



Communique Committee of Experts

Committee of Experts of the MESECVI Expresses Concern about the Judicial and Media Treatment in a Case of Alleged Group Rape in Uruguay

Washington, DC, November 15, 2023. The [Committee of Experts of the Follow-up Mechanism of the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women](#) "Belém do Pará Convention" (MESECVI) expresses its concern regarding a second request made on September 15th by the First Shift Prosecutor's Office for Sexual Offenses, Domestic Violence, and Gender-Based Violence of the Attorney General's Office of Uruguay for partial dismissal in case IUE 2-2497/2022 concerning an alleged group sexual assault on a 30-year-old woman by a group of three men who were placed in preventive detention for a period of 180 days. Additionally, one of them was also charged for having leaked and disseminated through a radio station, the audios of some videos related to the alleged sexual assault to preserve the notion in the public debate that there was "consent" on the part of the alleged victim and that it was not a sexual assault.

In fact, at first, on April 24, 2023, the Prosecutor's Office requested the dismissal of the accused individuals on the grounds that "the evidentiary possibilities were exhausted without reaching the degree of certainty" for the crime of aggravated sexual abuse. By resolution No. 1171/2023, the judge in the case ordered the requested dismissal. The defense counsel of the alleged victim appealed the resolution, which was resolved by the 3rd Criminal Appeals Court in favor of the defense.

The said Court held that two expert examinations requested by the defense were yet to be conducted: these were related to a second interrogation of a friend of the alleged victim who would have testified to the events and the examination of the cell phone of one of the accused. In this regard, in accordance with international standards, the Court ruled that the dismissal was not appropriate until all possible expert examinations were completed and requested that the Prosecutor's Office reconsider the case by the Acting Prosecutor.

On September 15, 2023, the First Shift Prosecutor's Office for Sexual Offenses, Domestic Violence, and Gender-Based Violence of the Attorney General's Office of Uruguay, after reexamining the case, once again submitted a request for dismissal in this case, arguing that from the leaked videos and audio, consent can be inferred because the scenes depict "a complete absence of violence," making it "not foreseeable, not even minimally, to obtain a conviction."

This Committee of Experts notes that once again, the requested expert examinations have not been completed by the court. In addition, this Committee has been asserting that in

investigations of gender-based sexual violence, the State has an obligation to act under the principle of enhanced due diligence and to apply the highest standards of human rights protection.

In this regard, the Committee calls on the State of Uruguay to, in this case, in addition to the mentioned expert examinations, conduct a contextual analysis of structural violence against women due to gender reasons, which should be applicable to the specific case. Furthermore, following the standards of the Inter-American Court of Human Rights, the victim's initial statement should be given paramount importance in the proceedings. The initial statement should not be subjected to gender stereotypes that may discredit the events as a result of possible omissions or confusion in the narratives due to post-traumatic stress.

Equally important, the Committee considers it essential that the analysis of this case takes into account the standards developed in the [General Recommendation of the Committee of Experts of the MESECVI \(No. 3\): The concept of consent in cases of gender-based sexual violence against women](#), in which, among other clauses, it is stated that i) consent may not be inferred from any words or conduct of the victim when force, threat of force, coercion, or taking advantage of a coercive environment have diminished their ability to give voluntary and free consent; ii) consent may not be inferred from any words or conduct of the victim when she is unable to give free consent; iii) consent may not be inferred from the victim's silence or from the victim's lack of resistance to sexual violence; iv) consent cannot be inferred when there is a power relationship due to undue influence; and v) consent is reversible.

The Follow-up Mechanism of the Belém do Pará Convention, through its Committee of Experts, makes itself available to the State of Uruguay for any technical support it may require in this matter.

The [Committee of Experts](#) is the technical body of the MESECVI, responsible for the analysis and evaluation of the implementation process of the Convention of Belém do Pará. It is made up of independent Experts, appointed by each of the States Parties from among their nationals, who perform their duties in a personal capacity.