



INTER - AMERICAN COMMISSION ON HUMAN RIGHTS  
COMISION INTERAMERICANA DE DERECHOS HUMANOS  
COMISSÃO INTERAMERICANA DE DIREITOS HUMANOS  
COMMISSION INTERAMÉRICAINNE DES DROITS DE L'HOMME



---

**ORGANIZATION OF AMERICAN STATES**

WASHINGTON, D.C. 2 0 0 0 6 USA

March 15, 2011

**Ref.: Case No. 12.539**  
**Sebastián Claus Furlán and family**  
**Argentina**

Mr. Secretary:

I am pleased to address you on behalf of the Inter-American Commission on Human Rights in order to file Case No. 12.539, Sebastián Claus Furlán and family v. the Republic of Argentina (hereinafter "the State", "the Argentinean State" or "Argentina") before the jurisdiction of the Honorable Inter-American Court of Human Rights. The State ratified the American Convention on Human Rights on August 14, 1984 and accepted the contentious jurisdiction of the Court on September 5, 1984.

The Commission has designated Commissioner Luz Patricia Mejía, and Executive Secretary Santiago A. Canton, as its delegates. Likewise, Elizabeth Abi-Mershed, Deputy Executive Secretary; Karla Quintana Osuna, Fanny Gómez Lugo and María Claudia Pulido, attorneys of the Executive Secretariat of the IACHR, have been designated to serve as legal advisors.

In accordance with Article 35 of the Rules of Procedure of the Inter-American Court, the Commission is enclosing with this communication a copy of report No. 111/10 prepared in accordance with Article 50 of the American Convention, as well as a copy of the entire file before the Inter-American Commission (Appendix I). The merits report of October 21, 2010, was notified to the State on November 15, 2010, granting the State a two-month term to inform on the implementation of the recommendations. On January 11, 2011 the State requested an extension to submit information on the progress made in complying with the recommendations, and expressly renounced to file preliminary objections with respect to the term established in Article 51(1) of the American Convention. On January 28, 2011, the IACHR granted the requested extension of one month, and requested the State to submit its report on February 27, 2011. The term elapsed and the State did not submit any information on the implementation of the recommendations.

Mr.  
Pablo Saavedra Alessandri, Secretary  
Inter-American Court of Human Rights  
P.O. Box 6906-1000  
San José, Costa Rica

Enclosure

The Commission submits the instant case to the jurisdiction of the Inter-American Court due to the need to obtain justice for the victims and the State's failure to comply with the recommendations. In addition, the IACHR considers that the case presents issues of inter-American public order. Violations of human rights in detriment of Sebastian Claus Furlán and his family occurred as a result of the lack of timely response from the Argentine judicial authorities, who incurred in an excessive delay in the resolution of a civil action against the State, whose response depended on the medical treatment of the victim, as a child with disabilities.

In this way, the case will allow the Court to develop its jurisprudence on the special measures to be taken in the framework of the judicial proceedings in matters such as this, in order to ensure that the orderly judicial protection has a useful effect with regard to the purpose for which it was conceived, particularly in the case of persons in special situations of vulnerability as a child with mental disabilities. Also, the identification of the problems that led to the violation in this case, will allow the Court to order the measures of non-repetition relevant to the Argentine legal and institutional framework.

Accordingly, the Inter-American Commission asks the Court to conclude and declare the international responsibility of the State for:

- right to be heard within a reasonable time (Article 8.1) and judicial protection (Article 25.1), in conjunction with the general obligation to ensure human rights (Article 1.1), to the detriment of Sebastian Claus Furlan and Danilo Furlan. Additionally, the right to judicial protection (Article 25.2.c), in connection with Article 1.1, to the detriment of Sebastian Furlan;
- right to personal integrity (Article 5.1) and the right of the child (Article 19), in conjunction with the general obligation to ensure human rights (Article 1.1), to the detriment of Sebastian Claus Furlan, who suffered from a permanent disability due to an accident when he was 14 years old; and
- right to personal integrity (Article 5.1) to the detriment of Sebastian's immediate family members, to wit: his father (Danilo Furlan), his mother (Susana Fernandez), his brother (Erwin Furlan) and his sister (Sabina Eva Furlan).

Consequently, the Commission requests that the Inter-American Court establish the following reparations:

1. Provide full reparation to Sebastian Claus Furlan and his family for the violations of the human rights established in this report, taking into account the consequences caused by the unwarranted delay in the judicial proceedings, and that such reparation be effective taking into account that Sebastian suffers from a permanent disability.
2. Ensure that Sebastian, who at the time of the accident was 14 years old, has access to medical and other types of treatment at specialized and quality treatment centers, or the means to gain access to said care at private centers.
3. As a measure of non repetition, take the necessary actions to make sure that law suits against the State for damages relating to the right to personal integrity of children comply with due process of law and judicial protection, particularly, the right to be heard within a reasonable time.

On the other hand, in relation to the identification of the family members that should be

considered victims in this case, in the Merits Report the Inter-American Commission found violations to the detriment of Sebastian Claus Furlan; his parents, Danilo Furlan and Susana Fernández; his brother, Claudio Erwin Furlan, and his sister, Sabina Eva Furlan. After the adoption of the report on the merits, the petitioners reiterated the information of the next-of-kin who were affected by the violations listed in the report. Also, they added the names of Diego Germán and Adrian Nicholas Furlan, and Laura Sarto, sons and wife respectively, of Sebastian Claus Furlan and Stefano Paul, son of Sabina Eva Furlan.

Finally, the Commission offers the following expert declarations that concern issues of the inter-American public interest in relation to this case:

1. To be defined, who will testify about the Argentine legal framework governing civil actions against the State, the stages and procedural time limits, including the implementation of a favorable decision ordering compensation by the State. The expert witness report will refer to whether if in the framework of such processes an expedite or differential treatment is expected, when the interests at stake require an answer in order to protect fundamental rights. It will also refer to the main problems that generate delays in decision-making and in the realization of the reparations ordered in the light of international obligations of the State.
2. Alejandro Morlachetti, who will testify on the International standards in the field of judicial protection of children in the situation of disability and special measures to be taken when the outcome of the judicial debate is related to their right to personal integrity. The report will also refer to the application of these standards to the facts of the case.

The *curricula vitae* of the experts proposed by the Inter-American Commission are attached.

Finally, the petitioner expressed the victims' interest in the submission of the present case to the Inter-American Court. Their contact information is:

Danilo Pedro Furlan  
[REDACTED]  
(1702) Ciudadela  
Provincia de Buenos Aires, República Argentina  
Tel/Fax: + 54-11-[REDACTED]

Please allow me to greet you and express my appreciation.

*Signed in the original*

Santiago A. Canton  
Executive Secretary