

Acosta Castellón et al. v. Nicaragua

ABSTRACT¹

This case stems from the sale of a string of islands in the Caribbean belonging to several indigenous communities by an American real estate developer who had no legal title to the islands. The husband of a human rights defender who had opposed the occupation of the islands by the private security hired by the real-estate developer was murdered. Although the culprits were immediately identified, a long investigation and trials ensued, including of the human rights defender who was accused of having murdered her husband. Eventually, the human rights defender was acquitted, while the assassins were tried and found guilty. The principal who ordered the hit was never prosecuted. The Court found violation of several articles of the American Convention caused by the failure of the State to properly investigate and prosecute.

I. FACTS

A. Chronology of Events

End of 1999 – Early 2000: Mr. Peter Tsokos, an American real estate developer from Texas, sells seven of twenty-two Pearl Cays islands, a chain of small islands off the Caribbean coast of Nicaragua.² He hires Mr. Peter Martínez Fox, a State notary, as his legal representative for the purchase and sale transactions.³ However, Mr. Tsokos does not have proper title to the Pearl Cays.⁴ The State Constitution and the Statue of Autonomy of the Atlantic Coast Regions guarantee that land belonging to indigenous people, such as the Pearl Cays, cannot be alienated.⁵ Mr.

1. Tamara Menashy, Author; Shira Diamant, Editor; Kimberly Barreto, Chief IACHR Editor; Cesare Romano, Faculty Advisor

2. Alliance for Global Justice, *Land Grabbing in the Pearl Cays*, NICANET, (Sept. 30, 2004) <http://www.nicanet.org/?id=23776>.

3. Miguel González, *María Luisa Acosta vs Nicaragua*, CONFIDENCIAL, (Oct. 9, 2015), <https://confidencial.com.ni/María-luisa-acosta-vs-nicaragua/>.

4. *Acosta et al. v. Nicaragua*, Preliminary Objections, Merits, Reparations and Costs, Inter-Am. Ct. H.R. (ser. C) No. 12.792, ¶ 33 (Mar. 5, 2017).

5. *Id.*

Tsokos hires armed guards and officers of the National Police to prevent the indigenous people from using their now “sold” ancestral land.⁶ He also pays the local police chief \$1,500 to “maintain security.”⁷

Members of the indigenous communities approach Ms. María Luisa Acosta Castellón, an indigenous rights attorney, to defend their rights against Mr. Tsokos.⁸ Ms. Acosta Castellón publicly denounces the series of sales, and assumes responsibility to defend the indigenous and ethnic communities of Pearl Lagoon Basin.⁹

October 2, 2000: Based upon Ms. Acosta Castellón’s advice, the indigenous communities of Pearl Lagoon Basin file an appeal for protection before the Civil Chamber of the Court of Appeal of Bluefields (“Civil Court of Appeal”) against two high police authorities acting under Mr. Tsokos’s service as a private security force.¹⁰

October 18, 2000: Ms. Acosta Castellón complains to the Ministry of Environment and Natural Resources of Nicaragua (“MARENA”) alerting the Procurator for the Defense of the Environment and Natural Resources who in turn warns Mr. Tsokos that he will be charged criminally and sanctioned civilly if he continues to restrict researchers from accessing the Pearl Cays.¹¹

April 2001: MARENA fines Mr. Tsokos for cutting and burning in the Cerro Silva Natural Reserve.¹²

May 2, 2001: The Civil Court of Appeals orders the National Police to withdraw from the Pearl Cays.¹³

6. Acosta et al. v. Nicaragua, Report on Merits, Report No. 22/15, Inter-Am. Comm’n H.R., Case No. 12.792, ¶ 26 (Mar. 26, 2005).

7. *Land Grabbing in the Pearl Cays*, *supra* note 2.

8. Alice Cherbonnier, “A Struggle that will Never End:” *Nicaraguan Lawyer Fights for Rights of Indigenous Peoples*, BALTIMORE CHRONICLE & THE SENTINEL, (Dec. 17, 2002) http://baltimorechronicle.com/struggle_dec02.html.

9. Acosta et al. v. Nicaragua, Report on Merits, ¶ 25.

10. Acosta et al. v. Nicaragua, Preliminary Objections, Merits, Reparations and Costs, ¶ 34; Acosta et al. v. Nicaragua, Report on Merits, ¶ 27. The communities of Pearl Lagoon Basin are: the Miskitas indigenous community of Raitipura, Awas, Kahkabila, the Creole communities of Pearl Lagoon, Brown Bank, Marshall Point and Set Net Point, of the Municipality of Laguna de Perlas, South Atlantic Autonomous Region (“RAAS”).

11. Acosta et al. v. Nicaragua, Report on Merits, ¶ 28.

12. *Id.*

13. Acosta et al. v. Nicaragua, Preliminary Objections, Merits, Reparations and Costs, ¶ 34.

January 30, 2002: Ms. Acosta Castellón files a complaint against Mr. Tsokos for placing armed men in the communal land of Punta de Aguila with the Civil District Court of Bluefields (“Civil District Court”).¹⁴

February 6, 2002: The Civil District Court orders Mr. Tsokos to refrain from selling any more communal land while litigation against him is ongoing.¹⁵

March 16, 2002: The communities of Pearl Lagoon Basin, Awas, Raitipura and Halouver grant general judicial power to Ms. Acosta Castellón to represent their interests in a demand for the restitution of eighty blocks of indigenous territory held by Mr. Tsokos and Mr. Martínez Fox.¹⁶

April 7, 2002: Mr. Iván Argüello Rivera, Mr. Wilberth José Ochoa Maradiaga and a third unidentified person rent the ground floor of Ms. Acosta Castellón and her husband, Mr. Francisco García Valle’s home.¹⁷ The three men claim they are merchants.¹⁸

April 8, 2002: The three renters climb up the back wall of Ms. Acosta Castellón’s home and break into the upper-level, tie Mr. García Valle’s hands and feet, gag his mouth and shoot him in the upper chest with a .25 caliber firearm shot.¹⁹ Ms. Acosta Castellón is not home at the time of the break in.²⁰

At 8:30 P.M., Ms. Acosta Castellón arrives at her home to find the gate open but the house locked.²¹ An hour later, she enters her home through a window and finds her husband lying tied up on the dining room floor.²²

The Deputy Medical Examiner determines that Mr. García Valle was killed between 7:00 and 8:00 P.M.²³ Mr. Argüello Rivera, Mr. Ochoa Maradiaga and the third unidentified individual disappear immediately after Mr. García Valle’s death.²⁴

14. Acosta et al. v. Nicaragua, Report on Merits, ¶ 29.

15. *Id.*

16. *Id.* ¶ 30.

17. *Id.* ¶ 99 n.197; Acosta et al. v. Nicaragua, Preliminary Objections, Merits, Reparations and Costs, ¶ 40.

