

Baena Ricardo et al. v. Panama

ABSTRACT¹

This case is about the arbitrary dismissal of 270 government employees that participated in a demonstration for labor rights and were subsequently accused of complicity for perpetrating a military coup. In this case, the Court had the opportunity to rule on violations of certain articles of the American Convention that are seldom invoked, such as Article 10 (Right to Compensation), Article 15 (Right of Assembly) and Article 16 (Freedom of Association), as well as matters of litispentence and the Court's power to monitor compliance with its own judgments. The Court found that the State violated the American Convention on Human Rights.

I. FACTS

A. Chronology of Events

December 20, 1989: Following two years of heavy economic sanctions, which have brought Panama close to bankruptcy and political collapse, U.S. troops carry out Operation Just Cause to unseat General Manuel Antonio Noriega from power.² At the same time, Guillermo Endara is sworn in as President at a U.S. air base.³

The removal of General Noriega's army gives rise to rampant street crime.⁴ Thousands of residents of the El Chorillo slum, which was destroyed in the invasion, remain homeless.⁵ Unemployment rates in Panama in the year following Noriega's removal from power range

1. Sarah Frost, Author; Jennifer Barrera, Elise Cossart-Daly, Jenna Eyrich, Erika Green, Melissa Kurata, and Shamin Rostami, Editors; Laura Ybarra, Chief Articles Editor; Cesare Romano, Faculty Advisor.

2. *Thousands Protest on Anniversary of U.S. Invasion of Panama*, ST. PETERSBURG TIMES, Dec. 21, 1990, at 9A.

3. *Id.*

4. Andres Oppenheimer, *Panama a Year Later: Better Off?*, WICHITA EAGLE, Dec. 23, 1990, at 6B.

5. Joseph B. Frazier, *Panamanians Relearning Democracy Nation Recovers Slowly in Wake of Dictatorship*, DENVER ROCKY MOUNTAIN NEWS, Oct. 29, 1990, at 4.

from twenty to twenty-five percent.⁶

In order to ease the budget deficit caused by the sanctions, the State begins to make widespread public sector layoffs.⁷ Approximately 1,600 public workers lose their jobs in 1990.⁸

October 16, 1990: The Coordinating Organization of State Enterprise Workers Unions (“Coordinating Organization”) presents a petition concerning labor issues to the State.⁹ The petition includes requests for the State to stop the privatization of State enterprises and the dismissal of public sector workers, to end the reforms of social security laws, and to entertain the claims of students of the National Institute and displaced residents of the El Chorillo slum.¹⁰

November 16, 1990: The State rejects the Coordinating Organization’s petition in its entirety.¹¹ In response, the Coordinating Organization calls for a march on December 4, 1990, followed by a 24-hour work stoppage, to protest of the rejection of the requests.¹²

December 4, 1990: The morning of the march, protest leaders disperse to various work sites to invite workers to participate.¹³ At 3:30 p.m. that afternoon, the march proceeds from the Del Carmen church to May 5th Square accompanied by traffic police. A peaceful rally follows the march and ends around 7:00 that night.¹⁴

The same day, Colonel Eduardo Herrera Hassán, former head of the National Police Force, escapes from the Flamingo Prison Island along with other detained members of the armed forces.¹⁵ That night, they seize the principal barracks of the National Police Force.¹⁶

U.S. troops aid the National Police in stopping the rebellion.¹⁷ The

6. *Thousands Protest on Anniversary of U.S. Invasion of Panama*, supra note 2; Steve Fainaru, *Noriega’s Shadow Still Falls in Panama*, BOS. GLOBE, Dec. 17, 1990, at 1.

7. *Panama Still Scarred from U.S. Invasion*, BALT. SUN, Dec. 20, 1990, at A4.

8. *Id.*

9. Baena-Ricardo et al. v. Panama, Preliminary Objections, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 61, ¶ 2(a) (Nov. 18, 1999).

10. Baena-Ricardo et al. v. Panama, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 72, ¶ 65(e) (Feb. 2, 2001).

11. *Id.* ¶ 65(e), 88(b).

12. *Id.* ¶ 65(e), 88(c).

13. *Id.* ¶ 65(e).

14. *Id.*

15. *Id.* ¶ 88(d); Baena-Ricardo et al. v. Panama, Preliminary Objections, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 61, ¶ 2(c) (Nov. 18, 1999).

16. Baena-Ricardo et al. v. Panama, Preliminary Objections, ¶ 2(c).

17. Eric Schmitt, *U.S. Helps Quell Revolt in Panama*, N.Y. TIMES, Dec. 6, 1990, at A1; Baena-Ricardo et al., Merits, Reparations, and Costs, ¶ 88(g).

State issues statements suggesting there might be a connection between the breakout and the march organized by the Coordinating Organization.¹⁸ “There is no doubt that we are faced with attempts to overthrow the government disguised as attempts to act in labor matters,” says Police Director Ebrahim Asvat.¹⁹

The Coordinating Organization decides to suspend the work stoppage to avoid reinforcing the Government’s suspicions.²⁰

December 6, 1990: The Minister of the Interior submits a draft bill to the Legislative Assembly.²¹ The bill provides for the dismissal of all public workers who participated in the march.²²

December 10, 1990: Before the Legislative Assembly approves the draft law, the State begins to carry out the systematic dismissals of the public workers who were involved in the march, declaring their appointments void.²³ Supervisors determine who supported the march and forward lists of workers’ names to the heads of human resources departments.²⁴ From the lists, the human resource heads decide who should be dismissed.²⁵ The dismissal notices received by workers refer to the purported connection between the work stoppage and the attempted coup.²⁶

Approximately 185 workers receive dismissal notices before the draft law is approved.²⁷

December 14, 1990: The Legislative Assembly approves the draft law.²⁸ The new law, titled Law 25, is retroactive as of December 4, 1990.²⁹ Law 25 authorizes the dismissal of public workers involved in organizing and participating in attempts “against democracy and the

18. Baena-Ricardo et al., Preliminary Objections, ¶ 2(c).

19. Nathaniel Sheppard Jr., *Panama’s Budding Democracy Traveling Along a Rocky Road*, CHI. TRIBUNE, Dec. 18, 1990, at 5.

