

# Almonacid Arellano et al. v. Chile

## ABSTRACT<sup>1</sup>

*This case is about the arbitrary arrest and murder of a professor and community activists during the days following the coup by the Chilean military junta against President Allende. When democracy returned to Chile in the 1990s, little progress was made towards holding those responsible for Mr. Almonacid Arellano's death accountable, as amnesty laws barred prosecution. The Court declared Chile in violation of the American Convention.*

## I. FACTS

### A. Chronology of Events

**September 16, 1973:** Chilean police, under the command of Raúl Neveu Cortesi and Manuel Segundo Castro Osorio, arrest forty-two-year-old professor and Chilean Communist Party activist Mr. Luis Alfredo Almonacid Arellano at his home in the city of Rancagua.<sup>2</sup> Police detain, push, beat, and insult Mr. Almonacid Arellano in front of his family.<sup>3</sup> As Mr. Almonacid Arellano leaves his house to go to the police truck, Mr. Neveu Cortesi shoots Mr. Almonacid Arellano.<sup>4</sup> The police then transport Mr. Almonacid Arellano to the Rancagua hospital.<sup>5</sup>

**September 17, 1973:** In the hospital, Mr. Almonacid Arellano dies from his gunshot wound.<sup>6</sup>

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1. Diane Chang, Author; Nathaniel Reinhardt, Editor; Kathryn Benson, Chief IACHR Editor; Cesare Romano, Faculty Advisor.

2. Almonacid Arellano et al. v. Chile, Preliminary Objections, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 154, ¶¶ 82(8), 104 (Sept. 26, 2006); Almonacid Arellano et al. v. Chile, Admissibility Report, Report N. 44/02[1], Inter-Am. Comm'n H.R., Case No. 12.057, ¶ 8 (Oct. 9, 2002).

3. Almonacid Arellano et al. v. Chile, Admissibility Report, ¶ 8.

4. Almonacid Arellano et al. v. Chile, Preliminary Objections, Merits, Reparations and Costs, ¶ 82(8); Almonacid Arellano et al. v. Chile, Admissibility Report, ¶ 8.

5. Almonacid Arellano et al. v. Chile, Preliminary Objections, Merits, Reparations and Costs, ¶ 82(8).

6. *Id.*

**October 3, 1973:** The First Criminal Court of Rancagua (“Criminal Court”) opens case no. 40.184 to investigate Mr. Almonacid Arellano’s death.<sup>7</sup>

**November 7, 1973:** The Criminal Court dismisses the case.<sup>8</sup>

**December 7, 1973:** The Appellate Court of Rancagua (“Appellate Court”) revokes the Criminal Court’s dismissal, but the Criminal Court continues to dismiss the case, and the Appellate Court continues to reverse.<sup>9</sup>

**September 4, 1974:** The Appellate Court confirms a temporary dismissal of the case.<sup>10</sup>

**April 18, 1978:** President Augusto Pinochet’s government issues Decree Law No. 2.191, granting amnesty for certain crimes committed during the state of siege from September 11, 1973 to March 10, 1978, if the perpetrators are not currently subject to legal proceedings or not already sentenced.<sup>11</sup>

**November 4, 1992:** Mrs. Elvira del Rosario Gómez Olivares, Mr. Almonacid Arellano’s wife, requests the reopening of case no. 40.184 and brings charges before the Criminal Court.<sup>12</sup> The Criminal Court orders a temporary dismissal of the case to receive the testimonies of Mr. Castro Osorio and Mr. Neveu Cortesi.<sup>13</sup>

**April 5, 1994:** The Criminal Court concludes that it does not have jurisdiction over the case and transfers it to the Military and Police Prosecutor’s Office of San Fernando.<sup>14</sup>

**April 8, 1994:** Mrs. Gómez Olivares files motions for reconsideration following the Criminal Court’s April 5, 1994 decision, which the Crim-

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7. *Id.* ¶ 82(9).

8. *Id.*

9. *Id.*

10. *Id.*

11. *Id.* ¶ 82(10).

12. *Id.* ¶ 82(11).

