

INTER-AMERICAN COURT OF HUMAN RIGHTS CASE

OF JULIEN GRISONAS FAMILY V. ARGENTINA

JUDGMENT OF NOVEMBER 21, 2022

***(Interpretation of Judgment of Preliminary Objections, Merits,
Reparations, and Costs)***

In the case of the *Julien Grisonas Family v. Argentina*,

the Inter-American Court of Human Rights (hereinafter "the Inter-American Court" or "the Court"), composed of the following judges:

Elizabeth Odio Benito, President;
L. Patricio Pazmiño Freire, Vice President;
Humberto Antonio Sierra Porto, Judge;
Eduardo Ferrer Mac-Gregor Poisot, Judge; and
Patricia Pérez Goldberg, Judge,

also present,
Pablo Saavedra Alessandri, Registrar.**

in accordance with Article 67 of the American Convention on Human Rights (hereinafter also "the American Convention" or "the Convention") and Article 68 of the Rules of Procedure of the Court (hereinafter also "the Rules of Procedure") resolves the request for interpretation of the judgment on preliminary objections, merits, reparations, and costs issued by this Court on September 23, 2021, in this case (hereinafter also "the judgment"), filed on March 21, 2022, by the representative of the victims (hereinafter also "the representative").

* Judge Eugenio Raúl Zaffaroni, an Argentine national, did not take part in the processing, deliberation, or signature of this judgment, in accordance with the provisions of Article 19(1) and (2) of the Court's Rules of Procedure. Judge Ricardo Pérez Manrique recused himself from participating in this case, pursuant to the provisions of Article 19(2) of the Statute of the Court and Article 21 of its Rules of Procedure, which was accepted by the President; he therefore did not participate in the deliberation and signature of this Judgment. Judge Eduardo Vio Grossi did not take part in the deliberation and signature of this judgment for reasons of force majeure. In accordance with Article 17(1) of the Rules of Procedure of the Court, Judge Patricia Pérez Goldberg joins the Court.

** The Deputy Registrar, Romina I. Sijniensky, did not participate in the processing of this case, or in the deliberation and signature of this judgment.

I REQUEST FOR INTERPRETATION AND PROCEEDINGS BEFORE THE COURT

1. On September 23, 2021, the Inter-American Court issued the judgment in this case, of which the parties and the Inter-American Commission on Human Rights (hereinafter also "the Commission") were notified on December 21, 2021.
2. On March 21, 2022, the victims' representative¹ submitted a request for interpretation related to the scope of paragraphs 311 and 314 of the judgment regarding the compensation for non-pecuniary damage.
3. On April 7, 2021, in accordance with Article 68(2) of the Rules of Procedure and upon instructions from the Presidency of the Court, the Office of the Registrar of the Court transmitted the request for interpretation to the Argentine Republic (hereinafter "the State" or "the Argentine State") and to the Inter-American Commission on Human Rights (hereinafter also "the Commission" or "the Inter-American Commission"), and granted them a deadline of May 6, 2022, to submit any written observations they deemed pertinent. On May 4 and 6, 2022, respectively, the State and the Commission submitted their respective observations.

II JURISDICTION

4. Article 67 of the American Convention establishes as follows:

The judgment of the Court shall be final and not subject to appeal. In case of disagreement as to the meaning or scope of the judgment, the Court shall interpret it at the request of any of the parties, provided the request is made within ninety days from the date of notification of the judgment.

5. In accordance with this article, the Inter-American Court is competent to interpret its judgments. To analyze a request for interpretation and resolve it as necessary, the Court must, if possible, have the same composition as when it handed down the corresponding judgment, in accordance with Article 68(3) of its Rules of Procedure. At this time, the Court is mostly still composed of the same judges that handed down the judgment of which interpretation is requested.²

III ADMISSIBILITY

6. It falls to the Court to verify that the request presented by the representative meets the requirements established in the norms applicable to a request for interpretation of judgment—that is, Article 67 of the Convention and Article 68 of the Rules of Procedure. Additionally, Article 31(3) of the Rules of Procedure establishes that "Judgments and orders of the Court may not be contested in any way."
7. The Court notes that the representative submitted his request for interpretation within the 90-day period established in Article 67 of the Convention. Indeed, the judgment was notified on December 21, 2021, and therefore, the request for interpretation—filed on March 21, 2022—is admissible as far as the deadline for its submission is concerned.