18. González, *supra* note 3.

19. Acosta et al. v. Nicaragua, Preliminary Objections, Merits, Reparations and Costs, ¶ 40.

20. Acosta et al. v. Nicaragua, Report on Merits, ¶ 33.

21. *Id.*

22. *Id.*

23. *Id.* ¶ 34.

24. *Id.* ¶ 42.

April 15, 2002: The Criminal District Judge of Bluefields (the “District Court Judge”) orders the arrest of Mr. Argüello Rivera as a suspect and recognizes Ms. Acosta Castellón as an injured party.²⁵

April 16, 2002: In her statement to the District Court, Ms. Acosta Castellón maintains that the men who killed her husband were actually contracted to kill her because of her human rights work.²⁶ She expresses her belief that, since she was not home, the intruders murdered her husband to intimidate her into giving up her representation of the indigenous communities.²⁷

Specifically, Ms. Acosta Castellón states that she suspects Mr. Tsokos and Mr. Martínez Fox ordered her murdered due to her interference with their sale of the Pearl Cays.²⁸ She also points to Mr. Charles Junior Presida, the driver of the getaway boat owned by Mr. Tsokos, as someone potentially linked to her husband’s murder.²⁹ Mr. Presida denies this.³⁰

April 18, 2002: The National Police places the bullet that killed Mr. García Valle into evidence.³¹

April 19, 2002: The District Court Judge issues a search warrant for Mr. Tsokos’s house.³² Mr. Tsokos denies the charges against him and accuses Ms. Acosta Castellón of concealing her husband’s murderers.³³ Mr. Martínez Fox also denies any charges.³⁴

Based on Mr. Tsokos’s statements, the District Court Judge issues an order for Ms. Acosta Castellón to file an inquiry, advises her to obtain counsel and issues a summons for her to appear on April 23 and 25 to make a defendant’s statement regarding the charges of abetting the murderers.³⁵ However, in fear of her safety, Ms. Acosta Castellón takes her children and leaves Bluefields for Chinandega.³⁶

25. *Id.* ¶ 41.

26. Acosta et al. v. Nicaragua, Report on Merits, ¶ 42.

27. *Id.*

28. *Id.*

29. *Id.*

30. *Id.* ¶ 43.

31. *Id.* ¶ 88.

32. Acosta et al. v. Nicaragua, Report on Merits, ¶ 45.

33. *Id.* ¶ 46.

34. *Id.*

35. *Id.* ¶¶ 46, 48.

36. Acosta et al. v. Nicaragua, Preliminary Objections, Merits, Reparations and Costs, ¶ 151.

April 23, 2003: The Chief of Criminal Investigation of the Police Station classifies Mr. Tsokos's residence as not of "police interest."³⁷

April 25, 2002: Although the District Court Judge is aware of Ms. Acosta Castellón's move to Chinandega, he denies the prosecutor's request that Ms. Acosta Castellón give her preliminary statement via exhort before the Criminal District Judge in Chinandega.³⁸

April 26, 2002: The District Court Judge orders the police to bring Ms. Acosta Castellón to court.³⁹

April 29, 2002: Mr. Silvio Adolfo Lacayo Ortiz, using his general power of attorney to represent Ms. Acosta Castellón, appears before the Criminal District Court of Bluefields, requesting to file an indictment against Mr. Argüello Rivera and any other person involved in Mr. García Valle's murder.⁴⁰

May 2, 2002: The District Court Judge orders the provisional arrest of Ms. Acosta Castellón for not appearing to testify and declares Mr. Lacayo Ortiz's accusations inadmissible, as he only had general power to act.⁴¹

May 6, 2002: Ms. Acosta Castellón files a disciplinary complaint with the Disciplinary Rules Commission of the Supreme Court of Justice ("Disciplinary Rules Commission")⁴² against the District Court Judge.⁴³ This is the first of five disciplinary complaints against various judicial authorities, including the magistrates of the Appeals Court, involved in the proceedings.⁴⁴

May 10, 2002: Ms. Acosta Castellón's legal representatives file a motion to annul the order of April 19, 2002 requiring Ms. Acosta Castellón to make a defendant's statement, partially because Ms. Acosta Castellón was never granted a public defender.⁴⁵

37. *Id.* ¶ 50.

38. *Id.* ¶ 51.

39. *Acosta et al. v. Nicaragua*, Report on Merits, ¶ 48.

40. *Acosta et al. v. Nicaragua*, Preliminary Objections, Merits, Reparations and Costs, ¶ 52.

41. *Id.* ¶ 53.

42. *Acosta et al. v. Nicaragua*, Report on Merits, ¶ 76.

43. *Acosta et al. v. Nicaragua*, Preliminary Objections, Merits, Reparations and Costs, ¶ 55.

44. *Acosta et al. v. Nicaragua*, Report on Merits, ¶ 75.

45. *Id.* ¶ 50.

May 12, 2002: A State newspaper publishes several of the District Court Judge's statements, including one in which he says that Ms. Acosta Castellón's statement about Mr. Tsokos and Mr. Martínez Fox is a perfect cover for her husband's murder.⁴⁶

May 13, 2002: The District Court Judge: (1) authorizes Mr. Lacayo Ortiz to represent Ms. Acosta Castellón; (2) admits her accusations against Mr. Argüello Rivera and other suspects; (3) rejects the motion for annulment; (4) orders Mr. Argüello Rivera's imprisonment for Mr. García Valle's murder; and (5) issues an interlocutory judgment definitively dismissing charges against Ms. María Luisa Acosta Castellón, Mr. Peter Martínez Fox, Mr. Peter Tsokos and Mr. Charles Junior Presida, reasoning that the charges are based only on accusations that alone are not enough to determine criminal liability.⁴⁷

May 14, 2002: Mr. Martínez Fox files a claim on behalf of himself and Mr. Tsokos in the Civil District Court for damages in the amount of \$100,000 against Ms. Acosta Castellón for her alleged false accusations of their involvement in the murder of her husband.⁴⁸

May 15th or 16th, 2002: Ms. Acosta Castellón's lawyers appeal the judgment releasing Mr. Martínez Fox, Mr. Tsokos and Mr. Presida.⁴⁹ The District Court Judge admits the appeal and orders Ms. Acosta Castellón's lawyers to deposit blank paper with the Court for photocopying purposes.⁵⁰

May 22, 2002: Mr. Martínez Fox requests the appeal be dismissed for failure to provide the photocopying paper in accordance with the Court's order.⁵¹ The District Court Judge declares Ms. Acosta Castellón's appeal void.⁵² Mr. Lacayo Ortiz argues to change the order because the appeal could not be admitted on May 15 or 16, as the parties concerned were not yet notified of the interlocutory sentence,⁵³ and thus appellant could not be ordered to produce paper within twenty-four hours of appeal, and

46. Acosta et al. v. Nicaragua, Preliminary Objections, Merits, Reparations and Costs, ¶ 58.

47. Acosta et al. v. Nicaragua, Report on Merits, ¶ 50-51; Acosta et al. v. Nicaragua, Preliminary Objections, Merits, Reparations and Costs, ¶ 59.

