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# The Role of State Attorneys in Implementing Internationally Recognized Economic, Social, and Cultural Rights

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## Abstract

Throughout its institutional development, the Italian State Attorney's Office (Avvocatura dello Stato) has gone through several phases and is currently focused on defending the fundamental social human rights guaranteed by the European Convention on Human Rights. In Brazil, a similar function can and should be performed, with a view to international human rights instruments, both universal (the United Nations Charter and the International Covenant on Economic, Social, and Cultural Rights) and regional (the American Convention on Human Rights). This article examines the evolving role of state attorneys in ensuring compliance with internationally recognized economic, social, and cultural rights, drawing from the institutional experience of Italian State Attorneys and their Brazilian counterparts. Through analysis of landmark decisions by the Inter-American Court of Human Rights, including the Sawhoyamaxa Indigenous Community v. Paraguay and Dismissed Congressional Workers v. Peru cases, this study demonstrates the growing judicial concern with enforcing second-generation rights at the international level. The article further explores the procedural mechanisms available to Brazilian federal state attorneys for implementing decisions of international human rights courts, highlighting the interplay between domestic and international legal frameworks and the critical importance of active state advocacy in safeguarding fundamental social rights during periods of economic crisis.

## Keywords

Human Rights, State Advocacy, Economic Social and Cultural Rights, Inter-American Court of Human Rights

## 1. Introduction

This article was written as a result of the impressions and knowledge acquired during the International Meeting of State Advocacy, a congress held jointly by representatives of Brazil's Federal Attorney General's Office (Advocacia-Geral da União), and their Italian counterparts with the State Attorney General's Office (Avvocatura Generalle dello Stato), academically mediated by the University of Padova, a centuries-old Italian university, which discussed the challenges and opportunities for (Nation) State legal counseling and judicial representation in both countries, during a colloquium on the theme "Defense of the State and Guarantee of Citizens' Rights in Times of Crisis: The Challenges of State Advocacy".

For the purposes of this article, the term "state attorneys" refers specifically to career lawyers who provide legal counsel and judicial representation on behalf of the State, encompassing, in the Brazilian context, the members of the Federal Attorney General's Office (Advocacia-Geral da União) and its subsidiary bodies—the Federal Attorney's Office (Procuradoria-Geral Federal), the National Treasury Attorney's Office (Procuradoria-Geral da Fazenda Nacional), and the Federal Legal Consultancy (Consultoria-Geral da União)—as well as their counterparts at the state and municipal levels. This definition excludes public prosecutors (Ministério Público) and public defenders (Defensoria Pública), whose functions, although complementary, are institutionally distinct.

In addition to chronicling the institutional evolution of the Avvocatura dello Stato, from the establishment of the Avvocato Regio in the region of Tuscany in 1777 (before Italian unification), through the Avvocatura Erariale, organized in 1876, shortly after the political unification of the Italian peninsula, to its current structure, established in 1933, with some modifications in 1979 (Mello, 2012), the intercontinental meeting provided a glimpse of the qualitative evolution of the role played by the members of this institution.

Emphasis was placed on the gradual change in the focus of Italian State Attorneys, from an eminently fiscal position, aimed at preserving the purely patrimonial and tax interests of the Treasury, to the current level of defense of the legal-administrative order, under the direct and immediate influence of the European Convention on Human Rights and other international acts to which the Italian Republic is bound in the context of the European Union, as true agents of promotion of these norms before the Administration in the broad sense, which they guide and represent in court.

The Avvocatura dello Stato, established by Royal Decree No. 1611 of November 30, 1933, serves as the organic legal body of the Italian State, providing both litigation and advisory services to the entire state administration (Avvocatura dello Stato, 2024). Its dual function—combining contentious representation before all national and supranational courts with advisory consultancy on matters of public interest—offers a structural parallel to the Brazilian Advocacia-Geral da União. A concrete illustration of this rights-oriented evolution is the role of the current Attorney General, Gabriella Palmieri Sandulli, who has served since 2019 as Agent

of the Italian Government before the European Court of Human Rights, personally defending the Italian State in cases concerning fundamental social rights, including access to healthcare, social security, and migrant rights under the European Convention. This direct engagement with human rights litigation at the supranational level exemplifies the institutional reorientation that this article proposes for the Brazilian counterpart.

