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Olivares Munoz et al. v. Venezuela

Rachana Reddi

LMU Loyola Law School, Los Angeles

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Olivares Munoz et al. v. Venezuela

ABSTRACT¹

This case is about the murder of several prison inmates by guards as retaliation for a previous riot. The Court found Venezuela in violation of several articles of the American Convention on Human Rights.

I. FACTS

A. Chronology of Events

October 8-29, 2003: Inmates at Vista Hermosa Prison protest poor living conditions and demand removal of the captain of the National Guard who is assigned there.² José Gregorio Bolívar Corro (“Goyo”) is the spokesman for the strike along with Orlando Edgardo Olivares Muñoz and Pedro Ramón López Chaurán.³

October 29, 2003: The strike officially ends with a signed agreement between the parties.⁴ A news story reporting on the strike includes a photo of José Gregorio Bolívar Corro and Pedro Ramón López Chaurán signing the agreement and publishes witness statements stating that any spokesperson involved in the agreement to end the protest has essentially signed a death sentence as it is common for protests to end with retaliation.⁵

Between October 29 and November 10, 2003: Inmates at Vista Hermosa Prison report that National Guard members are violently

¹ Rachana Reddi, Author; Aria Soeprono, Editor; Emily Bernstein and Davina Shoumer, Senior IACHR Editors; Sophia Suarez, Chief IACHR Editor; Cesare Romano, Faculty Advisor.

² Olivares Munoz et al. v. Venezuela, Preliminary Objections, Merits, Reparations, and Costs, Judgment, Inter-Am. Comm’n H.R., (ser. C) No. 415, ¶ 44 (Nov. 10, 2020).

³ Olivares Munoz et al. v. Venezuela, Report on Merits, Report No. 119/18, Inter-Am. Comm’n H.R., Case No. 12.814, ¶ 19 (Oct. 5, 2018).

⁴ *Id.*

⁵ *Id.*

retaliating against them.⁶

November 10, 2003: An evaluation council is assessing Vista Hermosa Prison to fix any found issues by recommending solutions.⁷

During roll call at 7:30 AM, inmates report that members of the National Guard start shooting at random after the morning had begun peacefully.⁸ In an attempt to control the inmates, the National Guard members take inmates into the yard from their cells, tell them to face the wall, lie face down, and subject the inmates to a strip search.⁹ The National Guard strike the inmates with clubs, bats, pipes, and various other weapons while they lay on the ground.¹⁰ Surviving inmates report the National Guard did not use riot control equipment to control the inmates; rather, they used bullets and weapons.¹¹

The spokesman and leaders from the protest in October are separated from everyone else.¹² Mr. Bolívar Corro dies after he is beaten by a Guard, Julio, and shot more than once in the head, knees, and other areas of his body by either National Guard Captain Campos or a Guard member, Franchi.¹³ Mr. Bolívar Corro is reported to have been shouting for help and that “this is a massacre.”¹⁴ Mr. Olivares Muñoz dies when he is shot in the back while naked and on his knees.¹⁵ Mr. López Chaurán is brought to a wall and killed by National Guard member Belisario.¹⁶ Mr. Figueroa is shot and killed by National Guard member Puerta.¹⁷

In the afternoon, surviving inmates begin to be transferred to other prisons.¹⁸ Still, inmates are subjected to violence, such as being forced to lay on the ground naked, where they are then kicked, beaten, and threatened.¹⁹ These acts are primarily led and conducted by National Guard members Puerta, Franchi, and Captain Campos.²⁰

⁶ Olivares Munoz et al. v. Venezuela, Preliminary Objections, Merits, Reparations, and Costs, ¶ 45.

⁷ *Id.* ¶ 46.

⁸ Olivares Munoz et al. v. Venezuela, Report on Merits, ¶¶ 26-27.

⁹ *Id.* ¶ 26.

¹⁰ *Id.*

¹¹ *Id.* ¶ 27.

¹² *Id.* ¶ 28.

¹³ *Id.* ¶ 29.

¹⁴ Olivares Munoz et al. v. Venezuela, Report on Merits, ¶ 29.

¹⁵ *Id.*

¹⁶ *Id.* ¶ 33.

¹⁷ *Id.* ¶ 35.

¹⁸ *Id.* ¶ 37.

¹⁹ *Id.*

²⁰ Olivares Munoz et al. v. Venezuela, Report on Merits, ¶ 37.