20. Baena-Ricardo et al. v. Panama, Preliminary Objections, ¶ 2(c); Baena-Ricardo et al., Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 72, ¶ 88(e) (Feb. 2, 2001).

21. Baena-Ricardo et al. v. Panama, Merits, Reparations and Costs, ¶ 88(i).

22. *Id.*

23. Baena-Ricardo et al. v. Panama, Preliminary Objections, ¶¶ 2(d), 65(b).

24. Baena-Ricardo et al. v. Panama, Merits, Reparations and Costs, ¶¶ 65(e), 88(l).

25. *Id.* ¶ 65(e).

26. *Id.*

27. *Id.*

28. Baena-Ricardo et al. v. Panama, Preliminary Objections, ¶ 2(e).

29. Baena-Ricardo et al. v. Panama, Merits, Reparations and Costs, ¶ 88(p).

constitutional order.”³⁰ The law authorizes the Executive branch and directors of public agencies and institutions to dismiss public workers who were involved or who would become involved in the protests.³¹

Workers can contest their dismissals in two ways. The first method is to seek reconsideration by the same manager or director who ordered the worker’s dismissal.³² The second is to file a remedy action before the Third Administrative Conflicts Section of the Supreme Court, which effectively removes several recourses previously available to public workers by Law 8 and labor union bylaws.³³ The effect is that labor courts cannot hear cases contesting dismissals any longer.³⁴ Workers seeking reconsideration of their dismissals do not receive responses.³⁵

The following week, approximately 1,000 students and union members protest the dismissals.³⁶ Police use tear gas to prevent the demonstrators from storming the Legislative Assembly.³⁷

May 23, 1991: The Full Supreme Court declares Law 25 constitutional, with the exception of Article 2.³⁸ The Court does not rule on the legality of the dismissals.³⁹ Later, the Third Section of the Supreme Court declares the dismissals legal on the basis of Law 25.⁴⁰

B. Other Relevant Facts

In total, 270 employees from the National Port Authority, the Bayano State Cement Company, the National Telecommunications Institute, the National Institute for Renewable Natural Resources, the Institute of Hydraulic Resources and Electrification, the Institute for Water Supply and Sewage Systems, the Ministry of Public Works, and the Ministry of Education are terminated.⁴¹ No State worker is prosecuted along with Colonel Herrera Hassán.⁴²

30. *Id.*

31. *Id.* ¶ 88(r).

32. *Id.* ¶ 65(b), 65(e).

33. *Id.* ¶¶ 65(e), 88(m).

34. *Id.* ¶ 65(e).

35. *Id.*

36. Steve Fainaru, *Noriega’s Shadow Still Falls in Panama*, BOS. GLOBE, Dec. 17, 1990, at 1.

37. *Id.*

38. Baena-Ricardo et al. v. Panama, Merits, Reparations and Costs, ¶ 88(z).

39. *Id.*

40. *Id.* ¶ 88(aa).

41. Baena-Ricardo et al., Preliminary Objections, ¶ 2(d). The victims’ names are listed in *Id.* ¶ 4.

42. Baena-Ricardo et al. v. Panama, Merits, Reparations and Costs, ¶ 65(e).

II. PROCEDURAL HISTORY

A. *Before the Commission*

February 22, 1994: The Panamanian Human Rights Committee presents a petition on behalf of the 270 public workers terminated under Law 25 to the Inter American Commission on Human Rights.⁴³

October 16, 1997: The Commission adopts Merits Report No. 37/97.⁴⁴ It determines that the enactment, application and judicial validation by the State of Law 25 have violated the human rights of the petitioners and contradicted the provisions of the American Convention.⁴⁵ Therefore, the Commission finds the violations of Article 9 (Freedom from *Ex Post Facto* Laws); Article 10 (Right to Compensation); Article 15 (Right of Assembly); Article 16 (Freedom of Association); and Article 24 (Right to Equal Protection) of the American Convention.⁴⁶ The Commission also finds the violations of Article 8 (Right to a Fair Trial) and Article 25 (Right to Judicial Protection), in relation to Article 1(1) and Article 2 of the American Convention.⁴⁷

The Commission makes several recommendations to the State. First, it recommends that the State reinstate the workers dismissed under Law 25 in their same positions, or in other positions with the same conditions as conditions as before their dismissals.⁴⁸ The State should recognize any back pay and other benefits to which the dismissed workers are entitled, as well as compensate them for any damage caused by their dismissals.⁴⁹

Second, the Commission recommends that the State adopt all necessary measures to give full effect to the rights and guarantees provided for in the American Convention.⁵⁰ It also recommends that the State modify, repeal, or permanently annul Law 25.⁵¹

Third, the Commission recommends that the State duly interpret

43. *Id.* ¶ 6.

44. *Id.* ¶ 11.

45. *Id.*

46. *Id.*

47. *Id.*

48. *Id.*

49. *Id.*

50. *Id.*

51. *Id.*

the expression “to punish without prior trial” in Article 33 of the Panamanian Constitution, so as to comply with the American Convention.⁵²

Lastly, the Commission recommends that the State amend or interpret the Article 43 of the Panamanian Constitution provision that permits ex post facto laws in order to safeguard “public order” or “social interest,” so that no one is convicted of an act or omission that did not constitute a criminal offense at the time it was committed.⁵³

The Commission forwards the report to the State and grants the State two months to adopt its recommendations. The report is prepared pursuant to Article 50 of the Convention, which requires that the State refrain from publishing the report.⁵⁴ The Commission informs the petitioners that it has adopted an “Article 50” report.⁵⁵

December 10, 1997: The State rejects the Commission’s report.⁵⁶ It alleges that “legal reasons” and “domestic law” impede the State from implementing the recommendations of the Commission.⁵⁷

January 14, 1998: In a telephone conference call, the Commission decides to refer the case to the Court.⁵⁸

B. Before the Court

January 16, 1998: The Commission submits the case to the Court, after the State failed to adopt its recommendations.⁵⁹

1. Violations Alleged by Commission⁶⁰

Article 8 (Right to a Fair Trial)

Article 9 (Freedom from Ex Post Facto Laws)

Article 10 (Right to Compensation)

Article 15 (Right of Assembly)

Article 16 (Freedom of Association)

52. *Id.*

53. *Id.*

54. *Id.*; Baena-Ricardo et al. v. Panama, Preliminary Objections, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 61, ¶ 37 (Nov. 18, 1999).

