the fees in favor of the lawyers, Carlos Varela Álvarez y Diego Lavado, as mentioned in the eleventh considering paragraph of [the] Order.

2. That it [would] keep the procedure on monitoring compliance open with regard to the following elements that [were] pending compliance:

a) The tracing of the natural children of Raúl Baigorria and deposit of the compensation that correspond[ed] to them for reparations, as mentioned in the eighth, ninth and tenth considering paragraphs of [the] Order; and

b) Investigation of the facts that led to the disappearance of Adolfo Garrido and Raúl Baigorria and punishment of those responsible, as mentioned in the thirteenth to sixteenth considering paragraphs of [the] Order.

and decided:

3. To urge the State to adopt all necessary measures to comply promptly with the reparations ordered in the judgment of August 27, 1998, which [were] pending compliance, pursuant to Article 68(1) of the American Convention on Human Rights.

4. To call upon the State to present a detailed report indicating all the measures adopted to comply with the reparations ordered by this Court and that [were] pending compliance, as indicated in the second operative paragraph of [the] Order, by April 1, 2004, at the latest.

5. To call upon the Inter-American Commission on Human Rights to submit its comments on the State's report within two months of receiving it. Likewise, Diego Lavado and Carlos Varela Álvarez [could] transmit their comments on the State's report through the Commission, if they consider[ed] this pertinent. [If] new legal

representatives of the victims' next of kin [had] been appointed, they [could] submit their comments directly to the Court in the said period of two months.

6. To continue monitoring the aspects that [were] pending compliance of the judgment on reparations of August 27, 1998, as indicated in the second operative paragraph of [the] Order.

7. To notify [the] Order to the State, the Inter-American Commission on Human Rights and, through it, Diego Lavado and Carlos Varela Álvarez.

6. Notes CDH-11.009/340 of April 6, 2004, and CDH-11.009/342 of August 13, 2004, wherein the Secretariat of the Court reminded the State that the deadline for submitting the report required under operative paragraph four of the Court's order of November 27, 2003 (*supra* Having Seen 5.4) expired on April 1, 2004, and therefore asked the State to submit that report as soon as possible. As of the date of this Order, the State has still not presented the report in question.

CONSIDERING THAT:

1. One of the inherent attributes of the jurisdictional functions of the Court is to monitor compliance with its decisions.

2. Argentina has been a Party to the American Convention since September 5, 1984, and accepted the jurisdiction of the Court on the same date.

3. Article 68(1) of the American Convention stipulates that "[t]he States Parties to the Convention undertake to comply with the judgment of the Court in any case to which they are parties." To this end, the State must ensure implementation at the national level of the Court's decisions in its judgments.¹

4. Because the judgments of the Court are final and not subject to appeal, as established in Article 67 of the American Convention, the State is to comply with them fully and promptly.

5. April 1, 2004, was the deadline that the Court set in its November 27, 2003 Order (*supra* Having Seen 5.4) for the State to present its report on compliance with the obligations established in the judgment in question.

6. Following instructions from the President of the Court (*supra* Having Seen 6), on two different occasions the Secretariat asked the State to submit the report on compliance with the judgment; to date, no information has been sent.

7. Because the Court has not received any information on compliance with the Judgment on reparations of August 27, 1998, it does not have the data it needs to assess whether any reparations have been complied with and to determine which reparations the Court ordered are still pending compliance.

8. The Court will consider the general status of compliance with its August 27, 1998 Judgment on reparations once it receives the pertinent information.

THEREFORE:

¹ Cf. *Case of Baena-Ricardo et al.*. Competence. Judgment of November 28, 2003. Series C No. 104, para. 131.

THE INTER-AMERICAN COURT OF HUMAN RIGHTS,

in exercise of its authority to monitor compliance with its rulings and in accordance with articles 33, 62(1), 62(3), 65, 67 and 68(1) of the American Convention on Human Rights, articles 25(1) and 30 of its Statute and Article 29(2) of its Rules of Procedure,

DECIDES:

1. To call upon the State to submit, by January 31, 2005 at the latest, a detailed report on compliance with the August 27, 1998 Judgment on reparations.
2. To call upon the Inter-American Commission on Human Rights to present its comments on the State's report within six weeks of receiving it. Mr. Diego Lavado and Mr. Carlos Varela Álvarez may also submit, by way of the Commission, whatever comments they deem pertinent on the State's report within four weeks of receiving it. In the event that new legal representatives have been appointed for the victims' next of kin, they may submit their comments on the report directly to the Court within that four-week time frame.
3. To continue monitoring compliance with the August 27, 1998 judgment on reparations.
4. To send notice of the present Order to the State, to the Inter-American Commission on Human Rights and, through it, to Mr. Diego Lavado and Mr. Carlos Varela Álvarez.

Sergio García-Ramírez
President

Alirio Abreu-Burelli

Oliver Jackman

Antônio A. Cançado Trindade

Cecilia Medina-Quiroga

Manuel E. Ventura-Robles

Diego García-Sayán

Pablo Saavedra-Alessandri
Secretary

So ordered,

Sergio García-Ramírez
President

Pablo Saavedra-Alessandri
Secretary