

**Hypothetical Case 2020**  
**Maricruz Hinojoza, et al. v. Republic of Fiscalandia**

**I. Background on the Republic of Fiscalandia**

1. The Republic of Fiscalandia is in South America and covers an area of 1,885 km<sup>2</sup> consisting largely of Amazonian rainforest. Its capital is Berena. Its population, some 67 million inhabitants, is mostly mestizo (65%), 25% indigenous, and just 10% white of European descent. Fiscalandia gained its independence in 1818.

7. The Supreme Court is the highest body of the judicial system, and it performs judicial, disciplinary, and governmental functions. It has the power to render final and unappealable decisions in civil, criminal, and administrative law matters, as well as in constitutional actions for the protection of the human rights and freedoms regulated in Fiscalandia's Constitutional Protection Law (*amparo* [petition for a constitutional remedy], habeas data, and unconstitutionality actions). its disciplinary powers, the Supreme Court is responsible for applying, in a single instance, suspension and removal penalties against judges of all levels and specializations. The only exception is for penalties against the Supreme Court justices themselves, which are imposed by the Legislative Assembly.
8. Finally, in terms of its governmental powers, the Supreme Court has jurisdiction to decide on budgetary and administrative matters of the judicial branch. The Chief Justice of the Court has the power to determine the composition of all appellate chambers and trial courts in the country's 17 regional courts.
9. Organizations defending indigenous peoples' human rights in the Amazon have on multiple occasions accused the current chief justice of the court, Justice Ángel Lobo, of manipulating the composition of the regional courts of Amazonas Alto and Amazonas Bajo. They allege that this was done to benefit oil exploration and exploil8.2(d)2.3( e)-3(x)-nal a3mpo0 Tc 0(o)-6.6(i0.004 Tc11()9.5( )TJ(i)1

13. The 2007 Constitution does not establish the duration of the Prosecutor General's term of office, but in judgment 0067-



directly to the Court of Auditors. "Instead of investigating the cases, we have to spend all our time responding to requests for information from this office," she said.

**II. Facts of the case**

23. After the announcement of the imminent establishment of the nominating board, on June 16, 2017, Magdalena Escobar filed a motion to vacate an administrative act with the Tenth Administrative Court of Berena, challenging the call for candidates issued by Extraordinary Presidential Decree. She maintained that the measure taken by President Obregón had the same effects as removal from office, and was null and void on the grounds of abuse of authority, since its true purpose was to undermine the investigations being carried out by the Public Prosecutor's Office against his family and close friends. Magdalena





35.



39. The *amparo* action, brought before the Second Constitutional Court of Berena, was declared inadmissible on the grounds that the appointment of the Prosecutor General is a sovereign power of the executive branch, and therefore is not subject to review via *amparo* proceedings. In any case—according to the court—they could have challenged any irregularity by means of a motion to vacate. The plaintiffs appealed the decision, which was subsequently affirmed by the Second Appellate Chamber of Berena. Finally, the extraordinary appeal filed by Hinojoza and del Mastro with the Supreme Court of Justice was also denied in a decision dated March 17, 2018.

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requirement. The IACHR declared the petition admissible on August 8, 2018, and issued its Merits Report on February 14, 2019, finding the State responsible for violating the rights to a fair trial (Article 8.1) and judicial protection (Article 25), both in relation to Articles 1.1 and 2 of the ACHR. It recommended, among other things, the reinstatement of Judge Mariano Rex to his position. Once the requisite time period had elapsed without the State complying with the IACHR's recommendations, the case was consolidated with Petitions 110-17 and 209-18 and submitted to the jurisdiction of the Inter-American Court of Human Rights.

**B. Petition 110-17 filed by Magdalena Escobar v. the State of Fiscalandia**

45. On August 1, 2017, Magdalena Escobar filed a petition with the Inter-American Commission on Human Rights (IACHR) on her own behalf, for the violation of a number of rights enshrined in the American Convention on Human Rights. The IACHR gave notice of the registration of the petition under number P-110-17.
46. At the admissibility stage, the State of Fiscalandia alleged the failure to exhaust domestic remedies because the judgment on the merits of the motion to vacate had not yet been issued when the petition was filed. Fiscalandia additionally argued that it was within the President's authority to create the nominating board to replace a senior official whose term of office had expired, and was not politically motivated, given that the President selected the Prosecutor General after prior scrutiny by an independent entity: the nominating board.
47. The IACHR declared the petition admissible on December 30, 2018, and on August 1, 2019 it issued Merits Report 12/19, in accordance with Article 50 of the ACHR, notice of which was provided to the parties on August 15, 2019. In its merits report, the IACHR found the State of Fiscalandia internationally responsible for the violation of the rights to a fair trial (Article 8.1), equal protection (Article 24), and judicial protection (Article 25) under the American Convention on Human Rights, all in relation to Article 1.1 thereof, to the detriment of Magdalena Escobar.
48. Once the deadline and the requirements established by the American Convention and the

Fiscalandia further argued that the appointment of senior government officials was a discretionary power assigned under domestic law to the President of the Republic, who was