55. Baena-Ricardo et al. v. Panama, Merits, Reparations and Costs, ¶ 11.

56. *Id.* ¶ 12.

57. *Id.*

58. *Id.* ¶ 13.

59. *Id.* ¶ 14.

60. *Id.* ¶ 1.

Article 25 (Right to Judicial Protection)

all in relation to:

Article 1(1) (Obligation to Respect Rights)

Article 2 (Domestic Legal Effects) of the American Convention.

Article 33 (Competency)

Article 50(2) (Reporting Requirements of the Commission) of the American Convention.

2. Violations Alleged by Representatives of the Victims⁶¹

Same violations alleged by the Commission.

February 20, 1998: The State appoints Mr. Rolando Adolfo Reyna Rodriguez, a Panamanian judge, as Judge *ad hoc*.⁶²

April 17, 1998: The State files four preliminary objections contesting admissibility of the petition and asserting that the Court lacks jurisdiction.⁶³ First, the State objects that the Commission has not complied with the provisions of Article 51 of the Convention, which require the Commission to adopt and issue a separate report referring the case to the Court.⁶⁴ The State contends that the manner in which the members of the Commission decided to refer the case to the Court, by telephone conference call, was “an informal, irregular procedure based on an interpretation of the procedural rules that was clearly erroneous and in bad faith.”⁶⁵

Second, the State objects that the application to the Court is inadmissible because the matter in question has already been examined by the International Labor Organization Freedom of Association Committee (“ILOFAC”) and the ILOFAC had already found the State liable for violating international labor norms.⁶⁶ The State contended that the Court’s exercise of jurisdiction would constitute an improper duplication of proceedings.

Third, the State argues that the application to the Court must be inadmissible because the Commission transmitted a copy of the Report

61. The Centre for Justice and International Law (CEJIL) served as representative the victims.

62. *Id.* ¶ 16.

63. *Id.* ¶ 18.

64. Baena-Ricardo et al. v. Panama, Preliminary Objections, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 61, ¶ 16 (Nov. 18, 1999).

65. *Id.* ¶ 40.

66. *Id.* ¶¶ 16, 48(A)(2).

on Merits to the petitioners, thus violating the rule of confidentiality.⁶⁷ Lastly, the State asserts that the three-month period for filing an application to the Court, as required by the American Convention, had expired without the presentation of a formal draft by the Commission.⁶⁸

January 22, 1999: Mr. Reyna Rodríguez, judge *ad hoc*, informs the Court that he had participated as President of the No. 4 Conciliation and Decision Board in proceedings based on a labor action, brought by several workers, which had been dismissed under Law 25.⁶⁹ Mr. Reyna Rodríguez had dismissed the proceedings for lack of jurisdiction.⁷⁰ The same day, the Court dismisses Mr. Reyna Rodríguez as judge *ad hoc*.⁷¹ The State does not appoint a replacement.

November 18, 1999: The Court unanimously dismisses the State's preliminary objections.⁷² Regarding the State's first objection, the Court explains that there are two alternatives for the Commission to refer a case to the Court: the first is to file an application under Article 50, and the second is to prepare a separate report under the provisions of Article 51.⁷³ The two alternatives are "mutually exclusive."⁷⁴ As such, the Commission did not fail to comply with the provisions of Article 51 when it referred the case to the Court.

The Court also explains that the Commission has a margin of discretion in how it decides to refer cases to the Court, so long as the procedural rights of the parties are respected. The Court concludes that the Commission had complied with the basic provisions of the Convention when it decided to refer the case to the Court via telephone conference call.⁷⁵

Regarding the State's second objection, the Court agrees that under Article 47 of the American Convention, a petition that is "substantially the same" as a petition previously studied by the Commission or another international organization is inadmissible.⁷⁶ In order for petitions to be substantially the same, the parties, the object of the action, and the legal

67. *Id.* ¶ 16.

68. *Id.*

69. Baena-Ricardo et al. v. Panama, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 72, ¶¶ 33-35 (Feb. 2, 2001).

70. *Id.*

71. *Id.* ¶ 36.

72. Baena-Ricardo et al. v. Panama, Preliminary Objections, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 61 (Nov. 18, 1999).

73. *Id.* ¶ 37.

74. *Id.* ¶¶ 39, 44.

75. *Id.* ¶ 43.

76. *Id.* ¶ 52.

grounds all must be the same.⁷⁷ Though the State is a party in both actions, the alleged victims before the Commission and the Court are not the same as those that appeared before the ILOFAC.⁷⁸

The object before the ILOFAC was also narrower in scope, since it did not hear facts that occurred after its pronouncement.⁷⁹ The legal grounds to be considered by the Court are also broader than those considered by ILOFAC.⁸⁰ Thus, the Court concludes that the two actions are not so similar as to constitute an improper duplication of proceedings.⁸¹

Regarding the State's third objection, the Court determines that the Commission did not forward Report No. 37/97 to the victims; rather, the Commission forwarded the Application to the Court, as required under the Rules of Procedure.⁸² Therefore, the Commission did not violate any rule of confidentiality.⁸³

Finally, regarding the State's fourth objection, the Court concludes that the telephone conference call and application to the Court are valid and that a separate report under Article 51 was not required; therefore, the three-month period had not expired before the case was properly referred to the Court.⁸⁴

III. MERITS

A. Composition of the Court

Antônio Augusto Cançado Trindade, President

Máximo Pacheco Gómez, Vice-President

Hernán Salgado Pesantes, Judge

Oliver H. Jackman, Judge

Alirio Abreu Burelli, Judge

Sergio García Ramírez, Judge

Carlos Vicente de Roux Rengifo, Judge

Manuel E. Ventura Robles, Secretary

Renzo Pomi, Deputy Secretary

77. *Id.* ¶ 53.

78. *Id.* ¶ 54.

79. *Id.* ¶ 55.

80. *Id.* ¶ 56.

81. *Id.* ¶ 58.

82. *Id.* ¶¶ 64-67.

83. *Id.*

84. *Id.* ¶¶ 45-46.