Inmates report fearing not only for their lives, but for their families' lives as well.²¹

The guards dispute this version of the facts, instead claiming that the shooting originated from the inmates.²² According to the guards, they are next to the prison in the detachment barracks when they hear shots at 7:20AM.²³ Captain Cárdenas Trillo informs members that their intervention is required at the prison.²⁴ Once the shooting stops, they go inside and find wounded men and seven dead men.²⁵ The guards claim that the only shots they heard since entering the prison were from riot control guns and assume inmates killed the seven dead men.²⁶ The Intervention Director, Mr. Alfredo Veloz, disagrees with both the guards and the inmates, instead claiming that the National Guard members went into the prison while shooting was already occurring and that the shots increased when they went inside.²⁷ Mr. Veloz conducts a roll call after the situation is contained.²⁸

Seven inmates die because of the violence: Orlando Edgardo Olivares Muñoz, Orangel José Figueroa, Joel Rinaldi Reyes Nava, Pedro Ramón López Chaurán, Héctor Javier Muñoz Valerio, Richard Alexis Núñez Palm, and José Gregorio Bolívar Corro.²⁹ Twenty-seven other inmates are injured.³⁰

November 11, 2003: Autopsies provide details on the deaths of seven of the prison inmates.³¹ The autopsies of Mr. Palma, Mr. Figueroa, Mr. Bolívar Corro, Mr. Muñoz Valerio, Mr. Reyes Nava, Mr. Olivares Muñoz, and Mr. López Chaurán all reveal they were killed by gunshot wounds to various parts of their bodies.³²

March 22, 2004: Five prisoners' killed in the November events are exhumed for additional autopsies.³³ The deaths of Mr. Núñez Palm,

²¹ Olivares Munoz et al. v. Venezuela, Report on Merits, ¶ 37.

²² *Id.* ¶ 40.

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.*

²⁷ Olivares Munoz et al. v. Venezuela, Report on Merits, ¶ 41.

²⁸ *Id.*

²⁹ *Id.* ¶ 6.

³⁰ Olivares Munoz et al. v. Venezuela, Preliminary Objections, Merits, Reparations, and Costs, ¶ 47.

³¹ Olivares Munoz et al. v. Venezuela, Report on Merits, ¶ 42.

³² Olivares Munoz et al. v. Venezuela, Preliminary Objections, Merits, Reparations, and Costs, ¶¶ 56-62.

³³ Olivares Munoz et al. v. Venezuela, Report on Merits, ¶ 44.

Mr. Bolívar Corro, and Mr. Muñoz Valerio are revealed to be identical, each sustaining a skull fracture from being shot in his head.³⁴

Mr. Figueroa's cause of death is revealed to be from a gunshot wound.³⁵

Mr. Reyes Nava's cause of death is unable to be confirmed because the documentation is incomplete.³⁶

March 28, 2004: Arraignments are held for the four National Guard members deemed primarily responsible for the November 2003 events, including Captain Campos, Franchi, and Puerta.³⁷ The request for the four individuals to be placed in pretrial detention is denied.³⁸

April 1, 2004: The Observatorio Venezolano de Prisiones (Venezuelan Observatory of Prisons, "OVP") requests to intervene as petitioner.³⁹

June 3, 2004: The Appellate Court grants the appeal of denying pretrial detention; the four accused individuals are placed in pretrial detention.⁴⁰

June 2004 – April 2005: Defendants' legal counsel files for a change of jurisdiction and for protection, both of which are rejected.⁴¹

May 20, 2005: Some precautionary measures are granted, but the request to prevent the assignment of the accused individuals to work in any prison is rejected.⁴²

2005 – 2006: The investigation phase of the case is prolonged by judicial actions, including granting the prosecutor additional time to collect evidence and reconstruct the facts.⁴³

June 19, 2006: The Court denies OVP's request to establish a reasonable time be declared so that the investigation can be closed and the case can proceed to trial is denied.⁴⁴

³⁴ Olivares Munoz et al. v. Venezuela, Report on Merits, ¶¶ 44, 46, 47.

³⁵ *Id.* ¶ 45.

³⁶ *Id.* ¶ 48.

³⁷ *Id.* ¶ 50.

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ Olivares Munoz et al. v. Venezuela, Report on Merits, ¶ 50.

⁴¹ *Id.*

⁴² *Id.*

⁴³ *Id.* ¶ 51.

⁴⁴ *Id.*

2012 – March 2015: The investigation from the November 2003 event is closed, but preliminary hearings do not occur due to defendants failing to appear.⁴⁵ However, the defendants are not sanctioned for their failure to appear.⁴⁶ The trial does not take place.⁴⁷

B. Other Relevant Facts

[None]

II. PROCEDURAL HISTORY

A. Before the Commission

October 16, 2007: OVP (“the petitioners”) file a petition to the Inter-American Commission on Human Rights (The “Commission”).⁴⁸

March 23, 2011: The Commission issues Admissibility Report No. 14/11, which declares the petition admissible.⁴⁹ The Commission finds admissibility with regards to Articles 4 (Right to Life), 5 (Right to Personal Integrity), 8 (Judicial Guarantees), and 25 (Judicial Protection) of the American Convention.⁵⁰

December 11, 2007: The parties are notified of the adoption of the Admissibility Report.⁵¹

October 5, 2018: The Commission issues the Report on Merits No. 119/18.⁵² In this report, the Commission concludes that the State is responsible for violating Articles 4.1 (Prohibition of Arbitrary Deprivation of Life), Article 5.1 (Right to Physical, Mental, and Moral Integrity), Article 5.2 (Prohibition of Torture, and Cruel, Inhumane or Degrading Treatment), Article 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal), and

⁴⁵ Olivares Munoz et al. v. Venezuela, Report on Merits, ¶ 52.

