



## **The Nuremberg Academy commemorates the historic Trial of the Military Juntas in Argentina**

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### **1. Historical Background of the Trial against the Military Juntas**

On 24 March 1976, a military coup led by General Jorge Rafael Videla seized power in Argentina, after decades of political instability and institutional fragility. During the “National Reorganisation Process”, the Argentinian armed forces imposed an unprecedented system of repression in the country as part of the so-called “dirty war against subversion”. This system led to extrajudicial killings, abductions, torture and the enforced disappearance of approximately 30,000 people, among whom were political opponents, students, teachers, trade unionists, clergy and members of armed and guerilla organisations. This figure is contested by the current Argentinian administration.

By 1982, increasing awareness of the repression exacerbated by the *Guerra de las Malvinas* (Falklands War) had led to significant opposition against the armed forces. This combined with the poor state of the economy, pressured the military to call for elections. On 13 December 1983, a few days after taking office as the newly and democratically elected President of Argentina, Raúl Alfonsín revoked the self-amnesty established by the military before leaving power and signed [Decree No. 158/83](#). This initiated the commencement of legal proceedings against nine high-ranking military officers of three (out of four) military juntas that had ruled Argentina.

### **2. Establishment of CONADEP and Interaction with Civil Society**

On 15 December 1983, President Alfonsín established the *Comisión Nacional sobre la Desaparición de Personas* (CONADEP), a truth commission mandated to investigate the circumstances and whereabouts of the disappeared. Ernesto Sábato, a widely respected novelist, later described in an [obituary](#) as “Argentina’s conscience” was



appointed to chair the commission. From the outset, CONADEP's institutional structure and powers, especially its inability to issue subpoenas, came under scrutiny. This led to scepticism from some human rights groups who had [preferred](#) the creation of a congressional commission of inquiry with more concrete powers to a truth commission. However, they soon changed their stance and the efforts and documentation of civil society groups, [especially](#) that of the *Centro de Estudios Legales y Sociales* (CELS) and of the *Asamblea Permanente por los Derechos Humanos* (APDH) proved crucial in the aiding the commission's work. CONADEP [took testimony](#) in various cities across the country and met exiles in Argentinian diplomatic representations abroad including in Mexico, the United States of America and Spain. *Nunca Más*, the commission's pioneering report released in 1984, [expressly stated](#) that the aim of its recommendations was "to press for a judicial investigation into the facts denounced" to it.

### **3. Proceedings before the Buenos Aires Federal Court of Appeals against the Military Juntas**

In accordance with Decree No. 158/83, several military leaders were suspected of committing human rights violations, namely illegal detention, torture and murder. These individuals included: Jorge Rafael Videla (Army), Emilio Eduardo Massera (Navy), Orlando Ramón Agosti (Air Force), Roberto Eduardo Viola (Army), Armando Lambruschini (Navy), Omar Domingo Rubens Graffigna (Air Force), Leopoldo Fortunato Galtieri (Army), Jorge Isaac Anaya (Navy) and Basilio Arturo Ignacio Lami Dozo (Air Force). Videla, Massera and Agosti were part of the first Junta (1976-1980); Viola, Lambruschini and Graffigna led the second Junta (1980-1981); and Galtieri, Anaya and Dozo ran the third Junta (1981-1982).

The trial of the [Case 13/84](#) before the Buenos Aires Federal Court of Appeals began on 22 April 1985 and the public hearings lasted until 14 August 1985. The Prosecution, represented by Prosecutor Julio César Strassera and Deputy Prosecutor Luis Moreno Ocampo, initially presented over [700 cases](#). Ultimately, judicial economy led to the selection of 282 cases to be brought before the Court. Strassera and Moreno Ocampo filed a total of 5,395 criminal charges against the defendants, so that they would answer for them individually as established by the Criminal Code. The defence based some of



its arguments on what the military junta included in its “Final Document of the Military Junta on the War against Subversion and Terrorism”, [published](#) in April 1983. This report aimed at justifying the armed forces’ actions during what it called a “dirty war”. In addition, the “Final Document” framed the past as a “war” with unavoidable “mistakes and excesses” and declared that those listed as disappeared were presumed dead. The [closing](#) statement of the Prosecution is well-known for Strassera’s quote “I wish to waive any claim to originality in closing this motion. I wish to use a phrase that is not my own because it already belongs to all the Argentinian people. Your Honors: ‘Never again’”, which was inspired by the *Nunca Más* report submitted by the CONADEP.

On 9 December 1985, the Federal Court of Appeals delivered its [judgment](#), finding the defendants guilty of serious crimes committed through the state apparatus. The ruling confirmed the existence of a criminal and systematic plan, accepted the evidentiary value of the testimonies and rejected the defence’s arguments regarding the notion of ‘war.’ However, the Court dismissed the criterion of co-responsibility in assessing the actions of each member of the military juntas and therefore determined the defendants’ sentences individually. Pursuant to relevant [provisions](#) of the Criminal Code and the Code of Military Justice, Videla and Massera were [sentenced](#) to life imprisonment, Viola to 17 years, Lambruschini to 8 years and Agosti to 4 years. Graffigna, Galtieri, Anaya and Dozo were acquitted.