B. Decision on the Merits

February 2, 2001: The Court issues its Judgment on Merits, Reparations and Costs.⁸⁵

The Court found unanimously that Panama had violated:

Article 9 (Freedom from Ex Post Facto Laws), in relation to Articles 1(1) and 2 of the Convention, to the detriment of the 270 workers,⁸⁶ because:

The Court found that administrative sanctions are similar to penal sanctions for the purposes of the Convention.⁸⁷ The reduction, alteration, or deprivation of an individual's rights following unlawful conduct, whether administrative or penal, are expressions of a State's punitive power.⁸⁸ It is essential for legal security, then, that punitive rules exist before the conduct occurs, so that individuals can adjust their behavior to conform to them.⁸⁹

The Court found that Law 25 had been applied retroactively.⁹⁰ Entering into force on December 14, 1990, Law 25 had applied to justify dismissal of the workers who participated in the national work stoppage on December 4.⁹¹ The text of Article 1 of Law 25 supported the Court's conclusion that the law had been enacted to have retroactive effect. Article 1 authorized the Executive Branch and other State entities to declare void "the appointments of those public servants who took part and who may take part in" actions that attempt against democracy or constitutional order.⁹² The State's failure to offer alternate legal justifications for the dismissals also supported the Court's conclusion.⁹³ Likewise, administrative conflicts judgments indicated that dismissals had been carried out under Law 25 and that the law was applied to

85. Baena Ricardo et al. v. Panama, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 72 (Feb. 2, 2001).

86. *Id.* ¶ 214(1).

87. *Id.* ¶ 106.

88. *Id.*

89. *Id.*

90. *Id.* ¶¶ 109-15.

91. *Id.* ¶ 109.

92. *Id.* ¶ 104.

93. *Id.* ¶ 111.

workers regardless of whether they were dismissed before or after the law was enacted.⁹⁴

*The Court concluded that the State violated the principles of legality and non-retroactivity contained in Article 9 (Freedom from Ex-Post Facto Laws) of the American Convention.*⁹⁵

Articles 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal), 8(2) (Right to Be Presumed Innocent), and 25 (Right to Judicial Protection), in relation to Articles 1(1) and 2 of the Convention, to the detriment of the 270 workers,⁹⁶ because:

*With respect to the administrative proceedings, the Court noted that, in administrative and criminal proceedings alike, states must observe minimum due process guarantees to ensure that decisions are fair.*⁹⁷ *The dismissals in this case constituted administrative sanctions, rather than the discretionary power of the State to remove personnel as public service considerations might require.*⁹⁸ *For that reason, workers were entitled to proceedings in line with the due process guarantees of the Article 8 of the American Convention.*⁹⁹ *The workers were not provided with an administrative proceeding before being dismissed, they were presumed guilty of participation in Colonel Eduardo Herrera Hassán's rebellion, and they were denied the opportunity to present arguments or evidence in their defense.*¹⁰⁰ *Therefore, the Court concluded, the State had violated Article 8 (Right to a Fair Trial) of the American Convention.*¹⁰¹

With respect to the judicial proceedings of the State, the Court noted that three types of judicial proceedings had been initiated by the workers: constitutional rights actions filed with the Full Supreme Court; claims that Law 25 was unconstitutional, also filed with the Full Supreme Court; and administrative conflicts actions filed with the Third

94. *Id.* ¶ 112-13.

95. *Id.* ¶ 115.

96. *Id.* ¶ 143.

97. *Id.* ¶ 127-29.

98. *Id.* ¶ 131.

99. *Id.* ¶ 134.

100. *Id.* ¶ 133.

101. *Id.* ¶ 134.

*Section of the Supreme Court.*¹⁰²

In considering the constitutional rights actions, the Full Supreme Court had merely made determinations on whether the Conciliation and Decision Board No. 5 was correct in declaring itself incompetent to hear the cases by virtue of Law 25.¹⁰³ As a result, the constitutionality of the dismissals went unconsidered.¹⁰⁴

Regarding the constitutional challenges to Law 25, the Full Supreme Court concluded that only Article 2 of Law 25 was unconstitutional.¹⁰⁵ As a consequence, the workers' only other recourse was to file administrative conflicts actions with the Third Section of the Supreme Court.¹⁰⁶

With respect to the administrative conflicts actions, the Third Section of the Supreme Court focused on the constitutionality of the remainder of Law 25 and the workers' participation in the work stoppage.¹⁰⁷ Not considered were the "real circumstances of the cases," or even whether the workers had actually participated in the work stoppage.¹⁰⁸ Moreover, the Third Section of the Supreme Court disregarded whether participation in the work stoppage constituted an attempt against democracy and the constitutional order.¹⁰⁹ The judgments of the Third Section of the Supreme Court were final and unappealable.¹¹⁰

The Court concluded that the recourses available to the workers were ineffective in relation to Article 25 (Right to Judicial Protection) of the American Convention.¹¹¹

Article 16 (Freedom of Association), in relation to Articles 1(1) and 2 of the Convention, to the detriment of the 270 workers,¹¹² because:

102. *Id.* ¶ 135.

103. *Id.* ¶ 138.

104. *Id.*

105. *Id.* ¶ 139.

106. *Id.* ¶ 140.

107. *Id.*

108. *Id.*

109. *Id.*

110. *Id.*

111. *Id.* ¶¶ 141-43.

112. *Id.* ¶ 173.

The Court noted that the freedom of association in relation to labor union freedom consists of the ability to form and participate in labor union organizations without intervention by states that limits or impairs participation.¹¹³ The retroactive application of the Law 25 led to the “massive dismissal of public sector trade union leaders and workers,” effectively limiting the ability of trade unions to operate in the public sector.¹¹⁴ The rules that had been in place to guide the trade union domain were not followed with the workers’ dismissals.¹¹⁵

Furthermore, the unions’ premises were blocked and bank accounts intervened.¹¹⁶ The Court noted the absence of evidence that these measures were necessary and proportional to safeguard the public order.¹¹⁷ As a result of these facts, the Court found the State had violated Article 16 (Freedom of Association) of the American Convention.¹¹⁸

Articles 1(1) (Obligation to Respect Rights) and 2 (Obligation to Give Domestic Legal Effect to Rights) of the Convention, to the detriment of the 270 workers,¹¹⁹ because:

In violating Articles 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal), 8(2) (Right to Be Presumed Innocent), 9 (Freedom from Ex-Post Facto Laws), 16 (Freedom of Association), and 25 (Right to Judicial Protection) of the American Convention, the State did not comply with the general duty established in Article 1(1) to respect individual rights and freedoms and to ensure the free and full exercise of those rights and freedoms.¹²⁰ The Court noted that the conclusion that the State had violated Article 1(1) exists independently of whether an organ of the State or a State official acted beyond the limits of their authority or in contravention of domestic law.¹²¹ Even in such circumstances, the State is responsible for the acts of its agents under international law.¹²²

113. *Id.* ¶ 156.