48. Acosta et al. v. Nicaragua, Report on Merits, ¶ 70.

49. *Id.* ¶ 52.

50. *Id.*

51. Acosta et al. v. Nicaragua, Preliminary Objections, Merits, Reparations and Costs, ¶ 62.

52. *Id.* ¶ 66.

53. *Id.* ¶ 64.

anyway, the paper requirement is in disuse.⁵⁴ Furthermore, Ms. Acosta Castellón's representative's previous attempt to deposit 200 córdobas with the secretariat for the cost of copying was refused.⁵⁵

June 2002 - July 2002: Ms. Acosta Castellón's legal representatives file a second motion for annulment on all proceedings from April 19, 2002 together with an incident of recusal given the District Court Judge's partial handling of the case.⁵⁶

August 5, 2002: The District Court Judge starts the plenary phase of the proceedings and rejects the second motion for annulment because it may not be asserted during the plenary phase.⁵⁷

August 8, 2002: The District Court Judge declares Ms. Acosta Castellón's appeal against Mr. Martínez Fox, Mr. Tsokos and Mr. Presida "improper."⁵⁸ Mr. Argüello Rivera is assigned a Public Defender.⁵⁹

August 29, 2002: Ms. Acosta Castellón's legal representatives file an "extraordinary appeal in fact" in the Criminal Chamber of the Court of Appeals of the South Atlantic Circumscription (the "Appeals Court") to revoke the District Court's order denying their appeal.⁶⁰

September 23, 2002: The Appeals Court refuses to admit the appeal, finding it defective because the appeal is entitled "extraordinary appeal in fact," which does not clearly express that it is a *de facto* appeal.⁶¹

October 2002: Ms. Acosta Castellón's legal representatives amend the "defective" appeal, but the Appeals Court rejects it because the statute of limitations lapsed.⁶²

October 1, 2002 - August, 2004: Mr. Martínez Fox, on behalf of himself and Mr. Tsokos, files a complaint for "false testimony and false

54. Acosta et al. v. Nicaragua, Report on Merits, ¶ 53; Acosta et al. v. Nicaragua, Preliminary Objections, Merits, Reparations and Costs, ¶ 64.

55. Acosta et al. v. Nicaragua, Preliminary Objections, Merits, Reparations and Costs, ¶ 64.

56. *Id.* ¶ 67.

57. Acosta et al. v. Nicaragua, Report on Merits, ¶¶ 56-57.

58. Acosta et al. v. Nicaragua, Preliminary Objections, Merits, Reparations and Costs, ¶ 70.

59. *Id.*

60. *Id.* ¶ 71.

61. *Id.* ¶¶ 72, 168.

62. *Id.* ¶ 75.

accusations” against Ms. Acosta Castellón.⁶³ The Civil District Court admits the complaint.⁶⁴ Ms. Acosta Castellón responds that Mr. Tsokos and Mr. Martínez Fox are merely abusing the law to harass her and prevent her “from bringing the murderers of [her] husband to trial.”⁶⁵

October 8, 2002: The investigation of Mr. García Valle’s homicide reveals that: (1) Mr. Ochoa Maradiaga arrived with Mr. Argüello Rivera in Bluefields, as his close friend; (2) Mr. Argüello Rivera was Mr. Tsokos’s security guard since 2001 while he worked for a security company, after which he worked privately for Mr. Tsokos; and (3) Mr. Tsokos owned the murder weapon which killed Mr. García Valle.⁶⁶

October 17, 2002: The District Civil and Criminal Courts direct the Public Prosecutor’s Office to begin with second hearing formalities.⁶⁷

December 24, 2002: The Assistant Prosecutor asks for all incorrectly handled proceedings thus far to be annulled because the District Court Judge neglected due process guarantees to the detriment of the parties.⁶⁸ First, Ms. Acosta Castellón was a part of the proceedings as both a suspect and victim, which is “highly irregular” and a “legal absurdity.”⁶⁹ Second, Ms. Acosta Castellón’s defendant’s statement was not on record, and she was tried as an absentee for her own husband’s murder, despite the Court’s knowledge of her residence.⁷⁰ Finally, the appeal was voided without the deadline to obtain photocopy paper actually expiring.⁷¹

January 13, 2003: The Public Prosecutor’s office indicts Mr. Ochoa Maradiaga for the murder of Mr. García Valle and submits evidence relating to the indictment.⁷²

January 24, 2003 - March 4, 2003: Ms. Acosta Castellón’s representatives file a third request for annulment that is rejected.⁷³

63. Acosta et al. v. Nicaragua, Report on Merits, ¶ 73.

64. *Id.*

65. *Id.*

66. *Id.* ¶ 57.

67. *Id.* ¶ 60.

68. *Id.*

69. Acosta et al. v. Nicaragua, Report on Merits, ¶ 60; Acosta et al. v. Nicaragua, Preliminary Objections, Merits, Reparations and Costs, ¶ 80.

70. Acosta et al. v. Nicaragua, Report on Merits, ¶ 60.

71. *Id.*

72. *Id.* ¶ 61.

73. *Id.* ¶ 62.

The Assistant Prosecutor's request is denied, as the grounds for annulment happened at the preliminary investigations stage.⁷⁴

March 23, 2003: The interlocutory judgment of May 13, 2002 enters into effect acquitting Mr. Tsokos, Mr. Martínez Fox and Mr. Presida and dismissing the proceedings against Ms. Acosta Castellón.⁷⁵

April 9, 2003: As her complaints have gone unanswered, Ms. Acosta Castellón reaches out to the Office of the Prosecutor for the Defense of Human Rights ("PDDH").⁷⁶

June 9, 2003: Ms. Acosta Castellón files a fourth motion against the acquittal of Mr. Tsokos, Mr. Martínez Fox and Mr. Presida in the Criminal Division of the Appeals Tribunal ("Appeals Tribunal").⁷⁷

September 23, 2003: The Appeals Tribunal denies Ms. Acosta Castellón's fourth motion.⁷⁸

October 6, 2003: The PDDH finds the Disciplinary Rules Commission violated the right to prompt justice and recommends the Disciplinary Rules Commission resolve Ms. Acosta Castellón's complaints.⁷⁹

October 31, 2003: Because the Appeals Tribunal denies her fourth motion, Ms. Acosta Castellón files a cassation appeal to the Supreme Court.⁸⁰

April 21, 2004: Mr. Argüello Rivera and Mr. Ochoa Maradiaga are sentenced to twenty years in prison for the homicide of Mr. Francisco José García Valle.⁸¹

April 26, 2004: Ms. Acosta Castellón appeals Mr. Argüello Rivera and Mr. Ochoa Maradiaga's prison sentence claiming the correct sentence is thirty years.⁸²

74. *Id.*

75. *Id.* ¶ 63.