Special attention was given to the current concern of members of the Bar Association with the preservation of the Fundamental Social Human Rights of residents in the peninsular territory, in a context of economic crisis, with the natural retraction of both the positive benefits provided by the Public Power and possible setbacks in the treatment given by the private sector to workers, consumers, and even the environment.

Motivated by this perspective, this article seeks to highlight, in the Brazilian context, how the work of state attorneys, in any of the careers that make up the Federal Attorney General's Office, or their state and municipal counterparts, can and should be refocused on the defense of a legal and administrative order based on the principles of a democratic state governed by the rule of law and the uncompromising protection of human rights, enshrined in the Western Hemisphere by the American Convention on Human Rights, better known as the "Pact of San José de Costa Rica".

## 2. General Notes on Human Rights, Fundamental Rights, and Social Rights

Before addressing the specific topic of this brief presentation, it is necessary to establish some of the basic concepts that underlie it.

Thus, it is essential to make a few brief comments on the evolution of the legal concept of human rights, its transmigration into national legal systems, and, subsequently, the establishment of international norms and institutions designed to control and supervise the observance of human rights, including at the national level.

### 2.1. Concept of Human Rights

Given Norberto Bobbio's reasonably widespread classification (Bobbio, 1992), which refers to "generations" of human rights, we begin this topic with a brief history of the Italian philosopher, given its didactic and synthetic nature.

As can be seen from the title of the work itself, Bobbio seeks to highlight the historical character of human rights throughout the temporal spectrum he calls "The Age of Rights", emphasizing the evolutionary element of the legal concepts that we now classify as fundamental guarantees, but which only emerged and crystallized after traveling a long road.

The initial milestone of the analysis focuses on the emergence of individual guarantees in the Declaration of the Rights of Man and of the Citizen, under the banner of the French Revolution of 1789. At this point, he identifies what he called

First Generation Human Rights or Negative Rights, since they were instituted to the detriment of the Absolutist State, requiring it to abstain or provide negative guarantees that would ensure the political and economic freedom that would underpin the liberal economic model of the following centuries.

In a second moment, he points to the movement to integrate the rights referred to in the French Declaration of August 26, 1789, until then still understood from a natural law perspective, into the constitutional texts of the modern states then in formation. Human rights moved from a level considered merely conceptual to the order of legal guarantees, as they were enshrined in the written constitutions that were expanding in Western Europe in the 19th century.

As Bobbio wrote (Bobbio, 1992): "...They are no longer human rights, but only the rights of citizens, or, at least, they are human rights only insofar as they are the rights of citizens of this or that particular state...".

However, the mere formal guarantees of constitutional charters proved insufficient, a phenomenon explicitly demonstrated by the abuses committed by the totalitarian German and Italian governments, which reached hitherto unimaginable heights during the course of World War II.

This perception led to the creation of the United Nations, designed to guarantee peace between nations and respect for human dignity, regardless of their ties to one state or another. Thus, in 1948, the Universal Declaration of Human Rights was issued, initiating the internationalization of human rights. According to Bobbio (Bobbio, 1992): "...the Universal Declaration represents humanity's historical awareness of its own fundamental values in the second half of the 20th century. It is a synthesis of the past and an inspiration for the future, but its tablets were not engraved once and for all...".

The 1948 Declaration, in addition to repeating and expanding the so-called civil and political rights already referred to in the French Declaration of the 18th century, inserted elements of what would later be classified as Second-Generation Rights or Positive Rights, of an economic and social nature, intended to ensure, on a material level, the achievement of the ideals of real equality among men.

Later, Bobbio highlighted the phenomenon he classified as the multiplication of Human Rights, derived from the intense social transformations and technical innovations that emerged in the second half of the 20th century. There is now talk of Third and even Fourth Generation Rights, those linked to guarantees for the development of future generations, and those focused on the still little-known issues of genetic manipulation.

An example of a more "holistic" definition, which contemplates these various factors in a single theoretical construct, is that of Antonio Peres Luño (Peres Luño, 1995), for whom:

Human Rights are the set of faculties and institutions that, at each historical moment, give concrete form to the demands for human dignity, freedom, and equality, which must be positively recognized by legal systems at the national and international levels.