114. *Id.* ¶ 160.

115. *Id.* ¶ 171.

116. *Id.*

117. *Id.* ¶ 172.

118. *Id.* ¶ 173.

119. *Id.* ¶ 184.

120. *Id.* ¶ 181.

121. *Id.* ¶ 178.

122. *Id.*

As a party to the American Convention, the State also could not adopt legislative or any other measures that violate the rights and freedoms recognized by the Convention.¹²³ Thus, the State's enactment and retroactive application of Law 25 therefore violated its duty to comply with the provisions of the American Convention.¹²⁴

As a result, the Court found that the State had violated Articles 1(1) and 2 of the American Convention.¹²⁵

The Court found unanimously that Panama had not violated:

Article 15 (Right of Assembly), in relation to Articles 1(1) (Obligation to Respect Rights) and 2 (Obligation to Give Domestic Legal Effect to Rights) of the Convention, to the detriment of the 270 workers,¹²⁶ because:

Because the march took place without any interruptions or restrictions and the letters of dismissal did not specifically refer to the march, there was insufficient evidence to prove that the right of the dismissed workers to gather in "peaceful assembly, without arms" had been infringed.¹²⁷

The Court ruled unanimously on the State's obligations regarding Article 27 (Suspension of Guarantees) of the Convention and the Addition Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights ("Protocol of San Salvador"):

The Court found that Article 27 (Suspension of Guarantees) did not discharge the State from its obligations under the Convention.¹²⁸ While in serious national emergency situations states may suspend some guarantees, states are required to immediately inform the General Secretariat of the Organization of American States which provisions have been suspended, the reasons for the suspension, and the date when the suspension will end.¹²⁹ Since the State did not inform the General

123. *Id.* ¶ 182.

124. *Id.* ¶ 183.

125. *Id.* ¶ 184.

126. *Id.* ¶ 149.

127. *Id.* ¶¶ 148-49, 214(3).

128. *Id.* ¶¶ 89-94.

129. *Id.* ¶ 92.

*Secretariat that it was suspending some guarantees, the Court concluded that Article 27 (Suspension of Guarantees) did not apply.*¹³⁰

The Court further observed that the State could not be accused of violations of the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights ("Protocol of San Salvador"), since the document had not been ratified in December 1990.¹³¹ Nevertheless, while the State had not yet ratified the Protocol of San Salvador at the time of the dismissals, the State had the duty to refrain from committing any act in opposition to the object and purpose of the document as of its signing on November 17, 1988.¹³² The Court concluded that the State still had a duty to comply in good faith with the document.¹³³

The Court did not rule on:

Article 33 (Competency) and Article 50(2) (Reporting Requirements of the Commission) of the Convention,¹³⁴ because:

The Court decided it was not within its powers to determine liabilities arising from the procedural conduct of the State during the proceedings before the Commission.¹³⁵ The Commission had argued that the State had violated its duty to comply in good faith with the Commission's recommendations because the State did not deem them to be mandatory and therefore excused itself from compliance.¹³⁶ Panama countered that it cannot be international liable for non-compliance with the recommendations because they were not of a mandatory nature.¹³⁷

Furthermore, Article 33 merely refers to the Commission's competency to hear matters related to compliance with the Convention; it does not refer to the obligations of the State.¹³⁸ The Court held that once a matter reaches the Court, it is the Court's duty to determine whether the State violated the substantive rules of the Convention, not the procedural

130. *Id.* ¶¶ 93-94.

131. *Id.* ¶¶ 98-99.

132. *Id.*

133. *Id.*

134. *Id.* ¶ 185.

135. *Id.* ¶ 193.

136. *Id.* ¶ 185.

137. *Id.* ¶ 186.

138. *Id.*

conduct of the State before the Commission.¹³⁹ Thus, the Court declined to decide whether the State had violated Articles 33 (Competency) and Article 50(2) (Reporting Requirements of the Commission).¹⁴⁰

C. Dissenting and Concurring Opinions

[None]

IV. REPARATIONS

The Court decided that, pursuant to Article 63(1) of the Convention, human rights violations must be remedied with full restitution and monetary compensation.¹⁴¹ The Court ruled unanimously that Panama had the following obligations:

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

1. Reinstatement to Previous Employment Positions

The State must reinstate the surviving victims to their previous employment positions.¹⁴² If that is not possible, the State must provide employment alternatives respecting the conditions, salaries, and remunerations that the employees had at the time they were dismissed.¹⁴³ If that is also not possible, the State must pay indemnity for termination of employment, in compliance with domestic labor law.¹⁴⁴

2. Provision of Pension and Retirement Benefits

The State must provide pension or retirement benefits to the beneficiaries of victims who may have passed away, if applicable.¹⁴⁵

B. Compensation

139. *Id.* ¶ 193.

140. *Id.*

141. *Id.* ¶¶ 200-02.

142. *Id.* ¶ 203.

143. *Id.*

144. *Id.*

145. *Id.*

The Court awarded the following amounts:

1. Pecuniary Damages

The State must pay the current value of unpaid salaries and other labor benefits to each of the 270 victims.¹⁴⁶ In the case of deceased workers, compensation shall be made to their beneficiaries.¹⁴⁷

2. Non-Pecuniary Damages

The Court found that the suffering endured by the victims and their beneficiaries entitled them to indemnification for moral damages.¹⁴⁸ The State must pay \$3,000 to each of the 270 victims.¹⁴⁹

3. Costs and Expenses

The State must pay \$100,000 to the 270 victims, jointly, as reimbursement for the expenses incurred by the victims their representatives.¹⁵⁰

The State must pay \$20,000 to the 270 victims, jointly, as reimbursement for legal costs incurred during domestic proceedings and the international proceedings before the Inter-American system.¹⁵¹

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

\$930,000, plus the current value of unpaid wages and other benefits for the 270 workers.