76. *Acosta et al. v. Nicaragua*, Report on Merits, ¶ 75.

77. *Id.* ¶ 64.

78. *Id.*

79. *Id.* ¶ 76.

80. *Id.* ¶ 64.

81. *Id.* ¶ 65.

82. *Acosta et al. v. Nicaragua*, Report on Merits, ¶ 65.

June 10, 2004: The PDDH concludes that the Disciplinary Rules Commission has ignored its recommendations.⁸³

August 23, 2004: The action by Mr. Martínez Fox for false testimony expires due to lack of procedural activity.⁸⁴

August 31, 2004: Mr. Argüello Rivera states on broadcast on Costa Rica's Channel 11 that Mr. Tsokos sent him to the García Acosta household when the murder occurred.⁸⁵

October 12, 2004: Mr. Martínez Fox's attempt to appeal the expiration of his action is dismissed.⁸⁶

November 29, 2004: In response to the appeal by Ms. Acosta Castellón demanding a thirty year prison sentence, the Appeals Tribunal amends the prison sentence to twenty-three years.⁸⁷ However, based on the doctrine of *res judicata*, the Appeals Tribunal bars Ms. Acosta Castellón's appeal to annul the dismissal of the charges against Mr. Tsokos and Mr. Martínez Fox.⁸⁸

December 22, 2004: Ms. Acosta Castellón files another cassation appeal in the Criminal Division of the Supreme Court against the Appeals Tribunal's judgment on November 29, 2004 on the grounds that the doctrine of *res judicata* was improperly applied.⁸⁹

April 5, 2005: The Supreme Court declares Ms. Acosta Castellón's first cassation appeal from October 31, 2003 "unfounded."⁹⁰

August 24, 2006: The Assistant Prosecutor of Managua reaches out to the Supreme Court asking it to consider the cassation appeal as well as annul the judgment releasing Mr. Tsokos and Mr. Martínez Fox.⁹¹ The prosecutor argues that the investigation was not exhaustive given the need to explore the new evidence implicating a principal who ordered the hit.⁹²

83. *Id.* ¶ 76.

84. *Id.* ¶ 74.

85. *Id.* ¶ 66.

86. *Id.* ¶ 74.

87. *Id.* ¶¶ 65, 67.

88. Acosta et al. v. Nicaragua, Report on Merits, ¶ 67.

89. *Id.* ¶ 68.

90. *Id.* ¶ 64.

91. *Id.* ¶ 68.

92. Acosta et al. v. Nicaragua, Preliminary Objections, Merits, Reparations and Costs, ¶ 167.

December 19, 2006: The Supreme Court rejects the second cassation appeal upholding the judgment's *res judicata* status.⁹³ The Court states the parties had consented to the judgment by failing to appeal it after they were notified of the judgment.⁹⁴

September 2016: The National Council of Administration and Judicial Career of the Supreme Court of Justice of Nicaragua notifies Ms. Acosta Castellón of decisions dated May 2005 and July 2006 that determined that the complaints against the District Court Judge and the Magistrates of the Appeals Court were unfounded.⁹⁵

B. Other Relevant Facts

The Pearl Cays are islands off the Caribbean coast of Nicaragua.⁹⁶ They are the ancestral lands of the indigenous people inhabiting them: Pearl Lagoon Basin, the Miskitas indigenous community of Raitipura, Awas, Kahkakkila, the Creole communities of Pearl Lagoon, Brown Bank, Marshall Point and Set Net Point, of the Municipality of Laguna de Perlas, South Atlantic Autonomous Region.⁹⁷

In or around 1996, Mr. Tsokos paid \$36,000 to local leaders for suspect titles to seven of the twenty-two Pearl Cays.⁹⁸ He advertised the islands for sale prices of up to \$500,000 per island on his website.⁹⁹ Over the next few years, foreign “owners” bought the seven Pearl Cays.¹⁰⁰ Mr. Tsokos and his clients disrupted the local communities, attacking them with dogs and armed guards carrying AK-47 rifles, and endangering the wildlife and natural resources in preparation to develop upscale vacation resorts.¹⁰¹

On Water Cay, Mr. Tsokos built a cement wall surrounded by guards preventing the local Miskito and Creole people from accessing their usual source of fresh water.¹⁰² A fisherman, whose boat broke down was forced off one of the Cays back into his damaged boat by Mr. Tsokos’

93. Acosta et al. v. Nicaragua, Report on Merits, ¶ 68.

94. *Id.*

95. Acosta et al. v. Nicaragua, Preliminary Objections, Merits, Reparations and Costs, ¶¶ 123, 124.

96. *Land Grabbing in the Pearl Cays*, *supra* note 2.

97. Acosta et al. v. Nicaragua, Preliminary Objections, Merits, Reparations and Costs, ¶¶ 33, 34.

98. *Land Grabbing in the Pearl Cays*, *supra* note 2.

99. *Id.*

100. *Id.*

101. *Id.*

102. *Id.*

guards.¹⁰³ The Gaskin family who purchased Lime Cay, hired guards who shot at officials from the Ministry of the Environment when they approached to inspect claims of vegetation damage and have used fumigation devices to repel the locals.¹⁰⁴ The local populations have obtained media coverage to rouse a public outcry against Mr. Tsokos.¹⁰⁵

Ms. María Luisa Acosta Castellón is an internationally recognized lawyer who defends the rights of the indigenous communities in Nicaragua.¹⁰⁶ She is the founder and coordinator of the Legal Assistance Center for Indigenous Peoples (CALPI), an organization dedicated to advising and defending indigenous people's property rights.¹⁰⁷

II. PROCEDURAL HISTORY

A. *Before the Commission*

June 22, 2007: Ms. María Luisa Acosta Castellón, CALPI, and the Center for Justice and Human Rights of the Atlantic Coast of Nicaragua (Centro por la Justicia y Derechos Humanos de la Costa Atlántica de Nicaragua; DEJUDHCAN) present a petition to the Inter-American Commission on Human Rights ("Commission") on behalf of María Luisa Acosta Castellón and Francisco García Valle; and Mr. García Valle's children, Ana María and Álvaro Arístides Vergara Acosta; and Mr. García Valle's parents, Leonor del Carmen Valle de García and Rodolfo García Solari¹⁰⁸ (also referred to as "Petitioners") against the Republic of Nicaragua (also referred to as "the State").¹⁰⁹

November 1, 2010: The Commission declares the petition admissible and releases Admissibility Report No. 148/10.¹¹⁰

March 26, 2015: The Commission issues Merits Report No. 22/15 and finds violations of Articles 5(1) (Right to Physical, Mental, and Moral Integrity),¹¹¹ 8(1) (Right to a Hearing Within a Reasonable Time by a Competent and Independent Tribunal),¹¹² 25(1) (Right of Recourse

103. *Id.*

104. *Land Grabbing in the Pearl Cays*, *supra* note 2.