⁴⁶ *Id.*

⁴⁷ *Id.* ¶ 53.

⁴⁸ *Id.* ¶ 1.

⁴⁹ Olivares Munoz et al v. Venezuela, Preliminary Objections, Merits, Reparations, and Costs, ¶ 2(b).

⁵⁰ Olivares Munoz et al. v. Venezuela, Admissibility Report, Report No. 14/11, Inter-Am. Comm’n H.R., Case No. 1347.07, ¶ 4 (Mar. 23, 2011).

⁵¹ *Id.* ¶ 5.

⁵² Olivares Munoz et al v. Venezuela, Preliminary Objections, Merits, Reparations, and Costs, ¶ 2(a).

Article 25(1) (Right of Recourse Before a Competent Court) in connection with the obligations set forth in Articles 1(1) and Article 2 of the American Convention to the detriment of the seven deceased inmates and twenty-seven injured inmates.⁵³

The Commission recommends that the State: (1) provide reparations for the declared human rights violations to ensure economic satisfaction; (2) provide necessary physical and mental health care for relatives of the deceased and injured inmates; (3) continue and conclude the criminal investigation in a diligent and timely manner and impose any necessary sanctions; and (4) establish measures to ensure the proper trainings of guard personnel regarding penitentiary matters to prevent the repetition of human rights violations.⁵⁴

November 1, 2018: The Commission notifies the State of Merits Report No. 119/18 and gives it a two-month period to comply with the recommendations therein.⁵⁵

B. Before the Court

April 1, 2019: The Commission submits the case to the Court after the State failed to adopt its recommendations.⁵⁶

October 7, 2019: The State and the Petitioner are notified that the case was submitted to the Court.⁵⁷

October 7, 2019: The representatives submit their pleadings and motions brief, reiterating the Commission's arguments and proposed reparations.⁵⁸ They additionally argue that the State violated Article 25 (Right to Judicial Protection) of the American Convention, as well as Articles 1 (Obligation to Prevent and Punish Torture), 6 (Obligation to Take Effective Measures and Punish Torture and Cruel, Inhuman, and Degrading Treatment), 7 (Prevention of Torture), and 8 (Obligation to Investigate and Prosecute) of the Inter-American Convention to Prevent and Punish Torture ("IACPPT") to the detriment of the deceased

⁵³ Olivares Munoz et al. v. Venezuela, Report on Merits, ¶ 5.

⁵⁴ *Id.* "The Inter-American Commission on Human Rights Recommends that the State of Venezuela" ¶¶ 1-4.

⁵⁵ Olivares Munoz et al v. Venezuela, Preliminary Objections, Merits, Reparations, and Costs, ¶ 3.

⁵⁶ *Id.* ¶ 4.

⁵⁷ *Id.* ¶ 6.

⁵⁸ *Id.* ¶ 7.

victims and their relatives.⁵⁹

The Court receives an amicus curiae brief from the Prisons Group of the Universidad de Los Andes.⁶⁰

December 26, 2019: The State submits its answering brief and acknowledges it has international responsibility as established in the Commissions' Merits Report.⁶¹

September 16, 2020: After several requests for the complete case file from the State, the Secretariat of the Court issues a statement that the Court requires all necessary and relevant evidence from the State, especially in matters regarding human rights violations.⁶² The Court's statement emphasizes that it will consider the State's omission of evidence in its analysis of the case.⁶³

October 7, 2020: The parties submit their final written considerations and observations.⁶⁴

1. Violations Alleged by Commission⁶⁵

To the detriment of the Mr. Orlando Edgardo Olivares Muñoz, Mr. Joel Ronaldy Reyes Nava, Mr. Orangel José Figueroa, Mr. Héctor Javier Muñoz Valerio, Mr. Pedro Ramón López Chaurán, Mr. José Gregorio Bolívar Corro and Mr. Richard Alexis Núñez Palma, and the 27 injured inmates:

Article 4.1 (Prohibition of Arbitrary Deprivation of Life)

Article 5.1 (Right to Physical, Mental, and Moral Integrity)

Article 5.2 (Prohibition of Torture, and Cruel, Inhumane or Degrading Treatment)

all in relation to:

Article 1(1) (Obligation of Non-Discrimination) and

⁵⁹ Olivares Munoz et al v. Venezuela, Preliminary Objections, Merits, Reparations, and Costs, ¶ 7.

⁶⁰ *Id.* ¶ 11.

⁶¹ *Id.* ¶ 8.

⁶² *Id.* ¶ 12.

⁶³ *Id.*

⁶⁴ *Id.* ¶ 13.