C. Deadlines

The State must reinstate each victim, or provide proper alternatives as discussed above, within one year of notification of the Judgment.¹⁵²

The State must pay the pecuniary damages within a one year of

146. *Id.* ¶¶ 212, 214(6).

147. *Id.*

148. *Id.* ¶¶ 205-07.

149. *Id.* ¶ 207.

150. *Id.* ¶ 209.

151. *Id.*

152. *Id.* ¶ 214(7).

notification of the Judgment.¹⁵³

The State must pay the non-pecuniary damages to each victim within ninety days of notification of the Judgment.¹⁵⁴

The State must pay the costs within twelve months of notification of the Judgment.¹⁵⁵

If the beneficiaries do not claim their compensation within twelve months, the State must deposit the amounts with a solvent financial institution under the most favorable conditions, and if after ten years the compensation is still not claimed, the principal and interest must be returned to the State.¹⁵⁶

V. INTERPRETATION AND REVISION OF JUDGMENT

[None]

VI. COMPLIANCE AND FOLLOW-UP

June 21, 2002: The Court requested that the State submit a detailed report concerning its compliance with the Court's decision by August 15, 2002.¹⁵⁷ Specifically, the Court requested information about the payment of lost wages and labor benefits to the 270 workers, the steps and criteria used for determining the amounts owed to the workers, the reinstatement process, the payments to beneficiaries of workers who have passed away, and the payment of costs and expenses.¹⁵⁸ The Court also requested that the Commission and victims' representatives present their observations to the State's report within a period of seven weeks from the moment of receipt.¹⁵⁹

November 22, 2002: The Court found the State had fully complied with its obligation to pay the 270 victims a lump sum amount of \$100,000 for reimbursement of expenses and \$20,000 for reimbursement of costs.¹⁶⁰

The Court found that the State should determine, in accordance

153. *Id.* ¶ 214(6).

154. *Id.* ¶ 214(8).

155. *Id.* ¶ 212.

156. *Id.*

157. Baena Ricardo et al. v. Panama, Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. "Resuelve" ¶ 2 (June 21, 2002) (Spanish).

158. *Id.* "Considerando" ¶ 2.

159. *Id.* "Resuelve" ¶ 2.

160. Baena Ricardo et al. v. Panama, Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. "Resuelve" ¶ 7 (Nov. 22, 2002) (Spanish).

with applicable domestic laws, the specific salaries corresponding to each of the 270 victims.¹⁶¹ The Court also clarified that the compensatory damages ordered in favor of the 270 victims or their beneficiaries cannot be taxed in any manner, including income tax.¹⁶² Furthermore, any requirement that the State imposes on a victim or beneficiary to sign a settlement to receive payment is considered valid only if the victim agrees to the stipulated agreement amount.¹⁶³ The amounts that the State has supposedly already paid via check to the 195 victims will be considered as an advance on the total amount of pecuniary damages owed, and copies of those payments must be presented to the Court.¹⁶⁴

The Court requested that the State submit a detailed report concerning its advances in compliance with the reparations ordered by the Court by June 30, 2003.¹⁶⁵ The Court also requested that the Commission and victims' representatives present their observations to the State's report within a period of three months from the moment of receipt.¹⁶⁶

November 28, 2003: The State alleged the Court lacked competence to monitor compliance with its judgments, and that monitoring compliance is a political function of the General Assembly of the Organization of American States ("OAS General Assembly"). The Court issued a Judgment on Competence, unanimously rejecting the State's objection.¹⁶⁷

First, the Court found that the State, having accepted the contentious jurisdiction of the Court, must comply with the judgments of the Court promptly and fully, and must comply with treaty obligations in good faith, regardless of its domestic laws.¹⁶⁸ Second, the Court has the inherent authority to determine the scope of its jurisdiction and judgments.¹⁶⁹ Monitoring compliance is inherent in jurisdiction as the effectiveness of judgments depends on compliance with them.¹⁷⁰ Furthermore, compliance is essential to the right of access

161. *Id.* "Resuelve" ¶ 1.

162. *Id.* "Resuelve" ¶ 3.

163. *Id.* "Resuelve" ¶ 5.

164. *Id.* "Resuelve" ¶ 6.

165. *Id.* "Resuelve" ¶ 10.

166. *Id.* "Resuelve" ¶ 11.

167. Baena-Ricardo et al. v. Panama, Competence, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 104, ¶¶ 53-54 (Nov. 28, 2003).

168. *Id.* ¶¶ 58, 60, 61.

169. *Id.* ¶¶ 68, 128.

170. *Id.* ¶¶ 72, 129.

to justice and to the protection of human rights.¹⁷¹ If the Court did not have the authority to monitor compliance, these rights would be illusory.¹⁷² In order to comply with its obligation to report cases in which states have failed to comply with the Court's ruling to the OAS General Assembly, the Court must be able to monitor compliance with its orders.¹⁷³

The OAS General Assembly also maintains the position that monitoring compliance is the Court's function.¹⁷⁴ The State has impliedly recognized the Court's jurisdiction to monitor compliance, as the State has already submitted fourteen briefs on the measures it has taken to comply with the judgment and has expressed its intent to comply with the judgment.¹⁷⁵ In addition, the State did not request interpretation of the judgment and did not contest the first compliance order issued by the Court on June 21, 2002.¹⁷⁶ The State contested jurisdiction only after the Court issued a second compliance order on November 22, 2002, two years after the Court issued its Judgment on the Merits, Reparations, and Costs.¹⁷⁷

The Court declared that it would continue to monitor the State's compliance with the judgment.¹⁷⁸

November 28, 2005: The Court found the partially complied with its obligation to pay the 270 victims or beneficiaries the amounts corresponding to unpaid wages, and the amount of \$3,000 per victim for moral damages.¹⁷⁹

The Court declared that it would continue to monitor the State's actions to ensure that it fully complies with its obligation to pay all the victims their respective amounts in unpaid wages and moral damages, and to ensure that each victim is either reinstated in his or her former position, offered similar alternative employment, or compensated accordingly.¹⁸⁰ Any discrepancies regarding the determination of rights, damage amounts, or payments should be resolved in the State's domestic courts.¹⁸¹

171. *Id.* ¶ 82, 100, 130.