105. *Id.*

106. Acosta et al. v. Nicaragua, Report on Merits, ¶ 24.

107. *Id.*

108. Acosta et al. v. Nicaragua, Preliminary Objections, Merits, Reparations and Costs, ¶ 38.

109. Acosta et al. v. Nicaragua, Report on Merits, ¶ 1.

110. *Id.* ¶ 5.

111. *Id.* ¶ 139.

112. *Id.* ¶ 116.

Before a Competent Court)¹¹³ all in relation to Article 1(1) (Obligation of Non-Discrimination) of the American Convention of Human Rights, to the detriment of María Luisa Acosta Castellón, Álvaro Arístides Vergara Acosta, Leonor del Carmen Valle de García, and Rodolfo García Solari.¹¹⁴ Specifically to the detriment of María Luisa Acosta Castellón only, the Commission finds a violation of Article (8)(2) (Right to Be Presumed Innocent).¹¹⁵ The Commission does not admit Articles 4 (Right to Life) and 11 (Right to Privacy) alleged in the Petition.¹¹⁶

The Commission recommends the State: (1) complete an impartial investigation promptly to discern all involved and responsible for the murder of Mr. García Valle; (2) impose disciplinary action and penalties on the state authorities involved in preventing justice to Mr. García Valle's murderers; (3) implement legislative, judicial or administrative methods to reduce the danger to human rights defenders in vulnerable situations, like instituting proper victim and witness protections and faster response time procedures; and (4) make adequate reparations for the moral and material human rights violations inflicted upon Ms. Acosta Castellón and her family.¹¹⁷

B. Before the Court

July 19, 2015: The Commission submits the case to the Court, after the State failed to adopt its recommendations.¹¹⁸

June 16, 2016: The President of the Court issues an order granting financial assistance to the victims from the Victims Legal Assistance Fund of the Court.¹¹⁹

1. Violations Alleged by Commission¹²⁰

Article 5(1) (Right to Physical, Mental, and Moral Integrity)

113. *Id.*

114. Acosta et al. v. Nicaragua, Admissibility Report, Report No. 148/10, Inter-Am. Comm'n H.R., Case No. 12.792, ¶ 2 (Nov. 1, 2010); Acosta et al. v. Nicaragua, Report on Merits, ¶ 4.

115. Acosta et al. v. Nicaragua, Report on Merits, ¶ 130.

116. Acosta et al. v. Nicaragua, Admissibility Report, ¶ 2; Acosta et al. v. Nicaragua, Report on Merits, ¶ 4.

117. Acosta et al. v. Nicaragua, Report on Merits, ¶ 4.

118. Acosta et al. v. Nicaragua, Preliminary Objections, Merits, Reparations and Costs, ¶ 1.

119. See Acosta et al. v. Nicaragua, Provisional Measures, Victims Legal Assistance Fund, Order of the President, Inter-Am. Ct. H.R. (June 16, 2016).

120. Acosta et al. v. Nicaragua, Preliminary Objections, Merits, Reparations and Costs, ¶ 2.

Article 8(1) (Right to a Hearing within a Reasonable Time by a Competent and Independent Tribunal)

Article 8(2) (Right to Be Presumed Innocent)

Article 25(1) (Right of Recourse Before a Competent Court)

all in relation to:

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

2. Violations Alleged by Representatives of the Victims¹²¹

Same violations alleged by the Commission, plus:

Article 4 (Right to Life)

Article 11 (Right to Privacy)

Article 2 (Obligation to Give Domestic Legal Effect to Rights)

Article 13(1) (Right to Seek, Receive, and Impart Information and Ideas)

Article 15 (Right of Peaceful Assembly)

Article 16(1) (Freedom of Association for Any Purpose)

Article 23(1)(a) (Right to Participate in Public Affairs)

Article 23(1)(b) (Right to Elect and Be Elected)

Article 23(1)(c) (Right to Have Access to Public Service)

all in relation to:

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

III. MERITS

A. *Composition of the Court*

Roberto F. Caldas, President

Eduardo Ferrer Mac-Gregor Poisot, Vice President

Eduardo Vio Grossi, Judge

Humberto Antonio Sierra Porto, Judge

Elizabeth Odio Benito, Judge

Eugenio Raúl Zaffaroni, Judge

L. Patricio Pazmiño Freire, Judge

Pablo Saavedra Alessandri, Secretary

Emilia Segares Rodríguez, Deputy Secretary

121. Acosta et al. v. Nicaragua, Admissibility Report, ¶ 16.

B. Decision on the Merits

March 5, 2017: The Court issues its Judgment on Merits, Reparations and Costs.¹²²

The Court found unanimously that Nicaragua violated:

Article 8(1) (Right to a Hearing within a Reasonable Time by a Competent and Independent Tribunal) and Article 25 (Right to Judicial Protection) in relation to Article 1(1) (Obligation of Non-Discrimination) of the Convention, to the detriment of Ms. Acosta Castellón and Mr. García Valle's parents and children,¹²³ because:

Article 25 (Right to Judicial Protection) guarantees effective judicial remedies for crimes against human rights and is reinforced by the State's obligation to follow due process procedures under Article 8(1) (Right to a Hearing within a Reasonable Time by a Competent and Independent Tribunal).¹²⁴ These obligations are the independent responsibility of the State because of the importance in preventing an environment of immunity, which fosters repeated criminal activity.¹²⁵ Thus, parties to a crime are not responsible to initiate any procedural activity.¹²⁶ However, even with Ms. Acosta Castellón's attempted involvement with her consistent appeals and accusations against Mr. Tsokos and Mr. Martínez Fox, the State failed to meet its obligations.¹²⁷

First, the State did not conduct an adequate due diligence by failing to exhaustively explore all lines of investigation relevant to Mr. García Valle's murder.¹²⁸ Ms. Acosta Castellón's statement of April 16, 2002 guided the State to identify a potential motive for her husband's murder.¹²⁹ Yet, the State failed to acknowledge her hypothesis that Mr. Tsokos and Mr. Martínez Fox, in an effort to prevent the sale of the Pearl Cays, retaliated against her by murdering her husband.¹³⁰ Additionally, because Ms. Acosta Castellón is a human rights defender, the State is

122. Acosta et al. v. Nicaragua, Preliminary Objections, Merits, Reparations and Costs, ¶ 1.

123. *Id.* ¶ 252.

124. *Id.* ¶ 131.

125. *Id.* ¶ 132.

126. *Id.*

127. *Id.* ¶ 252.

128. Acosta et al. v. Nicaragua, Preliminary Objections, Merits, Reparations and Costs, ¶¶ 136, 143.

129. *Id.* ¶¶ 137, 139, 140, 143.