¹ Attorney Eduardo Marques Iraola is the legal representative of the victims.

² This judgment was deliberated and approved virtually during the 154th regular sessions.

With regard to the other requirements, the Inter-American Court will perform the corresponding analysis in the next chapter.

IV ANALYSIS OF THE ADMISSIBILITY OF THE REQUEST FOR INTERPRETATION

8. The Court will now examine the representative's request to determine whether, in accordance with the law and the standards developed in its case law, it is admissible to clarify the meaning or scope of any point of the judgment.

9. The Court has found that a request for interpretation of judgment cannot be used to challenge a decision whose interpretation is being requested. The exclusive purpose of such a request is to determine the meaning of a judgment when one of the parties finds that the text of its operative paragraphs or its considerations are unclear or imprecise, as long as these considerations have an impact on the operative paragraphs. Therefore, the modification or annulment of the judgment in question cannot be requested through a request for interpretation.³

10. The Court has also held that it is inadmissible to use a request for interpretation to submit considerations on matters of fact and law that were already raised at the proper procedural moment and regarding which the Court has already issued a decision,⁴ or to ask the Court to reassess matters that it has already ruled on in its judgment.⁵ This proceeding can also not be used to broaden the scope of a measure of reparation ordered at the proper procedural moment.⁶

11. Hereinafter, the Inter-American Court will examine the issues raised in the following order: a) the request for interpretation regarding the compensation for non-pecuniary damage with respect to the impact on the victims' life project, and b) the request for interpretation regarding the compensation for non-pecuniary damages in relation to the alleged effect resulting from the content of Decree 1025/96.

Request for interpretation regarding the compensation for non-pecuniary damage with respect to the impact on the victims' life project

A.1. Arguments of the parties and of the Commission

12. The **representative** asked to clarify paragraph 311 of the judgment, which indicates that the Court "establishes, in equity, the sum of USD\$40,000.00 (forty thousand United States dollars) that the State must pay to each of the victims—Anatole Alejandro Larrabeiti Yáñez and Claudia Victoria Larrabeiti Yáñez" in non-pecuniary damages. According to the representative, the paragraph cited did not expressly specify

³ Cf. *Case of Loayza Tamayo v. Peru. Interpretation of Judgment on Merits*. Order of the Court of March 8, 1998. Series C No. 47, para. 16, and *Case of Manuela et al. v. El Salvador. Interpretation of Judgment of Preliminary Objections, Merits, Reparations, and Costs*. Judgment of July 27, 2022. Series C No. 461, para. 10.

⁴ Cf. *Case of Loayza Tamayo v. Peru. Interpretation of Judgment on Reparations and Costs*. Judgment of June 3, 1999. Series C No. 53, para. 15, and *Case of Manuela et al. v. El Salvador. Interpretation of Judgment of Preliminary Objections, Merits, Reparations, and Costs*, *supra*, para. 11.

⁵ Cf. *Case of Salvador Chiriboga v. Ecuador. Interpretation of Judgment on Reparations and Costs*. Judgment of August 29, 2011. Series C No. 230, para. 30, and *Case of Manuela et al. v. El Salvador. Interpretation of Judgment of Preliminary Objections, Merits, Reparations, and Costs*, *supra*, para. 11.

⁶ Cf. *Case of Escher et al. v. Brazil. Interpretation of Judgment of Preliminary Objections, Merits, Reparations, and Costs*. Judgment of November 20, 2009. Series C No. 208, para. 11, and *Case of Manuela et al. v. El Salvador. Interpretation of Judgment of Preliminary Objections, Merits, Reparations, and Costs*, *supra*, para. 11.

that this amount included the damage to life project, although "[i]t could perhaps be understood that" it "would be included in that amount." He added that the amount provided to each of the victims "is less than what has been established for non-pecuniary damages" in similar cases. He asked the Court to clarify and specify whether or not "it should be understood that the amount set [...] includes compensation for impact on the 'life project,'" and, if necessary, "the amount understood as appropriate should be set."

13. The **State** indicated that the amount established in paragraph 311 of the judgment, set in equity, "includes the items indicated in the immediately preceding paragraph," meaning that the amount "includes, within the estimated damage [...] the 'damage to the life project' specified in paragraph 310." It asked that the request for interpretation be rejected.