Finally, in order to continue with our work, we have adopted the definition of André de Carvalho Ramos (Carvalho Ramos, 2007), according to which Human Rights are understood as: "The minimum set of rights necessary to ensure a dignified life for human beings".

## 2.2. Social Rights

Having established the understanding that, among the non-exhaustive list of Human Rights, there are Rights of a Social Nature, Ingo Wolfgang Sarlet (Sarlet, 2007) defines this legal category as follows:

Considered in a broad and constitutionally appropriate sense, they constitute a heterogeneous set of legal positions recognized by the Federal Constitution and/or by the international legal order with the aim of ensuring compensation for factual inequalities between people by guaranteeing certain benefits from the State or society, as well as by guaranteeing the protection of these social benefits and other legal assets of certain social categories against the exercise of social, economic, and political power.

Approaching the subject from a perspective more typical of international law, authors such as the aforementioned Juan Carlos Wlasic (Wlasic, n.d.) opt for the terminology Economic, Social, and Cultural Rights, a term adopted by the highly important International Covenant of the same name, adopted by most member states of the United Nations in 1966, which includes, among others, the rights to health; education; to work and protection during work activities; to healthy and balanced food; to social security; etc.

In this vein, so-called economic rights refer to those related to the organization of a society's economic life, under the logic of producer-consumer. For this reason, the Covenant on Economic, Social, and Cultural Rights recognizes the right to unionize, with the aim of promoting economic interests, which is a corollary to the right to strike, subject to limitations only in relation to members of the police, military, and parts of the public service deemed essential.

Furthermore, this international instrument establishes the right of every person to enjoy fair and favorable working conditions that ensure a dignified existence for themselves and their families, as well as the reform of systems for the exploitation of land resources and natural wealth (Carvalho Ramos, 2005).

With regard to social rights (in the strictest sense of the Covenant), these include benefits that ensure a decent material life, made possible by positive benefits from the State, if the individual needs them. They include the guarantee of an adequate standard of living for oneself and one's family in terms of food, housing, and clothing, as well as the continuous improvement of these same living conditions (a "right to hope").

Completing the definition of the title of the international instrument, the Covenant protects cultural rights related to the individual's participation in community life, the preservation of historical heritage representative of the identity and memory of the members of a community, the dissemination of scientific progress

and its practical applications, and the promotion of scientific advancement.

The repercussion of the interdependence of human rights, now at the international level, concerns the mutual applicability of rights ensured by norms originating from different protective systems, such as the general international system (UN) and regional systems (Inter-American and European) (Trindade, 2005).

Significant to this universalist conception of the scope of application of human rights, regardless of their origin, is the statement by the Inter-American Court of Human Rights in its famous Advisory Opinion No. 1/82, September 24, 1982, in verbis (IACHR, 1982):

> (...) 40. On the other hand, the very substance of the matter precludes a radical distinction between universalism and regionalism. The unity of human nature and the universal character of the rights and freedoms that deserve protection are at the basis of any international protection regime. It would therefore be inappropriate to make distinctions regarding the applicability of the protection system depending on whether or not the international obligations assumed by the State originate from a regional source. For this reason, certain minimum standards are required in this area. The Preamble to the Pact of San José unequivocally reflects this idea when it recognizes that the essential rights of man "are based on the attributes of the human person, which is why they justify international protection of a conventional nature..." 41. The Convention shows a tendency to integrate the regional and universal systems of human rights protection. The Preamble recognizes that the principles underlying this treaty have also been enshrined in the Universal Declaration of Human Rights and that they "have been reaffirmed and developed in other international instruments, both universal and regional". Similarly, several provisions of the Convention refer to other international conventions or international law, without restricting them to the regional sphere (Articles 22, 26, 27, and 29, for example). Among these, it is particularly worth highlighting the provisions of Article 29, which contains the rules for interpreting the Convention and which, in fairly clear terms, opposes restricting the system of human rights protection based on the source of the obligations that the State has assumed in this area. (...)

On the other hand, the erga omnes nature of human rights at the international level has two facets: first, it represents the interest of all States in seeing human rights provisions respected, considering the importance of this observance for the prevention of national conflicts and international disputes, that is, because respect for human rights contributes to the maintenance of world peace and security (Kai, 2008).

Secondly, it concerns the general application of human rights standards to all persons under the jurisdiction of a State, and not only to its nationals or an even more restricted portion of them (citizens, for example).

