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Supreme Court of Argentina uses Creative Enforcement Strategies on Environmental Rights

Mendoza Beatriz Silva et al vs. State of Argentina et al, Supreme Court of Argentina. July 8, 2008.

In July 2004, a group of residents of the Matanza/Riachuelo basin filed a suit before the Supreme Court of Argentina against the national government, the Province of Buenos Aires, the City of Buenos Aires and 44 companies seeking compensation for damages resulting from pollution of the basin. In July 2008, the Court issued a decision in which it required the government to take measures to improve the residents' quality of life, remedy the environmental damage, prevent future damage and established an action plan requiring the government agency responsible for the Matanza/Riachuelo basin, ACUMAR, to fulfill specific measures. In its decision, the Court did not expressly adopt a human rights perspective, however, the Court stated that the action plan's objective should be improving the residents' quality of life, and required specific sanitation programs to be adopted to meet the needs of the basin's population. Although the Court did not review the issues of water, sewage sanitation, health and housing with the specificity required by international human rights treaties, the Court did refer to these key issues, setting as a main objective the improvement of quality of life and the needs of the population in general. Furthermore, the Court acknowledged that the contamination of the basin was an abuse of a collective environmental right, requiring action by the authorities.

The most innovative aspect of this case was in the Court's approach to enforcement of the ruling. In this case, the Court created a system of enforcement monitoring and tried to address the difficulties often preventing effective enforcement of obligations by public agencies by ordering coordinated interjurisdictional compliance and setting up an alternative, creative model of court intervention. The Supreme Court delegated the enforcement process to a federal court and created a working group including the national Ombudsman and NGOs that had been involved in the case as non-litigant parties, seeking to strengthen and enable citizen participation in monitoring enforcement. Throughout enforcement of the decision, the court in charge has sought ways to identify concrete actions and expand the objectives of the judgment. In late 2010, the working group stated that although ACUMAR made efforts to work towards fulfilling the terms of the decision, it had not yet wholly met any of the obligations set forth in the decision and in the plan established by ACUMAR. Therefore, there have been several requests for fines against responsible officials.

For a [full case summary](#) and information on the enforcement and other outcomes of this decision, visit the [Caselaw Database](#) at www.escr-net.org. There you will also find information on groups involved, case documents and secondary literature.

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