13. *Id.*

14. *Id.* ¶ 82(12).

inal Court overrules and forwards to the Appellate Court.<sup>15</sup> The Appellate Court revokes the Criminal Court's declaration of lack of jurisdiction, finding that the investigation has not been completed.<sup>16</sup>

**December 23, 1994:** The Criminal Court declares the preliminary investigation into Mr. Almonacid Arellano's case completed.<sup>17</sup>

**December 28, 1994:** Mrs. Gómez Olivares requests an annulment of the Criminal Court's December 23, 1994 decision.<sup>18</sup>

**January 2, 1995:** In response to the annulment request, the Criminal Court sets aside its decision to close the investigation.<sup>19</sup>

**February 8, 1995:** The Criminal Court again closes the investigation.<sup>20</sup>

**February 15, 1995:** The Criminal Court orders the final dismissal of Mr. Almonacid Arellano's case under Decree Law No. 2.191, granting the perpetrators amnesty for their crimes.<sup>21</sup> The Appellate Court once again revokes this dismissal on the grounds that the investigation has not been sufficiently completed, but the Criminal Court later declares the investigation closed once again.<sup>22</sup> The Appellate Court not only objects to the resolution, but it also orders the Criminal Court to hold Mr. Neveu Cortesi criminally liable.<sup>23</sup>

**August 31, 1996:** The Criminal Court brings accomplice charges against Mr. Castro Osorio and murder charges against Mr. Neveu Cortesi for the death of Mr. Almonacid Arellano.<sup>24</sup> The Criminal Court orders the arrest of Mr. Castro Osorio and instructs the police department to bring Mr. Neveu Cortesi before it.<sup>25</sup>

**October 3, 1996:** The Criminal Court releases Mr. Castro Osorio on

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15. *Id.*

16. *Id.*

17. *Id.* ¶ 82(13).

18. *Id.*

19. *Id.*

20. *Id.*

21. *Id.*

22. *Id.*

23. *Id.*

24. *Id.* ¶ 82(14).

25. *Id.*

bail, which the Appellate Court confirms a day later.<sup>26</sup>

**October 5, 1996:** Mr. Castro Osorio appeals the charges against him; the Appellate Court revokes the charges and declares Mr. Castro Osorio not indictable.<sup>27</sup>

**September 27, 1996:** The Second Military Court (“Military Court”) of Santiago requests jurisdiction over the case, stating that the accused parties were on active duty under military jurisdiction at the time of Mr. Almonacid Arellano’s arrest and death.<sup>28</sup> The Military Court further asserts that Decree Law No. 5 of September 12, 1973, which declared a state of siege on the grounds of civil unrest, was in force at the time of the incident.<sup>29</sup>

**October 7, 1996:** The Criminal Court denies the Military Court’s request for jurisdiction, contending that there are no grounds to assume the alleged perpetrators were on active duty at the time of the incident.<sup>30</sup>

**December 5, 1996:** On appeal, the Supreme Court finds that the Military Court possesses jurisdiction over the case.<sup>31</sup>

**December 16, 1996:** The Second Military and Police Prosecutor’s Office of Santiago opens an investigation into the case.<sup>32</sup>

**January 28, 1997:** The Military Court dismisses the case under Decree Law No. 2.191 without analyzing evidence obtained through the investigation.<sup>33</sup>

**February 26, 1997:** Mrs. Gómez Olivares files a motion appealing the Military Court’s final dismissal.<sup>34</sup> The motion notes that the dismissal does not guarantee social peace or stability; moreover, international law

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26. *Id.* ¶ 82(15).

27. *Id.*

28. *Id.* ¶82(16).

29. *Id.*

30. *Id.*

31. *Id.* ¶ 82(17).

32. *Id.* ¶ 82(18).

33. *Id.* ¶ 82(19).