⁶⁵ Olivares Munoz et al v. Venezuela, Preliminary Objections, Merits, Reparations, and Costs, fn. 6.

Article 2 (Obligation to Give Domestic Legal Effect to Rights) of the American Convention.

To the detriment of the 27 injured inmates and the deceased's relatives:

Article 8.1 (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal)

Article 25.1 (Right to Recourse Before a Competent Court)

all in relation to:

Article 1(1) (Obligation of Non-Discrimination) of the American Convention.

To the detriment of the deceased's relatives:

Article 5.1 (Right to Physical, Mental, and Moral Integrity)

all in relation to:

Article 1(1) (Obligation of Non-Discrimination) of the American Convention.

2. Violations Alleged by Representatives of the Victims⁶⁶

Same Violations Alleged by Commission, plus:

To the detriment of Mr. Orlando Edgardo Olivares Muñoz, Mr. Joel Ronaldy Reyes Nava, Mr. Orangel José Figueroa, Mr. Héctor Javier Muñoz Valerio, Mr. Pedro Ramón López Chaurán, Mr. José Gregorio Bolívar Corro and Mr. Richard Alexis Núñez Palma, and the 27 injured inmates:

Article 6 (Obligation to Take Effective Measures and Punish Torture and Cruel, Inhuman, and Degrading Treatment)

Article 7 (Prevention of Torture)

Article 8 (Obligation to Investigate and Prosecute) of the IACPPT.

To the detriment of the 27 injured inmates and the deceased's relatives:

Article 25 (Right to Judicial Protection) of the American Convention

⁶⁶ Olivares Munoz et al v. Venezuela, Preliminary Objections, Merits, Reparations, and Costs, ¶ 7, fn. 8. Ms. Lorenza Josefina Pérez served as representatives for OVP and the victims.

Article 1 (Obligation to Prevent and Punish Torture)

Article 6 (Obligation to Take Effective Measures and Punish Torture and Cruel, Inhuman, and Degrading Treatment)

Article 8 (Obligation to Investigate and Prosecute) of the IACPPT.

III. MERITS

A. *Composition of the Court*

Elizabeth Odio Benito, President

L. Patricio Pazmiño Freire, Vice President

Eduardo Vio Grossi, Judge

Humberto Antonio Sierra Porto, Judge

Eduardo Ferrer Mac-Gregor Poisot, Judge

Eugenio Raúl Zaffaroni, Judge,

Ricardo Pérez Manrique, Judge

Pablo Saavedra Alessandri, Secretary

Romina I. Sijniensk, Deputy Secretary

B. *Decision on the Merits*

November 10, 2020: The Court issues its Judgment on Preliminary Objections, Merits, Reparations, and Costs.⁶⁷

The Court found unanimously that State had violated:

Article 4(1) (Prohibition of Arbitrary Deprivation of Life), in relation to Articles 1(1) and 2 of the Convention, to the detriment of Mr. Orlando Edgardo Olivares Muñoz, Mr. Joel Ronaldy Reyes Nava, Mr. Orangel José Figueroa, Mr. Héctor Javier Muñoz Valerio, Mr. Pedro Ramón López Chaurán, Mr. José Gregorio Bolívar Corro and Mr. Richard Alexis Núñez Palma,⁶⁸ because:

Venezuela acknowledged that it held some responsibility for the violation of Article 4(1).⁶⁹ Venezuela concluded that the National Guard operation caused these injuries and deaths and that the attacks were

⁶⁷ Olivares Munoz et al v. Venezuela, Preliminary Objections, Merits, Reparations, and Costs, ¶ 15.

⁶⁸ *Id.* “Declares” ¶ 2.

⁶⁹ *Id.* ¶ 90.

*illegal and arbitrary executions.*⁷⁰ *The Court concluded it was important to observe the military agents' actions to determine if the force used against the inmates was truly arbitrary.*⁷¹

*The Court referred to The Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, and determined that, in prisons or detention centers, law enforcement shall not use force unless it is strictly necessary to maintain order and security.*⁷² *Further, firearms may not be used unless in self-defense, to defend others from immediate injury and death, or so that someone in custody does not escape.*⁷³ *Because there was no satisfactory explanation as to why the National Guard used force in the November 2003 event, the Court concluded that the requirements to prove that it was absolutely necessary and purposeful to use force were not justified.*⁷⁴

*The Court emphasized that security and surveillance of prisons should be conducted by specifically trained civilian personnel.*⁷⁵ *Intervention by military forces may only occur when their intervention is: (1) exceptional, meaning it is temporary and only addresses specific circumstances; (2) supplementary to prison authorities' work; (3) regulated by protocols limited the use of force; and (4) supervised by competent and independent civil authorities.*⁷⁶ *After considering the facts, the Court deemed the National Guard's intervention to be unnecessary to the situation and that there was no legal excuse for the deaths that occurred.*⁷⁷ *Because the deaths were caused by the officers using an extreme amount of force, Venezuela had a responsibility to handle this case where life was deprived of arbitrarily.*⁷⁸

Articles 5(1) (Right to Physical, Mental, and Moral Integrity) and 5(2) (Prohibition of Torture, and Cruel, Inhumane or Degrading Treatment), in relation to Articles 1(1) and 2 of the Convention, to the detriment of Mr. Ramón Zambrano, Mr. Jovanny Palomo, Mr. Carlos Durán, Mr. Richard Vallez, Mr. Carlos Alberto Torres, Mr. Galindo

⁷⁰ Olivares Munoz et al v. Venezuela, Preliminary Objections, Merits, Reparations, and Costs, ¶ 90.