14. The **Commission** noted that in paragraph 310, the judgment "specified the aspects considered part of the non-pecuniary damage caused to Anatole and Victoria Larrabeiti Yáñez," including "the evident impact on [their] life project". In view of the foregoing, it indicated that the judgment "is clear in determining the aspects considered as part of the non-pecuniary damage to be redressed, which includes the impact on the victims' life project."

A.2. Considerations of the Court

15. Regarding compensation for non-pecuniary damage ordered in the judgment, this Tribunal recalls that paragraph 310 of the judgment provides as follows:

The Court [...] finds it admissible to provide redress for the non-pecuniary damage caused to Anatole Alejandro Larrabeiti Yáñez and Claudia Victoria Larrabeiti Yáñez consisting of the ongoing suffering and anguish caused by the forced disappearance of their biological parents; the omissions and shortcomings in the search for their whereabouts and eventual location of their remains, to the detriment of their right to know the truth; the excessive delay in the processing of the different cases domestically and full clarification of what happened; and the violation of their right to access to justice due to the State's refusal to grant the corresponding reparations judicially, as well as the demonstrated impacts on the personal integrity of the Larrabeiti Yáñez siblings. Likewise, the circumstances of the case indicate that there has been a clear impact on the victims' life plans, with a differentiated impact on their status as the son and daughter of the persons whose disappearance continues, which must also be taken into account when estimating non-pecuniary damages, as it continues over time for as long as there is uncertainty as to the whereabouts of their biological parents.⁷

16. Based on the above, paragraph 311 indicated as follows:

Consequently, the Court establishes, in equity, the sum of USD 40,000.00 (forty thousand United States dollars) that the State must pay to each of the victims—Anatole Alejandro Larrabeiti Yáñez and Claudia Victoria Larrabeiti Yáñez—to be made effective within a year from the notification of this Judgment.⁸

17. It is clear from this, as has been pointed out by the Argentine State and the Commission, that the amount set in the aforementioned paragraph 311 included the damage to the victims' life project, something expressly considered by the Court in the preceding paragraph (paragraph 310). In any case, the determination of the amount was made in equity, according to the circumstances of the specific case, without comparison to apparently analogous cases influencing or restricting the considerations made by the

⁷ *Case of the Julien Grisonas Family v. Argentina. Preliminary Objections, Merits, Reparations, and Costs.* Judgment of September 23, 2021. Series C No. 437, para. 310.

⁸ *Case of the Julien Grisonas Family v. Argentina, supra*, para. 311.

Court in due course.

18. Consequently, the Court determines that the issue was decided in the judgment and it is not admissible to seek modification of the compensation ordered through a request for interpretation.

B. Request for interpretation regarding the compensation for non-pecuniary damages in relation to the alleged effect resulting from the content of Decree 1025/96

B.1. Arguments of the parties and of the Commission

19. The **representative** asked that the content of paragraph 314 of the judgment be clarified, wherein it indicated that "due to the lack of specific arguments, no issue related to Decree 1025/96 'and its derivations' was analyzed, so the request for compensation in this regard [became] inadmissible." He stated that in its Report on the Merits, the Inter-American Commission indicated that "[t]he allegations regarding the failure to provide reparations for the alleged harm caused by [the content of the decree] [...] are an integral part of the subject of the petition submitted in 2005." He stated that the brief of pleadings, motions, and evidence referred "specifically and separately" to the aforementioned decree, in the sense of "substantiating in detail the origin and estimated amount of the indemnities" necessary. He added that the aforementioned "lack of specific arguments [...] is not supported by the proceedings," and therefore requested clarification of what was considered in the judgment and, consequently, that "compensation be ordered in that regard."

20. The **State** indicated that "no injuries were alleged before the contentious jurisdiction of the Court regarding [D]ecree 1025/96 and, therefore, the [...] Court did not find or declare violations of rights resulting from the aforementioned decree." It added that "this is independent of whether the decree was mentioned during the proceedings before the Commission, [...] since the truth is that no violations derived from the decree were alleged or declared before the Court, and therefore, no compensation related to it was established." It asked that the request for interpretation be dismissed.