34. *Id.* ¶ 82(21).

renders the amnesty law impermissible.<sup>35</sup>

**March 25, 1998:** The Court Martial affirms the Military Court's dismissal and rejects Mrs. Gómez Olivares' arguments.<sup>36</sup> One member of the Court Martial dissents, pointing to the Geneva Convention's provision that war crimes are not subject to amnesty.<sup>37</sup>

**April 9, 1998:** Mrs. Gómez Olivares files a motion for review of the Court Martial's judgment, arguing: (1) that criminal procedure does not permit final dismissals if the investigation has not concluded; (2) that the case falls under the jurisdiction of international law, as it involves murder committed by state agents, and amnesty of such acts is prohibited under international legal norms; (3) Mr. Almonacid Arellano's next of kin are entitled to truth and justice, a right superior to the rights of government and military amnesty in times of war; (4) that the Geneva Convention infers that gross violations, such as Mr. Almonacid Arellano's murder, are not subject to amnesty.<sup>38</sup>

**April 16, 1998:** The Supreme Court declares the motion time-barred.<sup>39</sup>

**November 11, 1998:** The Supreme Court closes the case file.<sup>40</sup>

### *B. Other Relevant Facts*

[None]

## II. PROCEDURAL HISTORY

### *A. Before the Commission*

**September 15, 1998:** Mr. Mario Máquez Maldonado and Mrs. Gómez Olivares file petition no. 12.057 before the Inter-American Commission on Human Rights ("the Commission").<sup>41</sup>

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35. *Id.*

36. *Id.*

37. *Id.*

38. *Id.* ¶ 82(22).

39. *Id.* ¶ 82(23).

40. *Id.*

41. *Id.* ¶ 6.

**October 9, 2002:** The Commission issues Admissibility Report No. 44/02, in which it declares the petition admissible under Articles 1(1) (Obligation to Respect Rights), 8 (Right to a Fair Trial), and 25 (Right to Judicial Protection) of the American Convention.<sup>42</sup>

**March 7, 2005:** The Commission issues Report on the Merits No. 30/05, in which it concludes that the State violated Articles 8 (Right to a Fair Trial) and 25 (Right to Judicial Protection) of the American Convention.<sup>43</sup> The Commission finds that the actions of State authorities contributed to a lack of prosecution, capture, and conviction of those responsible for the murder of Mr. Almonacid Arellano.<sup>44</sup> Additionally, the Commission found that Decree Law No. 2.191 is invalid and that the State's failure to repeal the law is a violation of the American Convention.<sup>45</sup> The Commission recommends that the State: (1) conduct a complete and impartial investigation in order to find those responsible for the murder of Mr. Almonacid Arellano; (2) repeal Decree Law No. 2.191; (3) ensure the adequacy of domestic protections and legal mechanisms for victims' rights, specifically for the period between September 1973 and March 1990; and (4) grant full compensation to the relatives of Mr. Almonacid Arellano.<sup>46</sup>

### *B. Before the Court*

**July 11, 2005:** The Commission submits the case to the Court after the State failed to adopt its recommendations.<sup>47</sup>

#### 1. Violations Alleged by Commission<sup>48</sup>

Article 8 (Right to a Fair Trial)

Article 25 (Right to Judicial Protection)

*all in relation to:*

42. *Id.* ¶ 7.

43. *Id.* ¶ 8.

44. Almonacid Arellano et al. v. Chile, Petition to the Court, Inter-Am. Comm'n H.R., Case No. 12.057, ¶ 64 (July 11, 2005).

45. *Id.* ¶¶ 96–97.

46. *Id.* ¶¶ 149(a)–(d).

47. *Id.* ¶ 12.

48. *Id.* ¶ 40(a). Evelio Fernández Arévalos, Santiago A. Canton, Ariel E. Dulitzky, Victor H. Madrigal Borloz, Juan Pablo Albán, and Christina M. Cerna serve as representatives of the Commission. *Id.* ¶ 2.

Article 1(1) (Obligation to Respect Rights)

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

## 2. Violations Alleged by Representatives of the Victims<sup>49</sup>

Same Violations Alleged by Commission.