⁷¹ *Id.* ¶ 91.

⁷² *Id.* ¶ 94.

⁷³ *Id.* ¶¶ 94-95.

⁷⁴ *Id.* ¶¶ 97, 100.

⁷⁵ *Id.* ¶ 107.

⁷⁶ Olivares Munoz et al v. Venezuela, Preliminary Objections, Merits, Reparations, and Costs, ¶ 107.

⁷⁷ *Id.* ¶¶ 108, 110.

⁷⁸ *Id.* ¶ 109.

Urrieta, Mr. Edwin David Díaz, Mr. Luis Filgueira, Mr. Oswal Sotillo, Mr. Rafael Vera Himi, Mr. Miguel Marcano, Mr. Marcos Pacheco, Mr. Alcides Rafael Alcaza Barreto, Mr. Jesús Manuel Amaiz Borrrome, Mr. Rafael Villa Hermosa, Mr. Efraín Cordero, Mr. Carlos Alberto Martínez, Mr. Pedro de Jesús Montes Aguanes, Mr. Santa Jesús Gil Osuna, Mr. Omar Armando Vásquez, Mr. Getulio Piña Laya, Mr. Evelio Eugenio Martínez, Mr. Enrique José González, Mr. Javier Omar Lara, Mr. José Efraín Rosales Navas, Mr. Levis Simoza, and Mr. Marco Antonio Ruíz Sucre,⁷⁹ because:

Venezuela acknowledged their responsibility for Article 5(1) and 5(2) being violated.⁸⁰ States must maintain public order and ensure that they can guarantee the safety of their residents.⁸¹ However, there are strict limits to this power.⁸² The Court used the principles of legitimate purpose, legality, absolute necessity, and proportionality when determining if the amount of force that was used by law enforcement was essential or not.⁸³ These principles were also included in The Universal System of Protection of Human Rights, which stated that officers should be trained in being able to not use any force at all and to determine when to use different amounts of force.⁸⁴

Here, the Court could not analyze legality in determining if the amount of force used was proportionate because Venezuela did not provide documentation that showed what the legal laws were when the events occurred.⁸⁵ The Principles and Best Practices on the Protection of Persons Deprived of Liberty in the Americas says that law enforcement in places where liberty is deprived should only use force and coercion as a last resort and after they have exhausted other options.⁸⁶ Additionally, this use of force and coercion should only be to make sure that the prisoners, visitors, and employees are all secure and safe.⁸⁷ The Court could not analyze legitimate purpose because the State did not provide enough information or evidence provided to

⁷⁹ Olivares Munoz et al v. Venezuela, Preliminary Objections, Merits, Reparations, and Costs, “Declares” ¶ 3.

⁸⁰ *Id.* ¶ 90.

⁸¹ *Id.* ¶ 92.

⁸² *Id.*

⁸³ *Id.*

⁸⁴ *Id.* ¶ 93.

⁸⁵ Olivares Munoz et al v. Venezuela, Preliminary Objections, Merits, Reparations, and Costs, ¶ 96.

⁸⁶ *Id.*

⁸⁷ *Id.* ¶ 95.

determine why the prison was entered by the National Guard.⁸⁸ Lastly, the Court could not analyze absolute necessity because there was not enough clarity about why law enforcement had to use firearms and lethal force.⁸⁹ The Court concluded that proportionality was not argued or proven because it was not certain if or why the inmates' riot made it required for the National Guard to use firearms.⁹⁰ Due to these uncertainties in the factual circumstances, the Court could not determine if there was a huge threat to anyone's life or if the National Guard was attempting to prevent an inmate from escaping.⁹¹

There was nothing mentioned or proven that any of the agents suffered any injuries.⁹² As such, the Court concluded that there was a maximum expression of force when there was not a proportional amount of resistance.⁹³ The Court mentioned that it is important to make sure that prison personnel are properly trained to make sure that there are no Article violations.⁹⁴ Article 5 was violated because the force used against the inmates was not necessary.⁹⁵

Articles 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal), and 25 (Right to Judicial Protection), in relation to Article 1(1) thereof, and in Articles 1, 6 and 8 of the Inter-American Convention to Prevent and Punish Torture, to the detriment of the injured victims and the next of kin of the deceased victims,⁹⁶ because:

The Court established that a trial must occur within a reasonable time and all the necessary processes must be concluded so that the victims can have the truth and the perpetrators can be punished.⁹⁷ The Court established that the State will sufficiently satisfy its legal duty when it has investigated the events.⁹⁸ For an investigation to have been

⁸⁸ Olivares Munoz et al v. Venezuela, Preliminary Objections, Merits, Reparations, and Costs, ¶ 97.