130. *Id.*

held to a higher burden of responsibility to ensure Ms. Acosta Castellón can freely and safely conduct her work.¹³¹

Instead, authorities searched Mr. Tsokos's residence less rigorously to avoid police interest, and the District Court Judge only acknowledged the statements of the alleged principals, Mr. Toskos and Mr. Martínez Fox.¹³² Furthermore, authorities failed to obtain witness statements to identify whether or not Mr. Tsokos or Mr. Martínez Fox had a contributory role in Mr. García Valle's murder.¹³³ In fact, within two months, authorities dismissed Mr. Tsokos and Mr. Martínez Fox as suspects.¹³⁴ Later, it was revealed that the murder weapon belonged to Mr. Tsokos.¹³⁵ Following that discovery, Mr. Argüello Rivera made a statement on live radio that Mr. Tsokos had orchestrated Mr. García Valle's murder.¹³⁶ Yet, the District Court Judge steadfastly refused to give credence to any causal link between the crime and Mr. Tsokos and Mr. Martínez Fox as its perpetrators.¹³⁷

Second, the State obstructed Ms. Acosta Castellón from actively partaking in the investigation.¹³⁸ Rather, the District Court immediately opened an investigation against her for abetting her husband's murderers.¹³⁹ The Court further failed to provide a safe avenue for her to participate in her own criminal accusation, despite knowing she had fled to Chinandega.¹⁴⁰ The District Court Judge refused to allow Ms. Acosta Castellón to testify in front of the local court in Chinandega and instead issued a warrant for her arrest.¹⁴¹ Then, when Ms. Acosta Castellón's attorney, Mr. Lacayo Ortiz, appeared to represent her, the District Court Judge rejected him and failed to appoint her a public defender in his place.¹⁴² Ms. Acosta Castellón's representative was only allowed to intervene on May 13, 2002, the exact moment it no longer mattered, as Mr. Tsokos and Mr. Martínez Fox were dismissed the same day.¹⁴³

131. *Id.* ¶ 140.

132. *Id.* ¶ 145.

133. *Id.* ¶ 146.

134. Acosta et al. v. Nicaragua, Preliminary Objections, Merits, Reparations and Costs, ¶ 148.

135. *Id.* ¶ 146.

136. *Id.*

137. *Id.*

138. *Id.* ¶ 149.

139. *Id.* ¶ 150.

140. Acosta et al. v. Nicaragua, Preliminary Objections, Merits, Reparations and Costs, ¶ 151.

141. *Id.*

142. *Id.* ¶ 152.

143. *Id.* ¶ 154.

*Considering the obstacles Ms. Acosta Castellón faced, any failure to present timely evidence was not of her own volition.*¹⁴⁴

*Third, the District Court unlawfully or prematurely issued a dismissal in favor of the alleged principals and then incorrectly ruled that Ms. Acosta Castellón's appeal was void, which ruling the higher courts also failed to overturn.*¹⁴⁵ *Per Article 186 of the Code of Criminal Instruction of Nicaragua, a definitive dismissal is only given if there was no crime, or the crime is not legally punishable, or if the accused is proven innocent.*¹⁴⁶ *If there is not enough evidence to confirm the accused's participation in the crime, the judge is responsible to declare a provisional dismissal pending further evidence.*¹⁴⁷ *This is to ensure the authorities can expeditiously continue the case.*¹⁴⁸ *Even though there was a hypothesis that Mr. Tsokos and Mr. Martínez Fox were the masterminds of the murder, the District Court dismissed them only about a month after investigations began.*¹⁴⁹

*Following the dismissal, three days later, Ms. Acosta Castellón filed an appeal, which the Court denied due to a "lack of photocopying paper."*¹⁵⁰ *Although Ms. Acosta Castellón's representatives argued that the procedural paper requirement was in disuse and even offered to deposit its monetary value with the secretariat, the District Court held the appeal was void.*¹⁵¹ *Irrespective of the actual status of such paper requirement in Nicaraguan law, such a requirement is contrary to Article 8(1) (Right to a Hearing within a Reasonable Time by a Competent and Independent Tribunal).*¹⁵² *As previously established by the Court, "the procedural system is a means to carry out justice and [that] it cannot be sacrificed for the sake of mere formalities."*¹⁵³ *The photocopying paper requirement cannot either be justified as reasonably needed to administrate justice.*¹⁵⁴ *Moreover, the issue could have been easily remedied if the District Court Judge had permitted Ms. Acosta Castellón's representative to deposit the paper's monetary value with the secretariat.*¹⁵⁵

144. *Id.*

145. *Id.* ¶ 155.

146. Acosta et al. v. Nicaragua, Preliminary Objections, Merits, Reparations and Costs, ¶ 157.

147. *Id.*

148. *Id.*

149. *Id.* ¶¶ 156, 159.

150. *Id.* ¶ 161.

151. *Id.*

152. Acosta et al. v. Nicaragua, Preliminary Objections, Merits, Reparations and Costs, ¶ 163.

153. *Id.* (brackets in original).

154. *Id.*

155. *Id.* ¶ 164.

The Appeals Tribunal then committed the same error regarding formalities as the District Court did when it held the “extraordinary appeal in fact” was defective because of how it was titled and refused to accept it even after the defect was remedied.¹⁵⁶ Finally, the Supreme Court failed to correct the lower courts, upholding the res judicata bar, claiming the initial dismissal had never been appealed because Ms. Acosta Castellón’s first appeal was void due to the paper requirement.¹⁵⁷ By issuing the definite dismissal of Mr. Tsokos and Mr. Martínez Fox, whether illegal or premature, the District Court Judge set off a series of events that effectively shielded the State from the responsibility to investigate the new evidence.¹⁵⁸

Fourth, the Court discussed whether the judges in the Nicaraguan court system lacked independence and were biased, which would defeat the purpose of separating government powers in order to guarantee an impartial judicial system.¹⁵⁹ As previously determined, the murder investigation was non-exhaustive, and the proceedings were irregular both with regards to Ms. Acosta Castellón’s status as a suspect and the impunity of Mr. Tsokos and Mr. Martínez Fox.¹⁶⁰ Thus, the Court reasoned that the methods in place to address a potential Judge’s bias were ineffective, violating Article 8(1) (Right to a Hearing within a Reasonable Time by a Competent and Independent Tribunal) of the Convention.¹⁶¹ However, the Court further reasoned that since insufficient evidence had been presented to show that the procedures in place were lacking as a result of an inadequate judicial appointment, the State was not responsible for a lack of judicial independence under Article 8(1).¹⁶²

Fifth, the Court found that the State violated the guarantee of “reasonable time” under Article 8(1) (Right to a Hearing within a Reasonable Time by a Competent and Independent Tribunal) with respect to the overall proceeding, as it lasted four years and eight months until the cassation appeal was rejected by the Supreme Court.¹⁶³ Specifically, the Court discussed the alleged decisions, on the disciplinary complaints,

156. *Id.* ¶ 168.

