



MAX PLANCK INSTITUTE
FOR COMPARATIVE PUBLIC LAW
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Non-pecuniary Remedial Measures by Regional Human Rights Courts: Revealing Reparations' True Nature

MPIL Agora

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What is the role of regional human rights courts in the selection of measures States should take to comply with their obligation to provide *restitutio in integrum*? The issuance of non-pecuniary remedial orders by regional human rights courts are no longer a novelty in human rights adjudication. Both, the Inter-American and European Court of Human Rights's case-law shows that, sometimes, regional courts do not limit themselves to ordering monetary compensation. Rather, they take a step further and order particular measures which require a higher level of action from States.

In spite of these similarities, each of these courts has developed a particular approach to the issuance of non-pecuniary measures. Whereas the practice of the ECtHR, in this respect, might be qualified as cautious, always highlighting the principle of subsidiarity; the IACtHR is well-known for its innovative approach to this kind of measures and usually includes them in every judgment. This, however, has not prevented both courts from responding to certain human rights violations in the same way, that is, ordering, *inter alia*, the release of prisoners, amendment of legislation or restitution of property. Thus, there seem to be some factors triggering the action of regional human rights courts in this respect. The current work focuses on the determination of those factors, by looking at possible criteria used by both courts when they select particular measures. At the heart of the research is the balance between core concepts such as subsidiarity, discretion and universality.

In this Agora, the presentation will deal with preliminary findings from the analysis of the practice of regional human rights courts and the UN Human Rights Council in respect to the issuance of orders to release prisoners, amend legislation and restituting property.



Leiry Cornejo is a third year PhD student and researcher at the European University Institute, and currently writes her dissertation on non-pecuniary remedies by regional human rights courts, including the IACtHR.

Previously, she has worked as research assistant at PluriCourts – Centre for the Study of the Legitimate Roles of the Judiciary in the Global Order, and MultiRights – The Legitimacy of Multi-Level Human Rights Judiciary (Law Faculty, University of Oslo). She has also worked in the Human Rights Commission of the Peruvian National Congress. In 2016, she was a visiting professional at the IACtHR. Cornejo Chávez holds a LL.M. in Public International Law by the University of Oslo, and a Masters in Law and Economics by the Buenos Aires University. She obtained her Bachelor of Laws degree in Peru.

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