⁸⁹ *Id.*

⁹⁰ *Id.* ¶ 98.

⁹¹ *Id.*

⁹² *Id.* ¶ 99.

⁹³ *Id.*

⁹⁴ Olivares Munoz et al v. Venezuela, Preliminary Objections, Merits, Reparations, and Costs, ¶ 102.

⁹⁵ *Id.* ¶ 110.

⁹⁶ *Id.* "Declares" ¶ 4.

⁹⁷ *Id.* ¶ 119.

⁹⁸ *Id.* ¶ 120.

effective, it should have been carried out with the correct amount of due diligence.⁹⁹ The Court indicated that there must not be anything missing from the evidence once it is gathered and that the investigation must be concluded logically.¹⁰⁰

This Court considered that, from the first moment that an investigation is demonstrated, it must be done with full diligence for it to be efficient.¹⁰¹ Therefore, Venezuelan authorities must at least: (1) identify any and all victims; (2) ensure that all the necessary evidence is collected and preserved; (3) identify potential witnesses and record their statements; (4) determine all the information about the death that occurred including patterns, causes, locations, methods, and times; and (5) distinguish whether the death was natural, accidental, a homicide, or a suicide.¹⁰² Additionally, an exhaustive investigation must be conducted of the crime scene and competent professionals must conduct all the necessary tests.¹⁰³

When a State knows that the use of law enforcements firearms resulted in deaths, they must start an investigation that is serious, impartial, independent, and effective without any delay.¹⁰⁴ If there is an extended delay, then this could be a judicial guarantee violation.¹⁰⁵ For each case, there should be a reasonable time for how long the proceedings are.¹⁰⁶ The Court's standard for timeliness relies on four elements: (1) how complicated the matter is; (2) what the procedural activity is for the interested party; (3) how the judicial authorities acted; and (4) how the victims were affected by the situation.¹⁰⁷ Because of that criteria, the State had the duty to justify why it has taken as much time as it has, and if the State fails to justify the time, the Court has discretion to reach its own conclusions.¹⁰⁸

Here, Venezuela acknowledged that it violated Articles 8(1) and 25(1).¹⁰⁹ The Court noted that there are events from the prison that need to be clarified because they have not identified the people who were

⁹⁹ Olivares Munoz et al v. Venezuela, Preliminary Objections, Merits, Reparations, and Costs,

¶ 120.

¹⁰⁰ *Id.*

¹⁰¹ *Id.*

¹⁰² *Id.*

¹⁰³ *Id.* ¶ 121.

¹⁰⁴ *Id.* ¶ 122.

¹⁰⁵ Olivares Munoz et al v. Venezuela, Preliminary Objections, Merits, Reparations, and Costs,

¶ 123.

¹⁰⁶ *Id.*

¹⁰⁷ *Id.*

¹⁰⁸ *Id.*

¹⁰⁹ *Id.* ¶ 124.

responsible or provided reparations for the victims.¹¹⁰ First, the Court concluded that the failure to investigate the inmates' injuries shows how due diligence was lacking.¹¹¹ Next, there was no investigation into whether the events that occurred were retaliatory against the protest that was held by the prisoners.¹¹² This made it harder to clarify the facts.¹¹³ Next, the Court concluded that in the forensic autopsies, there were examinations that were missing or were never taken.¹¹⁴ Additionally, even though it has been over 16 years since the events in the prison, the facts are still not clear.¹¹⁵ The delay was unjustified because it did not have to do with representatives, defendants, or defense attorneys.¹¹⁶

The Court concluded that it cannot rule on how the length of the proceedings affected the people involved in the trial.¹¹⁷ However, there was a 6-year gap in the proceedings where the case was inactive.¹¹⁸ The State failed to provide a valid reason for why important proceeding dates were delayed, including the close of the investigation, which was not presented until the end of 2012; the preliminary hearing, which was in June 2014; and the final acquittal, near the end of 2016.¹¹⁹ Because, after over 16 years there had still been no reparations ordered, the Court held that the State failed to investigate this crime in a timely and efficient manner.¹²⁰

Finally, the Court concluded that they cannot analyze what the representatives have alleged about their violations.¹²¹ Under Articles 5(1) and 5(2), the State has a duty to investigate anything that violates those Articles.¹²² This duty is further specified under Articles 1, 6, and 8 of the IACPPT.¹²³ Because the exact facts are undeterminable by the Court, the Court was unable to conclude that the National Guard

¹¹⁰ Olivares Munoz et al v. Venezuela, Preliminary Objections, Merits, Reparations, and Costs, ¶ 124.