21. The **Commission**, for its part, indicated based on the case law of the Court that a request for interpretation "cannot be used as a means of appealing the decision whose interpretation is sought."

B.2. Considerations of the Court

22. The Court recalls that paragraph 314 of the judgment stated as follows:

It should be noted that this Judgment contains no analysis of matters related to Decree 1025/96 "and its derivations" due to lack of specific arguments, so the request for compensation in this regard becomes inadmissible.⁹

23. Also, footnote 327—after the cited paragraph—indicates as follows:

As indicated by the Commission in Report No. 56/19, in the petition filed on November 11, 2005, the representative alleged a "failure to provide reparations for the damage caused by the fourth whereas clause of Decree 1025/96." The Commission reached no conclusion on the alleged violation and did not issue recommendations in this regard. The non-existence of the alleged violation was reiterated by the Commission in its brief submitting the case. For its part, in the

⁹ *Case of the Julien Grisonas Family v. Argentina, supra*, para. 314.

pleadings and motions brief, the representative did not refer to this topic or make specific arguments but rather indicated that it "shared the conclusions and recommendations" of the Report on the Merits.¹⁰

24. Based on the foregoing, it is noted that the judgment did not find any violation with respect to the representative's pleadings of damages allegedly caused by Decree 1025/96 "and its derivations."

25. In this regard, it should be noted that in response to the State's arguments, the Commission stated the following in paragraph 101 of its Report on the Merits:

The Commission concludes that the incidents that are excluded from the subject of the instant case are those regarding the failure to respond to the requests for information that were filed in order to learn about the background to the fourth whereas clause of Decree 1025/96 [...]. The allegations regarding the failure to provide reparations for the alleged harm caused by said whereas clause, as well as the alleged violations that took place in the framework of the civil lawsuit filed on August 26, 1998, are an integral part of the subject of the petition submitted in 2005.¹¹

26. In this regard, in paragraph 186, the Commission found no violation, based precisely on its analysis of the judicial process brought by the victims to claim reparations for the alleged harm caused by the aforementioned decree. It reached the same conclusion in submission of the case. Additionally, in the brief of pleadings, motions, and evidence, although the representative made a specific claim for reparations, he expressed no specific arguments, instead indicating that he shared "the conclusions and recommendations" set forth in the Report on the Merits.

27. Based on the foregoing, the Court finds that the lack of specific allegations by the representative led to the conclusion of no violation to substantiate any reparations in the sense that is now claimed. Thus, the Court finds that the request presented does not seek clarification of some aspect of the judgment that lacks clarity or precision, but rather seeks to discuss, once again, an element that was resolved at the proper moment, something that is not possible through the interpretation of the judgment. Consequently, the Court dismisses the representative's request.

V OPERATIVE PARAGRAPHS

28. Therefore,

THE COURT

pursuant to Article 67 of the American Convention on Human Rights and articles 31(3) and 68 of the Rules of Procedure of the Court,

DECIDES:

Unanimously:

1. To dismiss as inadmissible the request for interpretation of the Judgment on Preliminary Objections, Merits, Reparations and Costs issued in the *Case of the Julien*

¹⁰ *Case of the Julien Grisonas Family v. Argentina*, *supra*, footnote 327.

¹¹ Cf. Admissibility and Merits Report No. 56/19, Case 13,392, OEA/Ser.L/V/II.172, of May 4, 2019, para. 101.

Grissonas Family v. Argentina, submitted by the representative of the victims, pursuant to the terms of paragraphs 15 to 18 and 22 to 27 of this judgment of interpretation.

2. To order the Office of the Registrar of the Court to notify the Argentine Republic, the representative of the victims, and the Inter-American Commission on Human Rights of this judgment of interpretation.

I/A Court H.R. *Case of the Julien Grisonas Family v. Argentina. Interpretation of Judgment of Preliminary Objections, Merits, Reparations, and Costs.* Judgment of November 21, 2022.

Elizabeth Odio Benito
President

L. Patricio Pazmiño Freire
Porto

Humberto Antonio Sierra

Eduardo Ferrer Mac-Gregor Poisot

Patricia Pérez Goldberg

Pablo Saavedra Alessandri
Registrar

So ordered

Elizabeth Odio Benito
President

Pablo Saavedra Alessandri
Registrar