**November 26, 2005:** The State files its answering brief with preliminary objections and comments.<sup>50</sup> The State alleges the Court lacks competence to hear the case and further alleges a procedural violation by the Commission, specifically that it infringed upon the State's right to be heard.<sup>51</sup>

**February 7, 2006:** The President of the Court ("President") summons the Commission, Mr. Máquez Maldonado, and the State to a public hearing scheduled for March 29, 2006.<sup>52</sup> The President further informs the parties that they may submit final written arguments on preliminary objections, merits, reparations and indemnities, legal costs and expenses until May 12, 2006.<sup>53</sup>

**March 29, 2006:** The Court holds a public hearing in Brasilia, Brazil.<sup>54</sup>

**April 19, 2006:** The *Asociación Americana de Juristas de Valparaíso/Aconcagua* files an amicus curiae brief.<sup>55</sup>

**June 14, 2006:** The Commission challenges the State's appendixes to the final written arguments on the grounds that the State had not filed the documents at the right procedural stage and thus should be dismissed.<sup>56</sup>

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49. *Id.* ¶ 41. Mario Márquez Maldonado serves as representative of Mr. Almonacid Arellano and his next of kin. *Id.* ¶ 13.

50. *Id.* ¶ 17.

51. *Id.*

52. *Id.* ¶ 20.

53. *Id.*

54. *Id.* ¶ 28.

55. *Id.* ¶ 30.

56. *Id.* ¶ 34.

### III. MERITS

#### *A. Composition of the Court*<sup>57</sup>

Sergio García Ramirez, President  
Alirio Abreu Burelli, Vice President  
Antônio A. Cançado Trindade, Judge  
Manuel E. Ventura Robles, Judge  
Diego García-Sayán, Judge

Pablo Saavedra Alessandri, Secretary  
Emilia Segares Rodríguez, Deputy Secretary

#### *B. Decision on the Merits*

**September 26, 2006:** The Court issues its Judgment on Preliminary Merits, Reparations, and Costs.<sup>58</sup>

*In response to the State's preliminary objections, as well as the additional presumed objection that the petitioners had not exhausted domestic remedies,<sup>59</sup> the Court declared that on August 21, 1990, the State had recognized the Court's jurisdiction as binding on all matters relating to the interpretation and application of the Convention.<sup>60</sup>*

*On April 15, 2005, the State requested an extension of time to adopt the Commission's recommendations in the Report on the Merits No. 30/05, on the grounds that the Report had not been attached in full to the communication dated April, 11, 2005.<sup>61</sup> The Commission denied the*

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57. Judge Oliver Jackman did not participate in the deliberation and passage of the Judgment for reasons of *force majeure*. Judge Cecilia Medina-Quiroga declined to take part in the deliberation and passage of this judgment, as she is of Chilean nationality. *Id.* n.\*.

58. *Almonacid Arellano et al. v. Chile, Preliminary Objections, Merits, Reparations, and Costs.*

59. *Id.* ¶ 38.

60. *Id.* ¶ 42.

61. *Id.* ¶ 52(a).



*State's request for an extension.*<sup>62</sup> As a result, the State objected that the Commission hastily referred the case to the Court without having considered the State's report on compliance with the Commission's recommendations.<sup>63</sup> However, on June 24, 2005, the State had requested an extension until July 8, 2005, and on June 27, 2005, the Commission granted an extension until July 1, 2005.<sup>64</sup> On July 11, 2005, the State had not yet submitted a report to the Commission regarding the measures it had adopted to comply with recommendations; the Commission subsequently referred the case to the Court.<sup>65</sup>

*The Court declared that there was no controversy over the fact that the Commission informed the State of the Report on the Merits No. 30/05 on April 11, 2005, and that there was a deadline for the State to comply with recommendations by June 11, 2005.*<sup>66</sup> The Court subsequently found that the State submitted its report beyond the deadline and that the Commission proceeded pursuant to its rules and those of the American Convention.<sup>67</sup> The fact that the full version of the Report was not received did not affect the Court's conclusion, especially since the Commission granted the State an extension until July 1, 2005.<sup>68</sup>

*The Court noted that the State did not specifically raise the formal objection of lack of exhaustion of domestic remedies, but the State pointed out that the victims' representatives did not pursue the remedies available in order to submit the matter to the jurisdiction of the Supreme Court of Chile.*<sup>69</sup> The Court reaffirmed the criteria for filing an objection for failure to exhaust domestic remedies.<sup>70</sup> The Court pointed out that the failure to exhaust remedies is an admissibility issue and that the State must express which domestic remedies should be exhausted and prove the effectiveness thereof.<sup>71</sup> Moreover, for the objection to be considered timely, it should be filed at the admissibility stage before the Commission; otherwise, the State will be assumed to have waived its

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62. *Id.* ¶ 52(c).