172. *Id.*

173. *Id.* ¶ 101.

174. *Id.* ¶ 135.

175. *Id.* ¶ 121, 137.

176. *Id.* ¶ 126.

177. *Id.*

178. *Id.* "And Decides" ¶ 4.

179. Baena Ricardo et al. v. Panama, Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R., "Declaración" ¶ 3 (Nov. 28, 2005) (Spanish).

180. *Id.* "Declaración" ¶ 4

181. *Id.* "Declaración" ¶ 5.

February 11, 2008: The Court called the State, the Commission, and the representatives of the victims to a private hearing on May 3, 2008 in order for the State to present information on its compliance with the decision of the Court.¹⁸²

October 30, 2008: The Court noted the State's claim that the total amount of reparations is \$32,415,000. The State had so far paid out \$11,415,000, leaving \$21,000,000 left to pay out in order to fully comply with the judgment.¹⁸³ The State listed the criteria used to determine the amount owed for reparations; the representatives of the victims, however, commented that the State had failed to produce documents supporting the totals it had calculated.¹⁸⁴ The representatives also disputed the amounts the State determined that it owed, arguing that the amounts did not conform with domestic laws.¹⁸⁵

Since a large number of victims had signed reparation agreements proffered by the State, the Court considered the situations of the signatories first, then separately considered the situations of non-signatories and those who withdrew their consent after signing the reparation agreements.¹⁸⁶

Two-hundred and two victims and beneficiaries signed the reparation agreements proffered by the State.¹⁸⁷ Five of the signatories later withdrew their consent.¹⁸⁸ The Court approved the agreements and advised the State to comply with the obligations set forth in them.¹⁸⁹ The Court noted that it would continue to monitor the State's compliance.¹⁹⁰

The Court concluded that non-signatories and signatories who subsequently withdrew their consent should dispute the amounts offered by the State in competent domestic courts.¹⁹¹ The State should deposit the amounts considered to be owed to each victim in separate bank accounts until either the victims or beneficiaries sign the reparation

182. Baena Ricardo et al. v. Panama, Monitoring Compliance with Judgment, Order, Inter-Am. Ct. H.R., "Resolves" ¶ 1 (Feb. 11, 2008).

183. Baena Ricardo et al. v. Panama, Monitoring Compliance with Judgment, Order, Inter-Am. Ct. H.R., "Considering" ¶ 1 (Oct. 30, 2008).

184. *Id.* "Considering" ¶ 10.

185. *Id.* "Considering" ¶¶ 10-11.

186. *Id.* "Considering" ¶ 14.

187. *Id.* "Considering" ¶ 19.

188. *Id.*

189. *Id.* "Considering" ¶ 21.

190. *Id.*

191. *Id.* "Considering" ¶¶ 26-28.

agreements or a judicial authority determines the amount to be paid.¹⁹² If the sums are unclaimed after ten years and no judicial action has been instituted, then the sums may be returned to the State.¹⁹³

The Court requested that the State submit a report on the measures taken in compliance by January 30, 2009.¹⁹⁴ The Court also requested that the Commission and victims' representatives present their observations to the State's report within a period of six and four weeks, respectively, from the moment of receipt.¹⁹⁵

July 1, 2009: The Court noted that 262 out of the 270 victims and beneficiaries signed reparations agreements.¹⁹⁶ Of the signatories, 255 had received the first of four annual payments to be made by the State. Two of the signatories had not yet withdrawn their checks and it remained to be confirmed whether five of the signatories had withdrawn their checks.¹⁹⁷

Eight victims and beneficiaries had not signed the reparation agreements.¹⁹⁸ The Court repeated that the State must deposit the amounts it considers owed to the non-signatories in separate bank accounts and requested that the State submit information and receipts to the Court when it has done so.¹⁹⁹

The Court remarked that it valued the State's efforts to comply with the judgment.²⁰⁰ The Court requested that the State submit a report on the steps taken in compliance by October 30, 2009.²⁰¹ The Court also requested that the Commission and victims' representatives present their observations to the State's report within a period of six and four weeks, respectively, from the moment of receipt.²⁰²

May 28, 2010: The Court noted that 266 out of the 270 victims and beneficiaries had signed the reparation agreements.²⁰³ Of the 266 signatories, 265 had withdrawn the check corresponding to the first of

192. *Id.* "Considering" ¶ 27.

193. *Id.* "Considering" ¶ 29.

194. *Id.* "And Decides" ¶ 5.

195. *Id.* "And Decides" ¶ 6.

196. Baena Ricardo et al. v. Panama, Monitoring Compliance with Judgment, Order, Inter-Am. Ct. H.R., "Considering," ¶ 12 (July 1, 2009).

197. *Id.*

198. *Id.* "Considering" ¶ 14.

199. *Id.*

200. *Id.* "Considering" ¶ 17.

201. *Id.* "And Decides" ¶ 5.

202. *Id.* "And Decides" ¶ 6.

203. Baena Ricardo et al. v. Panama, Monitoring Compliance with Judgment, Order, Inter-Am. Ct. H.R., "Considering That" ¶ 1 (May 28, 2010).

four annual payments to be made by the State.²⁰⁴

Regarding the second of the four payments, the Court noted that 262 of the signatories had received their checks.²⁰⁵ The State issued checks for two of the deceased victims but is waiting for declarations of who the heirs are.²⁰⁶ One of the victims had recently passed away, so the State did not issue a check and was waiting for an heir to appear.²⁰⁷ One of the 266 signatories had not yet withdrawn either of the two payments made by the State.²⁰⁸

The State issued guarantee certificates to the four non-signatories and to the signatory who had not yet withdrawn either of the two payments made by the State.²⁰⁹ The Court requested information as to whether the guarantee certificates constituted the deposits in separate bank accounts that were required by the Court.²¹⁰

The Court requested that the State submit a report on the steps taken to comply with its judgment by November 15, 2010.²¹¹ The Court also requested that the Commission and victims' representatives present their observations to the State's report within a period of four and two weeks, respectively, from the moment of receipt.²¹²

February 22, 2011: The Court noted that to date 268 out of the 270 victims and beneficiaries had signed the reparation agreements.²¹³ Regarding the first and second payments, 267 signatories had withdrawn their checks.²¹⁴ With respect to the third payment, 265 signatories had withdrawn their checks.²¹⁵

The State affirmed that the guarantee certificates corresponded to deposits of checks in separate accounts at the Banco Nacional de Panama.²¹⁶ The Court accepted the State's copies of deposit certificates for the payments to the two non-signatories and the signatory who had not yet withdrawn any of the three payments.²¹⁷

204. *Id.*

205. *Id.* "Considering That" ¶ 13.