This ensures that more vulnerable groups, such as foreigners and illegal immigrants, cannot be denied the protection of their human rights on the grounds that

their claims are not covered by domestic law, and also enables subsequent control by international jurisdictions (Carvalho Ramos, 2005).

## 3. Participation of International Human Rights Courts in the Implementation of Social Rights

As seen in the preceding items, international law has a wide range of norms guaranteeing human rights, including several relating to so-called second-generation rights, or economic, social, and cultural rights.

However, such norms would be of little use if they were not accompanied by mechanisms for their implementation. It is known that most of the human rights guaranteed by international texts have equivalents in domestic law, which in the vast majority of cases leads to the application of these equivalents by national courts, sometimes with merely rhetorical and argumentative recourse to treaties whose normative force per se, however, ends up being ignored.

The situation is different when these supranational instruments are applied directly by bodies that are also outside the national system, namely the international human rights courts. Below, we analyze some precedents found in the case law of these courts with regard to social rights.

### 3.1. Case of the Sawhoyamaxa Indigenous Community v. Paraguay

In this interesting case, which combines the analysis of social rights and aspects of individual rights (self-determination), the Inter-American Commission on Human Rights submitted a complaint against Paraguay to the Inter-American Court of Human Rights in February 2005, after a complaint was filed by the Sawhoyana indigenous community, residing in the village of Enxet-Lengua, in that country (IACHR, 2006a, Sawhoyamaxa v. Paraguay).

The Commission filed the complaint based on Article 61 of the American Convention, with the aim of obtaining a declaration that Paraguay had violated Articles 4 (Right to Life), 5 (Right to Personal Integrity), 21 (Right to Private Property), 8 (Judicial Guarantees), and 25 (Access to Justice) of the American Convention.

In deciding the case, the IACHR, in addition to recognizing that the Paraguayan State had violated the community's rights to life and property on lands traditionally occupied by their ancestors, ordered the provision of health care and food assistance measures:

> 6. The State must adopt all legislative, administrative, and other measures necessary to physically and formally deliver the traditional lands of the Sawhoyamaxa community to its members within a maximum period of three years, in accordance with paragraphs 210 to 215 of this Judgment.
> 7. The State shall implement a community development fund, in accordance with paragraphs 224 and 225 of this Judgment.
> 8. The State shall make payment for non-pecuniary damages and costs and expenses within one year from the date of notification of this ruling, in accordance with paragraphs 218, 226, and 227 of this ruling.

9. While the members of the Sawhoyamaxa Indigenous Community remain without land, the State shall provide them with the basic goods and services necessary for their subsistence, in accordance with paragraph 230 of this Judgment.
10. Within six months of notification of this ruling, the State must establish a communication system in the settlements of Santa Elisa and Kilómetro 16 in the Sawhoyamaxa Community that allows victims to contact the competent health authorities for emergency care, in accordance with paragraph 232 of this ruling.
11. The State shall implement, within a maximum period of one year from the notification of this judgment, a registration and documentation program, in accordance with paragraph 231 of this judgment.
12. The State shall adopt, within a reasonable period of time, the legislative, administrative, and any other measures necessary to create an effective mechanism for the reclamation of ancestral lands by members of indigenous peoples, thereby securing their rights to their traditional lands, in accordance with paragraph 235 of this Judgment.
13. The State shall make the publications indicated in paragraph 236 of this Judgment within one year of notification thereof. Similarly, the State shall finance the radio broadcast of this Judgment, in accordance with paragraph 236 thereof.
14. The Court shall supervise compliance with this Judgment and shall close the present case once the State has fully implemented its provisions. Within six months of notification of this Judgment, the State shall submit to the Court a report on the measures taken to comply with it, in accordance with paragraph 247 hereof.

### 3.2. Case of Dismissed Congressional Workers v. Peru

In the present case, submitted by the Inter-American Commission on Human Rights to the Inter-American Court of Human Rights in February 2005, the apparent dismissal without just cause of 257 workers from the Peruvian National Congress was denounced, who were unable to challenge their dismissals due to flaws in that country's judicial system. Once again, there is an intersection between individual rights (access to justice) and social rights (work), attesting to the interdependence of human rights (IACHR, 2006b, Aguado Alfaro et al. v. Peru).

