

PRO HOMINE / PRO PERSONA PRINCIPLE IN LATIN AMERICA

1999 Constitution of Venezuela states, Article 23:

“Treaties, covenants, and conventions relating to human rights signed and ratified by Venezuela have constitutional rank and prevail within the domestic legal order, insofar as they contain provisions concerning their application and the exercise of rights that are more favorable than those established by this Constitution and the laws of the Republic; they are of immediate and direct application by the courts and other bodies of public authority.”

2008 Constitution of Ecuador, Article 417:

“With regard to treaties or other instruments of international human rights law, the principles in favor of the human being shall apply, with no restriction on rights, with direct applicability and in accordance with what is provided by the Constitution.”

2009 Constitution of Bolivia Article 13.IV:

“International treaties and conventions ratified by the Plurinational Legislative Assembly that recognize human rights and prohibit their limitation during states of emergency prevail over domestic law. The rights and duties enshrined in this Constitution shall be interpreted in accordance with the international human rights treaties ratified by Bolivia.”

2010 Constitution of the Dominican Republic Article 74(3):

“Public authorities shall interpret and apply the norms relating to human rights and their guarantees in the manner most favorable to the person who holds them, and, in the event of a conflict between fundamental rights, they shall endeavor to harmonize the interests and values protected by the Constitution.”

2011 Constitutional reform of Mexico Article 1, paragraphs 2 and 3, that:

“The norms relating to human rights shall be interpreted in conformity with the Constitution and with international treaties on the subject, always favoring the broadest protection for persons. All authorities, within the scope of their powers, have the obligation to promote, respect, protect, and guarantee human rights in accordance with the principles of universality, interdependence, indivisibility, and progressivity. Consequently, the State shall prevent, investigate, punish, and provide reparation for human rights violations, under the terms established by law.”

Supreme Court of Argentina

has repeatedly applied the pro homine or pro persona principle :

- Cardozo case of June 20, 2006
- Acosta case of April 23, 2008.

Constitutional Court of Colombia

Judgment No. 187/06 of March 15, 2006;
Judgment C-148/05 of February 22, 2005;
Judgments T-129/11 and T-085/12.

Constitutional Chamber of the Supreme Court of Costa Rica

February 16, 2012

Constitutional Court of Chile

- Cases No. 740-07 (2008),
- No. 1191 of May 19, (2009)
- No. 1361-09 (2009)
- No. 1484-09 of October 5, (2010).

Constitutional Chamber of the Supreme Court of El Salvador

judgment declaring the Anti-Maras Law unconstitutional on April 1, 2004.

Constitutional Court of Guatemala

implemented it in cases

- No. 890-2001 of December 9, 2002
- No. 1912-2004 of April 27, 2005
- No. 2170-2004 of March 30, 2005.
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Supreme Court of Mexico

has applied it in ruling 1ª./J. 107/2012, registered under No. 2002000

Constitutional Court of Peru

applied the principle in Judgment No. 02005-2009-PA/TC of October 16, 2009