#### **4. Aftermath of the Trial against the Military Juntas**

The trial of the military juntas, which has been called the “Argentinian Nuremberg”, was the first case in which a Latin American democracy prosecuted and sentenced military leaders for crimes committed during a dictatorship and almost unprecedented trial in the world. Unfortunately, military unrest generated by subsequent proceedings against lower rank officials led to the adoption of two pieces of legislation which broke the extraordinary momentum of accountability that had accompanied the transition to democracy in Argentina. The *Ley de Punto Final* (“Full Stop Law”, N° 23,492) and the *Ley de Obediencia Debida* (“Due Obedience Law”, N° 23,521), adopted by President Alfonsín in December 1986 and June 1987, respectively, were designed to [prevent](#) further prosecutions. This led to the United Nations Human Rights Committee, while dealing with a situation concerning the “Due Obedience Law”, [to assert](#) that the “laws of



impunity should be repudiated, lest they be understood as encouraging the commission of similar crimes”, going on to state that “[i]n this connection the committee invoke the principles of the Nuremberg Trials, in particular the rejection of the defence of superior orders”.

In addition to the laws, in 1989, President Carlos Menem made a series of presidential pardons that benefited, among others, most of the prosecuted military leaders who had not benefited by the full stop or due obedience law. In 1990, through an additional series of decrees, also those sentenced in the Trial of the Juntas were pardoned.

From 2003 onwards, under the Presidency of Néstor Kirchner, a combination of executive, parliamentary and judicial initiatives led to the abrogation of the pardons and the Full Stop and Due Obedience laws, and this allowed for the reopening of proceedings. Most importantly, in 2003 the Argentinian Congress passed a law declaring the nullity of both laws and, in 2005, the Supreme Court of Justice, in the “Simón” ruling, declared their unconstitutionality. Julio Simón, a former Federal Police officer had been [charged](#) with “kidnapping, torture and forced disappearance of persons” and relied on those laws – which were still valid at the time of the initiation of proceedings against him – to argue that he enjoyed immunity from prosecution. The Court [held](#) that these laws “were unconstitutional and void for several reasons”, among them, that “since the [Barrios Altos v. Peru](#) case the Inter-American Court of Human Rights had decided that states should not establish any measures that would prevent the investigation and prosecution of serious human rights violations.”

In addition to national proceedings, other investigations and prosecutions have been carried out in various European countries against Argentinian mid and low-ranking military officers, on the basis of universal or other forms of extraterritorial jurisdiction. Spain is an illustrative example. In 2004, the Supreme Court of Spain initiated [proceedings](#) against Adolfo Scilingo, a former Navy captain who witnessed and participated in so-called “vuelos de la muerte” (death flights) consisting in throwing prisoners alive but sedated from military airplanes into the open sea. The Court relied on the principle of universal jurisdiction to find Scilingo responsible for crimes against humanity and sentenced him to 640 years of imprisonment (reduced to the maximum of 30 years as per the Spanish Criminal Code). Although Germany’s [efforts](#) to investigate



and prosecute crimes committed during the Argentinian dictatorship did not culminate in any trials or convictions, they nonetheless contributed to a wider process that later facilitated multiple trials and [convictions](#) in Argentina.

Proceedings in Argentina for crimes committed under the military dictatorship continue to this day. The national emphasis on criminal justice to address the crimes committed under the military dictatorship is generally recognised as having contributed in a crucial way to consolidate democracy in Argentina.

## **5. Legacy of the Trial against the Military Juntas for International Criminal Law**

The trial of the military juntas holds meaningful substantive and symbolic significance for international criminal law. At a time when the cold war was entrenched and preventing the prosecution of international crimes through international initiatives, the trial showcased the importance and possibilities of domestic jurisdictions for breaking cycles of impunity. The interaction of the trials with a wider transitional justice framework [influenced](#) the further development of the then nascent field of transitional justice.

Dr Silvia Fernández de Gurmendi, President of the Advisory Council of the Nuremberg Academy, states that “the trial, conducted during the 1980s, stands as a quintessential example of how domestic justice systems can play a pivotal role in addressing atrocities, particularly but not exclusively within transitional justice frameworks”. Dr Fernández de Gurmendi further notes that “today, it is widely acknowledged that national investigations and prosecutions are essential to ensure accountability for the gravest crimes” and that “while international mechanisms can provide valuable support, their role is to complement –not supplant– the efforts of domestic judicial systems”.

Moreover, Professor Dr Christoph Safferling, Director of the Nuremberg Academy, characterises the trial of the military juntas as “a compelling illustration of the direct application and enforcement of the Nuremberg Principles”. He further refers to the Prosecution’s closing statement, in which Strassera emphasised that a democratic society must be founded upon peace grounded in memory and justice. According to Director Safferling, this articulation has had “a lasting and influential impact on the

progressive development of transitional justice, particularly in shaping how societies confront past atrocities through accountability and collective remembrance". (km/pg)