63. *Id.* ¶ 55.

64. *Id.* ¶ 53(b).

65. *Id.* ¶¶ 53(b)–(d).

66. *Id.* ¶ 59.

67. *Id.* ¶ 61.

68. *Id.*

69. *Id.* ¶ 64.

70. *Id.*

71. *Id.*

right to assert it.<sup>72</sup> The Court noted that, during the proceeding before the Commission, the State did not invoke the objection and, as a result, implicitly waived its right to assert the objection.<sup>73</sup> Therefore, the Court dismissed the State's presumed argument of failure to exhaust domestic remedies.<sup>74</sup>

The Court found unanimously that the State violated:

Article 8 (Right to a Fair Trial) and Article 25 (Right to Judicial Protection) in relation to Articles 1(1) and 2 of the American Convention ("Convention"), to the detriment of Elvira del Rosario Gómez Olivares and Alfredo, Alexis, and José Luis Almonacid Gómez,<sup>75</sup> because:

*The State granted jurisdiction over the case to the military courts and acknowledged that it applied Decree Law No. 2.191.<sup>76</sup> In doing so, the State admitted to invoking domestic law to exonerate itself from responsibility.<sup>77</sup> The right of victims or their next of kin to know the truth behind harmful acts, and for the State to render punishment upon the responsible parties through investigation and prosecution, is provided in Articles 8 (Right to a Fair Trial) and 25 (Right to Judicial Protection) of the Convention.<sup>78</sup> These articles protect the unbiased truth, free from State manipulation or self-exoneration.<sup>79</sup> Further, pursuant to the Convention, the State may not invoke a statute of limitations or non-retroactivity of criminal law in order to circumvent its duty to investigate and punish parties responsible for wrongdoing.<sup>80</sup>*

*Crimes against humanity, including the State's crime against Mr. Almonacid Arellano, are not subject to amnesty; rather, they are intolerable in the international community and no one state can immunize itself against punishment through domestic law.<sup>81</sup>*

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72. *Id.*

73. *Id.*

74. *Id.*

75. *Id.* "Operative Paragraphs" ¶ 2.

76. *Id.* ¶ 146.

77. *Id.* ¶ 151.

78. *Id.* ¶ 148.

79. *Id.* ¶¶ 150–51.

80. *Id.* ¶ 151.

81. *Id.* ¶ 152.

*The State did not uphold its obligations to provide a fair trial and judicial protection when it heard Mr. Almonacid Arellano's case in its domestic and military courts.*<sup>82</sup> Additionally, the invocation of Decree Law No. 2.191 further prevented a fair criminal investigation and justice for Mr. Almonacid Arellano's family.<sup>83</sup> Thus, the Court found that the State violated Article 8 (Right to a Fair Trial) and Article 25 (Right to Judicial Protection) of the American Convention.<sup>84</sup>

### C. Dissenting and Concurring Opinions

#### 1. Concurring Opinion of Judge A. A. Cançado Trindade

In a separate opinion, Judge A. A. Cançado Trindade discussed three main issues deserving further reflection: (1) the illegitimacy of self-amnesties; (2) *jus cogens* and the inclusion of self-amnesties; and (3) crimes against humanity and the application of International Human Rights Law and International Criminal Law.<sup>85</sup>

Judge Cançado Trindade referred to the 2001 opinion of *Barrios Altos v. Peru*, in which the Court held that “all amnesty provisions, provisions on prescription and the establishment of measures designed to eliminate responsibility are inadmissible, because they are intended to prevent the investigation and punishment of those responsible for serious human rights violations, such as torture . . . arbitrary execution and forced disappearance, all of them prohibited because they violate non-derogable rights recognized by International Human Rights Law.”<sup>86</sup> This decision marked a landmark event as the first time an international court held that self-amnesty laws were unenforceable.<sup>87</sup>

Judge Cançado Trindade opined that the Court correctly categorized the State's Decree Law No. 2.191 as a self-amnesty law enacted to shield crimes perpetrated by the military regime between September 11, 1973, and March 10, 1978.<sup>88</sup> Because laws must not be arbitrary, they give expression to values in furtherance of a common good and cannot

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82. *Id.* ¶ 155.