157. *Id.*

158. Acosta et al. v. Nicaragua, Preliminary Objections, Merits, Reparations and Costs, ¶ 169.

159. *Id.* ¶¶ 170, 171.

160. *Id.* ¶ 173.

161. *Id.* ¶ 175.

162. *Id.* ¶ 176.

163. *Id.* ¶¶ 178-79.

of May 2005 and June 2006 that only reached Ms. Acosta Castellón in 2016, evidencing the mockery and delays in such proceedings.¹⁶⁴

Additionally, with respect to the civil claims against Ms. Acosta Castellón, the Court considered that the State had a responsibility to act diligently and within a reasonable period of time to ensure the claims were not just forms of intimidation to discredit her work as a human rights defender.¹⁶⁵ This was certainly the case with respect to another human rights defender whose rights to resolve a proceeding within a reasonable period of time were violated because a criminal proceeding against him was left open with no procedural activity for five years.¹⁶⁶ However, here, with respect to the civil claims, there was no violation of the guarantee of reasonable time under Article 8(1), as there was insufficient evidence to establish the proceedings against Ms. Acosta Castellón were unreasonably lengthy.¹⁶⁷

Finally, the Court found that, in the same criminal proceeding to determine the circumstances surrounding her husband's murder, the domestic court systems considered Ms. Acosta Castellón both a victim and a suspect.¹⁶⁸ Despite numerous arguments by Ms. Acosta Castellón's representatives and the Prosecuting office to annul the proceeding given this irregularity, the various judges involved in the proceedings never acknowledged the arguments.¹⁶⁹ This violated the guarantees of due process to be heard in court under Article 8(1) (Right to a Hearing within a Reasonable Time by a Competent and Independent Tribunal).¹⁷⁰

Accordingly, and as a result of the above considerations, the Court determined that the State had violated Article 8(1) (Right to A Hearing Within a Reasonable Time by a Competent and Independent Tribunal) and Article 25 (Right to Judicial Protection) to the detriment of Ms. Acosta Castellón and Mr. García Valle's parents and children.¹⁷¹

164. Acosta et al. v. Nicaragua, Preliminary Objections, Merits, Reparations and Costs, ¶ 180.

165. *Id.* ¶ 192.

166. *Id.* ¶ 195.

167. *Id.* ¶ 196.

168. *Id.* ¶ 187.

169. *Id.*

170. Acosta et al. v. Nicaragua, Preliminary Objections, Merits, Reparations and Costs, ¶ 187.

171. *Id.* ¶ 252.

Article 8(2) (Right to Be Presumed Innocent), in relation to Article 1(1) (Obligation of Non-Discrimination) of the Convention, to the detriment of Ms. Acosta Castellón,¹⁷² because:

The State violated Ms. Acosta Castellón's right to be presumed innocent because her attorney was not permitted to represent her, and she was never assigned a public defender.¹⁷³ Thus, she was imputed with her own husband's murder until the District Court Judge finally recognized her attorney.¹⁷⁴ Moreover, the District Court Judge inappropriately made a series of statements regarding his decision which served to informally condemn her in public opinion.¹⁷⁵ He stated that Ms. Acosta Castellón's statement that alleged the involvement of Mr. Tsokos and Mr. Martínez Fox "perfectly fits to point out as a cover for the murder of her husband."¹⁷⁶ Thus, the State violated Ms. Acosta Castellón's Right to Be Presumed Innocent under Article 8(2).¹⁷⁷

Article 5(1) (Right to Physical, Mental, and Moral Integrity), to the detriment of Ms. Acosta Castellón,¹⁷⁸ because:

The Court indicated that an Article 5 (Right to Humane Treatment) violation requires a finding of exacerbated suffering beyond the inherent pain caused by the loss of a loved one.¹⁷⁹ Satisfying this standard depends on the particular facts at issue and whether the victim suffered additionally in the face of subsequent acts by state authorities.¹⁸⁰ Here, the Court reasoned that Ms. Acosta Castellón not only experienced the loss of her husband, but also suffered due to the lack of closure caused by the incompetent judiciary system and the authorities' poor investigations.¹⁸¹ Because of that, she felt the constant aggravation of the impunity afforded to the masterminds.¹⁸² Additionally, she suffered the stigmatization of being accused of her husband's murder and of being the subject of baseless legal actions initiated by Mr. Tsokos and Mr. Martínez

172. *Id.* ¶¶ 188, 191.

173. *Id.* ¶ 188.

174. *Id.*

175. *Id.* ¶ 191.

176. *Acosta et al. v. Nicaragua*, Preliminary Objections, Merits, Reparations and Costs, ¶ 191.

177. *Id.*

178. *Id.* ¶ 200.

179. *Id.* ¶ 199.

180. *Id.* ¶

181. *Id.* ¶ 200.

182. *Acosta et al. v. Nicaragua*, Preliminary Objections, Merits, Reparations and Costs, ¶ 200.

*Fox.*¹⁸³ Thus, her right to mental and moral integrity under Article 5(1) was violated.¹⁸⁴

The Court unanimously declined to issue a ruling on whether Nicaragua had violated:

Article 5 (Right to Humane Treatment) of the Convention, to the detriment of Mr. García Valle's children and parents,¹⁸⁵ because:

*While it was only natural that Mr. García Valle's next of kin suffered deeply because of his murder, it was inappropriate to consider their pain in terms of a violation.*¹⁸⁶

Article 11(1) (Right to Honor and Dignity) and Article 11(2) (Prohibition of Arbitrary Interference with Private Life, Family, Home, Correspondence, and of Unlawful Attacks on Honor, and Dignity) of the Convention, to the detriment of Ms. Acosta Castellón, her children and Mr. García Valle's parents,¹⁸⁷ because:

*As to Ms. Acosta Castellón, the Court reasoned that the Right to Honor is related to individual self-worth and is closely linked to others' opinions of the individual.*¹⁸⁸ *While the District Court Judge's media statements damaging Ms. Acosta Castellón's reputation may have had a psychosocial effect on Ms. Acosta Castellón and her relatives, those impacts were already analyzed under Articles 5(1) (Right to Physical, Mental, and Moral Integrity) and 8(2) (Right to a Hearing within a Reasonable Time by a Competent and Independent Tribunal).*¹⁸⁹ *As to Ms. Acosta Castellón's relatives, there was no evidence presented on their Right to Honor to satisfy a violation of these offenses.*¹⁹⁰

Article 1(1) (Obligation of Non-Discrimination), Article 2 (Obligation to Give Domestic Legal Effect to Rights), Article 13(1) (Right to Seek, Receive, and Impart Information and Ideas), Article 15 (Right of Peaceful Assembly), Article 16(1) (Freedom of Association for Any Purpose), Article 23(1)(a) (Right to Participate in Public Affairs),

183. *Id.*

184. *Id.*

185. *Id.* ¶ 201.