The Commission based its request on Peru's violation of Articles 8.1 (Judicial Guarantees) and 25.1 (Judicial Protection) of the American Convention on Human Rights, as well as its failure to comply with Articles 1.1 (Respect for Human Rights) and 2 (Duty to Adopt Domestic Legal Measures) of the same treaty.

In deciding the case, the Court ruled that the Peruvian State should provide the necessary legal means for the workers to have their employment interests analyzed impartially, as well as ensure compliance with the provisions of Article 26 of the American Convention, which deals with Social Rights, in verbis:

4. The State must guarantee the 257 victims listed in the Annex to this Judgment access to a simple, rapid, and effective remedy, for which it must establish as soon as possible an independent and impartial body with the power to decide in a binding and definitive manner whether those persons were regularly and justifiably dismissed from the Congress of the Republic or, if not, determine that they were and establish the corresponding legal consequences, including, where appropriate, the compensation due based on the specific circumstances of each of those persons, in accordance with paragraphs 148, 149, and 155 of this Judgment. The final decisions of the body created for this purpose shall be adopted within one year from the date of notification of this Judgment.

5. The State must pay, within one year from the date of notification of this Judgment, the amount set forth in paragraph 151 of this Judgment to the 257 victims whose names are listed in the Annex to this Judgment, for non-pecuniary damage, in accordance with paragraphs 156 and 158 to 161 of this Judgment.

6. The State must pay, within one year from the date of notification of this Judgment, the amounts set forth in paragraph 154 for costs, in accordance with paragraphs 157 to 161 of this Judgment.

7. The Court will supervise full compliance with this Judgment and will close the present case once the State has executed its provisions. Within one year from the date of notification of this Judgment, the State must submit to the Court a report on the measures taken to comply with it, in accordance with paragraph 162 thereof.

As can be seen, albeit in a timid manner, the Inter-American Court of Human Rights, like the European Court of Human Rights, has been concerned with ensuring the effectiveness of social rights, analyzing them from the perspective of the indivisibility and interdependence of those rights.

### 3.3. Subsequent Developments: Direct Justiciability of ESCR under Article 26

The two cases analyzed above, while significant, addressed social rights primarily through the lens of civil and political rights such as property, life, and access to justice. A decisive paradigm shift occurred in 2017 with the Inter-American Court's landmark judgment in Lagos del Campo v. Peru, the first case in which the Court held a state directly responsible for violating ESCR under Article 26 of the American Convention as an autonomous and justiciable provision (IACHR, 2017, Lagos del Campo v. Peru). The Court declared that the right to work—specifically, the right to employment stability—was directly enforceable, marking a historic departure from its previous approach of treating Article 26 merely as a programmatic obligation of progressive realization.

Following Lagos del Campo, the Court extended the direct justiciability doctrine to the right to health in Poblete Vilches v. Chile (2018), holding that the

State's failure to provide adequate emergency medical care constituted an autonomous violation of Article 26, and to multiple ESCR simultaneously in Cuscul Pivaral et al. v. Guatemala (2018), where the Court found violations of the rights to health and access to information of persons living with HIV/AIDS.

The evolution culminated in the landmark case of Lhaka Honhat Association v. Argentina (2020), in which the Court found, for the first time, direct violations of the rights to a healthy environment, adequate food, water, and cultural identity of indigenous communities, all derived autonomously from Article 26 (IACHR, 2020, Lhaka Honhat v. Argentina). This decision is particularly relevant for the present analysis because it demonstrates that international human rights courts are now willing to impose specific, enforceable obligations on states regarding the full spectrum of economic, social, and cultural rights—precisely the type of obligations that state attorneys must be prepared to implement domestically.

More recently, the La Oroya Community v. Peru case (2024) further consolidated this trajectory, holding the Peruvian State responsible for decades of toxic contamination and ordering comprehensive reparations including environmental remediation, specialized medical care, and compensation for affected residents (IACHR, 2024, La Oroya v. Peru). These developments confirm that the Inter-American system has moved decisively beyond the indirect protection of ESCR through civil and political rights, establishing a robust framework of direct state accountability that significantly expands the scope of obligations that state attorneys must address.