83. *Id.*

84. *Id.* ¶ 146.

85. See *Almonacid Arellano et al. v. Chile*, Preliminary Objections, Merits, Reparations and Costs, Reasoned Opinion of Judge A.A. Cançado Trindade, Inter-Am. Ct. H.R. (ser. C) No. 154, ¶ 1 (Sept. 26, 2006).

86. *Id.* ¶ 2.

87. *Id.*

88. *Id.* ¶ 3.

be tossed aside in favor of self-interest.<sup>89</sup> By their very nature, Judge Cançado Trindade argued, self-amnesties are illegal aberrations that violate this principle.<sup>90</sup> Judge Cançado Trindade concluded that the principle of equality before the law is destroyed when certain entities immunize themselves from the legal ramifications of their acts.<sup>91</sup>

Finally, Judge Cançado Trindade illustrated cross-referencing between the Inter-American Court and the International Criminal Tribunal for Former Yugoslavia in that the latter court determined one act in severe violation of human rights may constitute a crime against humanity when arising from systematic oppression.<sup>92</sup> Over time, what became known as a “crime against humanity” originated first from customary international law and eventually evolved into *jus cogens*.<sup>93</sup>

#### IV. REPARATIONS

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

##### *A. Specific Performance*

##### 1. Set Aside Domestic Decisions and Investigate, Punish, and Prosecute Those Responsible

The State must refer the case to a regular criminal court for the investigation, prosecution, and punishment of responsible parties.<sup>94</sup> The State must uncover the truth behind the allegations through judicial proceedings.<sup>95</sup>

##### 2. Invalidate Domestic Statutes in Violation of International Law

The State may not invoke a domestic law exonerating itself from the obligation to investigate and punish crimes committed within its ju-

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89. *Id.* ¶ 7.

90. *Id.*

91. *Id.* ¶ 10.

92. *Id.* ¶ 27.

93. *Id.* ¶ 28.

94. *Almonacid Arellano et al. v. Chile, Preliminary Objections, Merits, Reparations and Costs*, ¶ 147.

95. *Id.* ¶ 150.

risdiction.<sup>96</sup> Consequently, the State may not apply Decree Law No. 2.191, the statute of limitations, or the non-retroactivity of criminal law.<sup>97</sup>

### 3. Conduct Measures with Transparency

The State must guarantee Mrs. Gómez Olivares and Alfredo, Alexis, and José Luis Almonacid Gómez full access to all stages of the investigation and full capacity to act, pursuant to State law as well as the provisions of the Convention.<sup>98</sup> The State must also publish the results of the investigation, revealing to the people the truth about the events that transpired in this case.<sup>99</sup>

### 4. Publish the Judgment

The State must publish the “Proven Facts” and “Operative Paragraphs” sections of the Judgment in both the Official Gazette and another nationally circulated newspaper.<sup>100</sup>

#### *B. Compensation*

The Court awarded the following amounts:

#### 1. Pecuniary Damages

The Court awarded Mrs. Gómez Olivares and her children \$98,000, plus educational benefits amounting to approximately \$12,180.<sup>101</sup>

#### 2. Non-Pecuniary Damages

The Court decided against awarding monetary compensation for non-pecuniary damages because it reasoned that the Judgment itself was a form of reparation.<sup>102</sup>

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96. *Id.* ¶ 151.

97. *Id.*

98. *Id.* ¶ 157.

99. *Id.*

100. *Id.* ¶ 162.

101. *Id.* ¶ 161.