186. *Id.*

187. *Id.* ¶ 205.

188. Acosta et al. v. Nicaragua, Preliminary Objections, Merits, Reparations and Costs, ¶ 204.

189. *Id.* ¶ 205.

190. *Id.*

Article 23(1)(b), (Right to Elect and Be Elected) and Article 23(1)(c) (Right to Have Access to Public Service) of the Convention,¹⁹¹ because:

The Court determined that these alleged violations specifically related to Ms. Acosta Castellón's work as a human rights defender, but the Court had already considered the relevance of her position under Articles 8 (Right to a Fair Trial) and 25 (Right to Judicial Protection).¹⁹² Furthermore, the Court found that it lacked the evidence to find the State was responsible for violating these articles.¹⁹³

IV. REPARATIONS

The Court ruled unanimously that the State had the following obligations:

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

1. Obligation to Investigate

The Court ordered the State to continue to investigate the circumstances of Mr. Garcia Valle's murder, identify, judge and punish any responsible party.¹⁹⁴ This includes any disciplinary measures needed to sanction irregularities and omissions in the judicial process which enabled the situation of impunity— among them the “*res judicata* fraudulent” ruling.¹⁹⁵ Furthermore, as the Court determined that the State unlawfully dismissed Mr. Tsokos and Mr. Martínez Fox, the proceedings against them must continue.¹⁹⁶ Consequently, the State may not compute the amount of time they had been dismissed into the length of the term of the criminal action against Mr. Tsokos and Mr. Martínez Fox.¹⁹⁷

2. Judgment as a Form of Reparation

The Court indicated that the Judgment is a form of reparation.¹⁹⁸

191. *Id.* ¶ 208.

192. *Id.*

193. *Id.*

194. Acosta et al. v. Nicaragua, Preliminary Objections, Merits, Reparations and Costs, ¶ 215.

195. *Id.*

196. *Id.* ¶ 216.

197. *Id.*

198. *Id.* ¶ 218.

3. Implement Protection Mechanisms for Human Rights Workers

The Court directed the State to take into account the risk inherent in human rights work and develop protection mechanisms and investigation procedures in cases of threats and aggression to human rights workers.¹⁹⁹ These mechanisms should be aimed at identifying and punishing those responsible for the attacks and effectively ensuring the safety of the victim, relatives and witnesses.²⁰⁰ The State must provide annual reports on the actions it has taken to establish these mechanisms.²⁰¹

In order to implement these protection mechanisms, the Court established the following requirements: (1) involve human rights defenders, the Office of the Procurator for the Defense of Human Rights, civilians and experts in developing standards to regulate the protection program; (2) base the protection program on a risk based analysis and address situations expansively and inter-institutionally and give immediate attention to complaints by human rights defenders; (3) create a risk-analysis model which adequately determines the risk and protection needs of a particular defender; (4) create a management information system to track prevention and protection of aggression against defenders and promote a culture which legitimizes and protects the work of human rights defenders; and (5) provide enough human and financial resources to respond to actual protection needs.²⁰²

B. Compensation

1. Pecuniary Damages

The Court awarded \$22,000 in consequential damages to Ms. Acosta Castellón due to the expenses she sustained from moving residences and from her numerous efforts to bring attention to her case.²⁰³ The Court awarded \$25,000 in loss of profits for the period Ms. Acosta Castellón spent without income due to her state of mind and need to address the case.²⁰⁴

199. *Id.* ¶ 223.

200. *Acosta et al. v. Nicaragua*, Preliminary Objections, Merits, Reparations and Costs, ¶ 223.

201. *Id.* ¶ 224.

202. *Id.* ¶ 223.

203. *Id.* ¶ 234.

204. *Id.* ¶ 235.

2. Non-Pecuniary Damages

The Court awarded \$60,000 to Ms. Acosta Castellón as compensation for non-pecuniary damages.²⁰⁵ The Court awarded \$20,000 each to Ana María and Álvaro Arístides Vergara Acosta, Leonor del Carmen Valle de García and Rodolfo García Solari.²⁰⁶

3. Costs and Expenses

The Court awarded \$20,000 to CALPI and \$15,000 to CEJUDHCAN and CENIDH for the organizations' costs and expenses.²⁰⁷ For the Victims Legal Assistance Fund, the Court ordered \$2,722 to reimburse expenses in applying the Fund to this case.²⁰⁸

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

\$224,722

C. Deadlines

The State must publish the Judgment within six months.²⁰⁹ The State must provide the first annual report on implementing protective measures within one year.²¹⁰ The State must reimburse the Court within six months for the Victims' Legal Assistance Fund.²¹¹

V. INTERPRETATION AND REVISION OF JUDGMENT

[None]

VI. COMPLIANCE AND FOLLOW-UP

[None]

205. *Id.* ¶ 239.

206. *Acosta et al. v. Nicaragua*, Preliminary Objections, Merits, Reparations and Costs, ¶ 239.

207. *Id.* ¶ 242.

208. *Id.* ¶ 245.

209. *Id.* ¶ 218.

210. *Id.* ¶ 224.

211. *Id.* ¶ 245.

VII. LIST OF DOCUMENTS

A. *Inter-American Court*

1. Preliminary Objections

[None]

2. Decisions on Merits, Reparations and Costs

Acosta et al. v. Nicaragua, Preliminary Objections, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 12.792 (Mar. 5, 2017).

3. Provisional Measures

Acosta et al. v. Nicaragua, Provisional Measures, Victims Legal Assistance Fund, Order of the President, Inter-Am. Ct. H.R. (June 16, 2016).

Acosta et al. v. Nicaragua, Provisional Measures, Order of the President, Inter-Am. Ct. H.R. (Sept. 2, 2016).

Acosta et al. v. Nicaragua, Provisional Measures, Order of the President, Inter-Am. Ct. H.R. (Sept. 28, 2016).

Acosta et al. v. Nicaragua, Provisional Measures, Order of the Court, Inter-Am. Ct. H.R. (Oct. 20, 2016).

Acosta et al. v. Nicaragua, Provisional Measures, Victims Legal Assistance Fund, Order of the President, Inter-Am. Ct. H.R. (June 16, 2016).

4. Compliance Monitoring

[None]

5. Review and Interpretation of Judgment

[None]

B. Inter-American Commission

1. Petition to the Commission

[Included with Report on Merits]

2. Report on Admissibility

Acosta et al. v. Nicaragua, Admissibility Report, Report No. 148/10, Inter-Am. Comm'n H.R., Case No. 12.792 (Nov. 1, 2010).

3. Provisional Measures

[None]

4. Report on Merits

Acosta et al. v. Nicaragua, Report on Merits, Report No. 22/15, Inter-Am. Comm'n H.R., Case No. 12.792 (Mar. 26, 2005).

5. Application to the Court

[None]

VIII. BIBLIOGRAPHY

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