## 4. Role of Brazilian State Attorneys in Complying with Decisions of International Courts of Human Rights of an Economic and Social Nature

For state attorneys and other legal practitioners familiar with the casuistry of litigation involving the public administration, a mere reading of the judgments collated in the preceding item already demonstrates that these are controversies that could easily be included in the list of cases under their care, namely: the first case involving welfare and social security benefits, and the second relating to the rights of civil servants.

But what if such claims are judged by the Inter-American Court of Human Rights—or even any other international court to which the country is bound—and come to the country for enforcement?

Civil judgments of international courts, due to the very nature of the jurisdiction of these courts, will be enforced a priori against the Brazilian State.

As is well known, at the international level there is a single entity under public international law, namely the Federative Republic of Brazil, which is responsible for entering into international obligations and for fulfilling them (Piovesan, 2005).

Translated into domestic law, this international obligation becomes an obligation of the Union, since, according to Article 21, I, of Brazil's Federal Constitution, it is incumbent upon this entity to maintain relations with foreign States and par-

ticipate in international organizations, such as international courts.

It will therefore be incumbent upon public officials and institutions linked to the Union (the central, national government) to adopt the necessary measures to comply with the decisions of international courts that are committed to it, enabling the payment of financial penalties or the performance of specific measures—a term used in international texts to designate the obligations to do and not to do contemplated by Brazilian Civil Procedure Law.

In this reality, prima facie, the Union's legal entity is required, internally, to comply with the decision, which it must settle motu proprio, that is, without the need for prior provocation by any internal agents, through the Executive Branch, and its head in particular, to whom the Constitution entrusts the direction of international affairs and the zeal for the regular functioning of the Federal Public Administration (art. 84, II, VII, and VIII, C.F.).

The judgments of international courts, because they are binding, expose Brazil, in the event of non-compliance, to international sanctions, with the possibility of serious measures being taken by the United Nations Security Council, in the case of the International Court of Justice; the General Assembly of the OAS, in the case of the Inter-American Court of Human Rights, or the Common Market Council, in the case of the Permanent Review Tribunal of Mercosur (Rezek, n.d.).

On this basis, the last resort to the Security Council has been successfully adopted to enforce compliance with the judgments of international courts by means of an Executive Decree, which in this case is not to be confused with common regulatory cases or the creation, extinction, and modification of public bodies.

In this case, the constitutional basis for issuing the Executive Decree is Article 84, IV, C.F., final part, that is, decrees for the faithful execution of laws, which, in this case, are international treaties regularly incorporated into the Brazilian legal system, with the force of law (Moraes, 2009), in a broad sense (ordinary or constitutional, depending on the view of the normative hierarchy of treaties).

Under the influence of this normativity, Brazil complied with the ruling against it by the Inter-American Court of Human Rights in the first case in which it was convicted—the Damião Ximenes case—by issuing Decree No. 6,185 of August 13, 2007; a trend that was consolidated in subsequent cases: the Garibaldi case, Decree No. 7307, of September 22, 2010; and the Escher case, Decree No. 7158, of April 20, 2010.

This established the understanding that had already been presented by legal doctrine, in the sense that it was unnecessary and even unfeasible to comply with the decisions of international courts through the homologation of foreign judgments, which is reserved for decisions of foreign courts, and not international courts (Carvalho Ramos, 2008).

The question arises, however, when the Brazilian State, on its own initiative, fails to comply with a decision of an international court, or when it does so only partially, notably by failing to comply with obligations to do or not to do something.

In the case of non-fulfillment of pecuniary obligations, it is feasible to enforce compliance with the obligation through the procedure provided for in Articles 534 and 535 of Brazil's Code of Civil Procedure, which govern the enforcement of obligations for a specific amount against the Public Treasury, in this case, that of the Federal Government. This procedure is particularly appropriate in decisions handed down by the Inter-American Court, which provides for it in Article 68, paragraph 2, of the American Convention on Human Rights.

But who would be responsible for enforcing these obligations? In the case of a pecuniary obligation, it is up to the interested parties to enforce it privately, or with the assistance of the Federal Public Defender's Office, with no possibility of procedural substitution by the Public Prosecutor's Office, except in very exceptional cases involving the interests of minors or persons recognized as incapacitated.

