

ENVIRONMENTAL COURT CASES ACROSS THE WORLD

Seismic Testing

ARGENTINA SEISMIC TESTING CASES

Federal Court of Mar del Plata N. 2, Decided: February 11, 2022 (Appeal Pending)

ARGENTINIAN COURT COURT ORDER HALTS OFFSHORE FOSSIL FUEL EXPLORATION ACTIVITIES

Parties

Claimants

Case One: Organización de Ambientalistas Organizados (an NGO)

Case Two: Greenpeace Argentina and others (a group of NGOs)

Case Three: Guillermo Tristan Montenegro (Mayor of the City of Mary del Plata)

Defendants

Case One: Ministry of Environment and Sustainable Development

Case Two: Argentinian National State and the Ministry of Environment and Sustainable Development

Case Three: Ministry of Environment and Sustainable Development

Key Facts

On December 30, 2021, the Ministry of Environment and Sustainable Development published Resolution 436/2021, which approved offshore seismic testing and fossil fuel exploration operations by Equinor, a Norwegian company. In response, three different emergency lawsuits were filed to try to halt the commencement of the exploration activities. The first case, brought by an NGO against the Ministry of Environment and Sustainable Development on January 7, sought habeas corpus for the protection of the Southern Right Whale and its habitats. The Federal Court dismissed the case, but the Court of Appeal said the case should be allowed to proceed if converted into a constitutional collective action. The amended claim retained its focus on the protection of the Southern Right Whale, while also introducing legal claims concerning the climate impacts of the project, including factual findings from IPCC and International Energy Agency reports, Argentina's Nationally Determined Contribution (NDC) under the Paris Agreement, the other requirements of the Paris Agreement, and the Sustainable Development Goals.

The second case, a constitutional collective action brought by a group of NGOs against the Argentinian National State and the Ministry of Environment and Sustainable Development, focused primarily on the climate impacts of the proposed offshore exploration activities. The suit highlights the incompatibility of the project with Argentina's national and international climate commitments, as well as the inadequacy of Argentina's NDC to the Paris Agreement. Further, the claim states that the State is responsible for emissions arising from future fossil fuel exports and that the Environmental Impact Assessment was flawed due to its failure to consider climate impacts. Finally, the claim refers to climate cases from other countries, including **Urgenda** in the Netherlands, **Neubauer** in Germany, **Sharma** in Australia, **Earthlife Africa Johannesburg** in South Africa, **Gray and Gloucester Resources** in Australia, and **Greenpeace Nordic** in Norway.

The third case, a constitutional collective action against the Ministry of Environment and Sustainable Development by the Mayor of the City of Mar del Plata on January 13, 2022, raised issues regarding access to environmental information and rights to public participation in the decision-making process, as enshrined in the **Escazú Agreement**. The suit also stated that the proposed activities undermine Argentina's international climate commitments under the UNFCCC, the Paris Agreement, and its NDC to the Paris Agreement, while arguing that Argentina's NDC is not ambitious enough and is not accompanied by the required National Adaptation and Mitigation Plan.

On January 14, 2022, the court combined the three lawsuits.



<p>Court Decision and Reasoning</p>	<p>On 11 February 2022, the Federal Court of Mar del Plata ordered Equinor to halt its offshore exploration activities. Citing the Escazú Agreement and Argentinian law, the court based its decision on the violation of two key procedural rights: the right to information and the right to public participation. The court relied heavily on the precautionary principle, highlighting a risk to biodiversity and whales in particular, and stated that a strategic environmental assessment should have been prepared prior to the approval of the project. The court did not cite climate concerns.</p> <p>On 18 February 2022, however, a different court (Federal Court of Mar del Plata N. 4) issued an order allowing the seismic testing to continue until the Federal Court of Appeal hears the appeal of the injunction.</p>
<p>What now?</p>	<p>Pursuant to the 18 February 2022 decision allowing appeal, the seismic testing and related exploration activities are allowed to continue as planned, pending full adjudication of the appeal of the injunction.</p>
<p>International Impact</p>	<p>While the approval of these fossil fuel offshore exploration licenses in Argentina is part of a disturbing global trend wherein governments, such as in Namibia and the United Kingdom, have sold off major swaths of their coastlines for oil and gas exploration, the strong public outcry and successful emergency halting of such exploration by the courts are also part of global trend in which courts in countries such as the United States and South Africa, have refused to allow seismic testing to proceed prior to certain impacts being studied or litigated. Here, however, unlike in the recent cases in South Africa and the United States, the court allowed the seismic testing to continue pending the hearing of the appeal.</p>
<p>Key Issues</p>	<p>Seismic testing, precautionary principle, public participation, environmental impact assessment, offshore exploration, right to information, sustainable development</p>
<p>Laws and Agreements Cited</p>	<p>International: Escazú Agreement</p> <p>Domestic: Argentinian Constitution; Argentinian environmental statutes</p>
<p>References & Further Reading</p>	<p>Petitions Case One, Organización de Ambientalistas Organizados v. Ministry of Environment and Sustainable Development (Spanish) Case Two, Greenpeace Argentina et al v. Argentina et al (Spanish) Case Three, Guillermo Tristan Montenegro v. Ministry of Environment and Sustainable Development (Spanish)</p> <p>Judgment Injunction Order (Spanish) Order to Allow Appeal (Spanish)</p> <p>Further Reading Buenos Aires Times - Court blocks offshore oil exploration off coast of Buenos Aires Province</p> <p>For more information:</p> <p>Contact Natural Justice at info@naturaljustice.org Or find us @ www.naturaljustice.org</p> <p>Published February 2022, with support from</p> <p>HEINRICH BÖLL STIFTUNG CAPE TOWN South Africa Namibia Zimbabwe</p> 