¹¹¹ *Id.*

¹¹² *Id.* ¶ 125.

¹¹³ *Id.*

¹¹⁴ *Id.* ¶ 126.

¹¹⁵ *Id.* ¶ 127.

¹¹⁶ Olivares Munoz et al v. Venezuela, Preliminary Objections, Merits, Reparations, and Costs, ¶ 127.

¹¹⁷ *Id.* ¶ 128.

¹¹⁸ *Id.* ¶ 129.

¹¹⁹ *Id.* ¶ 130.

¹²⁰ *Id.* ¶ 131.

¹²¹ *Id.* ¶ 133.

¹²² Olivares Munoz et al v. Venezuela, Preliminary Objections, Merits, Reparations, and Costs, ¶ 134.

¹²³ *Id.*

*committed torture, but the State was still obligated to conduct an investigation as soon as possible because there were at least forms of mistreatment that were committed.*¹²⁴

*The failure to have clear facts made the Court unable to conclude whether the acts of torture were committed by the National Guard.*¹²⁵ *Either way, Vista Hermosa Prison had an obligation to launch an investigation objectively and immediately because of the autopsy results and the inmate statements.*¹²⁶ *This failure to investigate and all the other facts all lead the violations of their personal integrity.*¹²⁷ *Therefore, the State not only violated Articles 8(1) and 25(1) but Articles 1, 6 and 8 of the IACPPT as well.*¹²⁸

Article 5(1), in relation to Article 1(1) of the Convention, to the detriment of Mrs. Lorenza Josefina Pérez de Olivares, Ms. Elizabeth del Carmen Cañizales Palma, Mr. Elías José Aguirre Navas, Ms. Yngris Lorena Muñoz Valerio, Mr. José Luis Figueroa, Ms. Jenny Leomelia Reyes Guzmán, and Mrs. Johamnata Martínez Coralis,¹²⁹ because:

*The Court concluded that when there are violations of serious human rights, victims' families and relatives also have their human rights violated.*¹³⁰ *Because the death of Mr. Olivares Muñoz, among others, was an arbitrary and illegal killing, the Court concluded that his family and relatives, including his wife, siblings, and sibling-in-laws, were also victims of the State's human rights violations.*¹³¹

C. Dissenting and Concurring Opinions

[None]

IV. REPARATIONS

The Court ruled unanimously that the State had the following

¹²⁴ Olivares Munoz et al v. Venezuela, Preliminary Objections, Merits, Reparations, and Costs, ¶¶ 135, 136.

¹²⁵ *Id.* ¶ 135.

¹²⁶ *Id.* ¶¶ 135, 136.

¹²⁷ *Id.* ¶ 137.

¹²⁸ *Id.* ¶ 138.

¹²⁹ *Id.* “Declares” ¶ 5.

¹³⁰ Olivares Munoz et al v. Venezuela, Preliminary Objections, Merits, Reparations, and Costs, ¶ 140.

¹³¹ *Id.* ¶¶ 140-141.

obligations:

A. Specific Performance (Measures of Satisfaction and Non-Repetition Guarantee)

1. Judgment as a Form of Reparation

The Court noted that the Judgment itself is a form of reparation.¹³²

2. Investigate and Prosecute the Events of November 10, 2003

The Court ordered that the State must resume the investigations and criminal proceedings.¹³³ The State has to investigate the events that led to the deaths of seven inmates, the injuries that 27 other inmates suffered, and the acts of torture with due diligence.¹³⁴ Additionally, the State must provide any authority with the relevant information to conduct the investigation and they cannot omit any information.¹³⁵ Lastly, the State must allow the victims or their heirs access to every part of the investigation and prosecution.¹³⁶

3. Publish the Judgment

The Court ordered the State to publish the official summary judgment in the official gazette, in a widespread and nationally circulated newspaper, and the entire judgment on the Public Prosecutor's Office's web page within six months of this Judgment.¹³⁷ The State must notify the Court immediately once the publications have been made.¹³⁸

4. Publicly Acknowledge Responsibility

The Court ordered the State to publicly acknowledge their international responsibility for the treatment of the victims.¹³⁹ This acknowledgment

¹³² Olivares Munoz et al v. Venezuela, Preliminary Objections, Merits, Reparations, and Costs, "And Orders" ¶ 6.

¹³³ *Id.* ¶ 149.

¹³⁴ *Id.*

¹³⁵ *Id.* ¶ 151.

¹³⁶ *Id.* ¶ 152.

¹³⁷ *Id.* ¶ 162.

¹³⁸ Olivares Munoz et al v. Venezuela, Preliminary Objections, Merits, Reparations, and Costs, ¶ 162.