102. *Id.*

### 3. Costs and Expenses

The Court awarded \$10,000 to Mrs. Gómez Olivares in order to compensate her representative for costs and expenses.<sup>103</sup>

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

\$120,180

### C. Deadlines

The State must remit payment for costs and expenses within a year of notification of the Judgment.<sup>104</sup> The State must publish the Judgment within six months of notification of the Judgment.<sup>105</sup> All remaining measures ordered must be implemented within a reasonable period of time.<sup>106</sup>

## V. INTERPRETATION AND REVISION OF JUDGMENT

[None]

## VI. COMPLIANCE AND FOLLOW-UP

**November 18, 2010:** The State fully complied with the Court's order to publish the Judgment.<sup>107</sup> The State additionally fully complied with its obligation to compensate Mrs. Gómez Olivares.<sup>108</sup>

The Court found that the State partially complied with its obligation to investigate, identify, and punish those responsible for Mr. Almonacid Arellano's death.<sup>109</sup> In October 2007, the State reopened the judicial investigation of the case, and the Rancagua Appellate Court appointed a special visiting judge to hear the case.<sup>110</sup> In December 2008,

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103. *Id.* ¶ 164.

104. *Id.* ¶ 165.

105. *Id.*

106. *Id.*

107. *Almonacid Arellano et al. v. Chile, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R., "Having Seen" ¶ 27 (Nov. 18, 2010).*

108. *Id.* ¶ 23.

109. *Id.* "Declares" ¶ 2.

110. *Id.* ¶ 6(a).

the visiting judge held that the preliminary criminal investigation must be conducted in a civil court, in compliance with the Judgment.<sup>111</sup> The judge also nullified the January 28, 1997, Resolution of the Second Military Court of Santiago that acquitted two suspects.<sup>112</sup> The confirmations of the acquittals were similarly nullified.<sup>113</sup> In August 2010, the State identified the officer who drove Mr. Almonacid Arellano to the hospital.<sup>114</sup>

The State partially complied with its obligation to ensure Decree Law No. 2.191 does not hinder the investigation.<sup>115</sup> In May 2008, the State submitted a bill to prevent the exoneration of war crimes.<sup>116</sup> According to the State, the bill was designed to comply with the Judgment.<sup>117</sup> Additionally, on May 6, 2009, the State submitted a second bill with the Senate, which would provide a new review channel for human rights violations.<sup>118</sup>

The Court will continue to monitor the State's compliance with its obligations to investigate, prosecute, and punish those responsible and to invalidate Decree Law No. 2.191.<sup>119</sup>

## VII. LIST OF DOCUMENTS

### *A. Inter-American Court*

#### 1. Preliminary Objections

[Almonacid Arellano et al. v. Chile, Preliminary Objections, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. \(ser. C\) No. 154 \(Sept. 26, 2006\).](#)

#### 2. Decisions on Merits, Reparations, and Costs

[Almonacid Arellano et al. v. Chile, Preliminary Objections, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. \(ser. C\) No. 154](#)

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111. *Id.* ¶¶ 6(a)–(b).

112. *Id.* ¶ 6(b).

113. *Id.*

114. *Id.*

115. *Id.* “Declares” ¶ 2.

116. *Id.* ¶ 17.

117. *Id.*

118. *Id.*

119. *Id.* “Declares” ¶ 2.

[\(Sept. 26, 2006\).](#)

3. Provisional Measures

[None]

4. Compliance Monitoring

[Almonacid Arellano et al. v. Chile, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. \(Nov. 18, 2010\).](#)

5. Review and Interpretation of Judgment

[None]

*B. Inter-American Commission*

1. Petition to the Commission

[Not Available]

2. Report on Admissibility

[Almonacid Arellano et al. v. Chile, Admissibility Report, Report N. 44/02\[1\], Inter-Am. Comm'n H.R., Case No. 12.057 \(Oct. 9, 2002\).](#)

3. Provisional Measures

[None]

4. Report on Merits

Almonacid Arellano et al. v. Chile, Report on Merits, Report No. 30/05, Inter-Am. Comm'n H.R., Case No. 12.057 (Mar. 7, 2005).

5. Application to the Court

[Almonacid Arellano et al. v. Chile, Petition to the Court, Inter-Am. Comm'n H.R., Case No. 12.057 \(July 11, 2005\).](#)



VIII. BIBLIOGRAPHY

[None]