On the other hand, since most of the convictions against Brazil have been characterized by the misconduct of municipal public administrations (the States of the Union or city governments), an important role can be played by the Federal Attorney General's Office, which is empowered to bring recourse actions against the subnational entities that caused the damages borne by the National Treasury, not only with a view to restoring the damaged public assets, but also with the pedagogical objective of imposing on other, lower level governmental entities the sharing of international responsibilities arising from their negligence with regard to human rights.

Still in this chapter, practice has shown that there are great difficulties in dealing with federal institutions and authorities responsible for representing Brazil before the Inter-American Court of Human Rights and their interlocutors in the States of the Union—including parts of their judiciary branches—which, probably for fear of political exposure, make it as difficult as possible to provide documents and information relevant to clarifying the truth and defending the country in the international forum. Also, to prevent and repress these practices, the Union's procedural representation body should assess the feasibility of recourse against other federal entities, and even against public officials whose degree of culpability is exacerbated.

However, a more complex situation arises with regard to compliance with specific measures—obligations to do and not to do—for which the Federal Executive Branch is sometimes institutionally prevented from acting, such as compelling public officials with functional independence and autonomy to perform certain acts, to enforce punishments based on crimes not provided for in the legal system, or considered extinct by it, to establish institutional mechanisms dependent on prior budgetary inclusion, etc.

In these situations, the concurrent legitimacy of the Federal Public Prosecutor's Office to file class actions in defense of diffuse, collective, and homogeneous individual rights undoubtedly arises, in accordance with its constitutional mission as guardian of fundamental rights and the rule of law.

Brazilian legislation has a legal microcosm of collective actions, composed of rules sparsely distributed in the Class Action Law (Law No. 7347/85), the Popular Action Law (Law No. 4717/65), the Consumer Protection Code (Law No. 8078/90), the Administrative Impropriety Law (Law No. 8429/92), and the Federal Constitution itself (Art. 129, III), which work together to allow the defense of values that do not have fully identified owners, or whose identification is difficult, which is the case with the observance of human rights and compliance with judgments of international courts.

Based on this active legitimacy, the Federal Public Prosecutor's Office, alone or in conjunction with associations dedicated to human rights; the Federal Public Defender's Office, and even the Federal Attorney General's Office, in cases where the Federal Government is not directly responsible for the violations—as is often the case—may require other governmental spheres and private individuals to adopt positive or negative behaviors aimed at ensuring the enforcement of international treaties and complying with the decisions of international courts.

## 5. Conclusion

As can be seen, the State Attorney, notably the federal State Attorney, will participate in basically all phases of the possible means of enforcing the decisions of International Human Rights Courts: i) either by advising the Executive Branch on the issuance of a Decree voluntarily complying with the judgment; ii) by filing recourse or independent actions against individuals and other federative entities, so that they assume their share of responsibility; iii) or, finally, in the defense of actions brought against the State, should it fail to promptly comply with international judicial orders.

In all these cases, it is important that members of the Federal Attorney's Office pay attention to their serious constitutional and legal duties, not only to protect the patrimonial and financial interests of the Treasury, but also to fulfill the obligations incumbent upon the Public Power, modulating their actions in order to find the balance in this delicate equation, so as to assume the role of guarantor, with the Public Administration, of the application of Constitutional and International precepts relating to Economic, Social, and Cultural Rights, in a context of global economic crisis.

A tangible illustration of this institutional convergence is the Additional Protocol to the Memoranda of Understanding signed on September 5, 2025, in Rome, by the Brazilian *Advogado-Geral da União*, Jorge Messias, and the Italian *Avvocato Generale dello Stato*, Gabriella Palmieri. The protocol renews and expands the cooperation commitments originally established in 2014 and 2018, providing for reciprocal legal assistance on matters arising from treaties and conventions binding both States, the promotion of joint seminars, and the creation of a continuous scientific-academic program for the training of state attorneys (Advocacia-Geral da União, 2025). Notably, the agreement also envisions the establishment of an International Association of State Attorneys. In the context of advanc-

ing Mercosur–European Union relations, this institutional framework opens new avenues of collaboration that may directly strengthen the capacity of Brazilian state attorneys to implement international human rights obligations, particularly those of an economic and social nature, through shared expertise and coordinated legal practice with their European counterparts.

## Conflicts of Interest

The author declares no conflicts of interest regarding the publication of this paper.

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