¹³⁹ *Id.* ¶ 163.

should be done in a public ceremony, widely publicized, and refer to the human rights violations committed.¹⁴⁰ The State, the victims, and their representations must agree on where and when the public act will be carried out.¹⁴¹ The State authorities present should be high-ranking officials, and the public acknowledgment must be made within one year of notification of this judgment.¹⁴²

5. Provide Psychological and/or Psychiatric Treatment

The Court ordered the State to provide free and proper care for any psychological, psychiatric, and physical ailments that the victims and their families suffered within six months of this Judgment.¹⁴³ Additionally, for people who are still in prison, the Court ordered the State to provide them medical and mental care.¹⁴⁴

6. Administrative and Judicial Oversight

The Court ordered the State to replace Article 8 with Article 92 provisions that allow exceptions to the rule that authorities cannot enter prisons with firearms.¹⁴⁵ The Court ordered the State to adapt these changes in a reasonable period.¹⁴⁶

B. Compensation

The Court awarded the following amounts:

1. Pecuniary Damages

The Court awarded consequential damages of \$55,000 to Mr. Olivares Muñoz's relatives, as well as \$52,500 to each the other six victims' relatives.¹⁴⁷ Additionally, the Court specified that Mr. Olivares Muñoz's damages should be split so that half goes to his wife, and the rest

¹⁴⁰ *Olivares Munoz et al v. Venezuela*, Preliminary Objections, Merits, Reparations, and Costs, ¶ 163.

¹⁴¹ *Id.* ¶ 164.

¹⁴² *Id.*

¹⁴³ *Id.* ¶¶ 156-158.

¹⁴⁴ *Id.* ¶ 157.

¹⁴⁵ *Id.* ¶ 172.

¹⁴⁶ *Olivares Munoz et al v. Venezuela*, Preliminary Objections, Merits, Reparations, and Costs, ¶ 173.

¹⁴⁷ *Id.* ¶¶ 181-182.

divided equally among his surviving children; the six other deceased's damages will be paid to their relatives in accordance with domestic law.¹⁴⁸

2. Non-Pecuniary Damages

With respect to the non-pecuniary damages, the Court awarded \$50,000 to each of the seven deceased victims, \$25,000 to each of the 27 injured victims, and \$15,000 each to seven of the deceased victim's relatives, Mrs. Lorenza Josefina Pérez de Olivares, Ms. Elizabeth del Carmen Cañizales Palma, Mr. Elías José Aguirre Navas, Ms. Yngris Lorena Muñoz Valerio, Mr. José Luis Figueroa, Ms. Jenny Leomelia Reyes Guzmán, and Mrs. Johamnata Martínez Coralis.¹⁴⁹

3. Costs and Expenses

The Court awarded damages of \$20,000 to the OVP to reimburse their costs and expenses.¹⁵⁰

4. Total Compensation (including Costs and Expenses ordered):

\$1,520,000 USD

C. Deadlines

The State must pay compensation for pecuniary and non-pecuniary damages, and cost and expenses, within one year of this Judgment.¹⁵¹

V. INTERPRETATION AND REVISION OF JUDGMENT

[None]

VI. COMPLIANCE AND FOLLOW-UP

[None]

¹⁴⁸ Olivares Munoz et al v. Venezuela, Preliminary Objections, Merits, Reparations, and Costs, ¶ 182.

¹⁴⁹ *Id.* ¶¶ 187-189.

¹⁵⁰ *Id.* ¶ 194.

¹⁵¹ *Id.* ¶ 200.

VII. LIST OF DOCUMENTS

A. Inter-American Court

1. Preliminary Objections

Olivares Muñoz et al. v. Venezuela, Preliminary Objections, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 415 (Nov. 10, 2020).

2. Decisions on Merits, Reparations and Costs

Olivares Muñoz et al. v. Venezuela, Resolution of the Court, Inter-Am. Ct. H.R. (ser. C) No. 415 (July 29, 2020).

Olivares Muñoz et al. v. Venezuela, Resolution of the President, Inter-Am. Ct. H.R. (ser. C) No. 415 (June 30, 2020).

Olivares Muñoz et al. v. Venezuela, Resolution of the President, Inter-Am. Ct. H.R. (ser. C) No. 415 (Feb. 21, 2020).

3. Provisional Measures

[None]

4. Compliance Monitoring

[None]

5. Review and Interpretation of Judgment

[None]

B. Inter-American Commission

1. Petition to the Commission

[None]

2. Report on Admissibility

Olivares Muñoz et al. v. Venezuela, Admissibility Report, Report No. 14/11, Inter-Am. Comm'n H.R., Case No. 1347.07 (Mar. 23, 2011).

3. Provisional Measures

[None]

4. Report on Merits

Olivares Muñoz et al. v. Venezuela, Report on Merits, Report No. 119/18, Inter-Am. Comm'n H.R., Case No. 12.814 (Oct. 5, 2018).

5. Application to the Court

Olivares Muñoz et al. v. Venezuela, Petition to the Court, Inter-Am. Comm'n H.R., Case No. 12.814 (Apr. 1, 2019).

VIII. BIBLIOGRAPHY

[None]