206. *Id.* "Considering That" ¶¶ 8, 13.

207. *Id.* "Considering That" ¶ 13.

208. *Id.* "Considering That" ¶ 13.

209. *Id.* "Considering That" ¶¶ 13, 15.

210. *Id.* "Considering That" ¶ 16.

211. *Id.* "And Decides" ¶ 5.

212. *Id.* "And Decides" ¶ 6.

213. Baena Ricardo et al. v. Panama, Monitoring Compliance with Judgment, Order, Inter-Am. Ct. H.R., "Considering That" ¶ 12 (Feb. 22, 2011).

214. *Id.* "Considering That" ¶¶ 12-13.

215. *Id.* "Considering That" ¶ 14.

216. *Id.* "Considering That" ¶ 16.

217. *Id.* "Considering That" ¶ 19.

The Court requested that the State submit a report on the steps taken to comply with its judgment by December 15, 2011.²¹⁸ The Court also requested that the Commission and victims' representatives present their observations to the State's report within a period of four and two weeks, respectively, from the moment of receipt.²¹⁹

The Court repeated that it valued the State's effort to comply with the judgment.²²⁰

August 16, 2011: One of the victims passed away.²²¹ At the time of his passing, delivery of the fourth payment by the State was still pending.²²²

January 27, 2012: One of two remaining victims who had not yet signed the reparation agreement signed the agreement and presented copies of the guarantee certificates for the four payments.²²³

June 28, 2012: To date, 264 victims and beneficiaries had received the fourth and final payment from the State.²²⁴ The Court decided to continue monitoring compliance with respect to three of the victims yet to receive the fourth payment.²²⁵

The Court did not receive information as to whether the heirs of two victims who had passed away received the third or fourth payments.²²⁶ The Court requested the State to include information about the payments in its next report.²²⁷

One victim still had not signed the reparation agreement and another signed but had not withdrawn any of the guarantee certificates.²²⁸ The State presented copies of the guarantee certificates deposited in the Banco Nacional de Panamá.²²⁹ The Court found that the State had complied with its obligation to these two victims.²³⁰

The Court requested that the State submit a report on the steps

218. *Id.* "And Decides" ¶ 4.

219. *Id.* "And Decides" ¶ 5.

220. *Id.* "Considering That" ¶ 22.

221. Baena Ricardo et al. v. Panama, Monitoring Compliance with Judgment, Order, Inter-Am. Ct. H.R., "Considering That" ¶ 14 (June 28, 2012).

222. *Id.*

223. *Id.* "Considering That" ¶¶ 17, 21.

224. *Id.* "Considering That" ¶ 16.

225. *Id.*

226. *Id.* "Considering That" ¶ 24.

227. *Id.*

228. *Id.* "Considering That" ¶ 21.

229. *Id.*

230. *Id.*

taken to comply with its judgment by October 1, 2012.²³¹ The Court also requested that the Commission and victims' representatives present their observations to the State's report within a period of four and two weeks, respectively, from the date of receipt.²³²

February 5, 2013: To date, 267 victims and beneficiaries had received the fourth and final payment from the State.²³³ The Court decided to continue monitoring compliance with respect to two of the victims yet to receive payments.²³⁴

Of the three victims who had yet to receive the fourth payment, the Court recognized that the final payment had been made to two of the victims.²³⁵ The final payment to the third victim, who had passed away after the third payment, was delayed pending a ruling on his proper heirs.²³⁶

Regarding the heirs of two victims who had passed away, the Court received information that the third payment had been made to one.²³⁷ While the fourth payment had been made to the other, the Court was still missing information regarding the third payment.²³⁸

With respect to the two victims who refused to receive their payments by the State, the Court noted that the State had delivered the fourth payment in guarantee certificates in the Banco Nacional de Panamá.²³⁹ CEJIL provided an annexed brief along with its own brief, which was signed by a group of victims and stated the victims' disagreement with the payment agreements.²⁴⁰ The victims' brief requested that the Court order an expert assessment of the payments and the establishment of a tripartite committee to evaluate the State's compliance with the Court's judgment.²⁴¹ The Court stated that the scope of the compliance monitoring process was limited to confirming that the victims who had signed agreements received their payments, and that bank deposits were made for those victims who had not signed the agreements, or who had signed and later retracted their signatures.²⁴²

231. *Id.* "And Decides" ¶ 4.

232. *Id.* "And Decides" ¶ 5.

233. Baena Ricardo et al. v. Panama, Monitoring Compliance with Judgment, Order, Inter-Am. Ct. H.R., "Declares That" ¶ 1 (Feb. 5, 2013).

234. *Id.* "Declares That" ¶ 2.

235. *Id.* "Considering That" ¶¶ 16-22.

236. *Id.*

237. *Id.* "Considering That" ¶¶ 9-15.

238. *Id.*

239. *Id.* "Considering That" ¶ 23.

240. *Id.* "Considering That" ¶ 25.

241. *Id.*

242. *Id.* "Considering That" ¶ 26.

The Court reminded victims that the international compliance monitoring process terminates for those to whom the State satisfies its obligations.²⁴³

The Court also responded to a judgment of the Third Contentious Administrative and Labor Chamber of the Supreme Court of Justice, which dismissed a complaint filed by some victims seeking calculation of the award because it was not viable for the domestic court to decide an “abstract appeal against the Inter-American Court.”²⁴⁴ The domestic court advised the victims that the calculation of the award should be achieved by request to the Inter-American Court.²⁴⁵ The Court noted that neither had it received specific information about the action, nor had the State been given an opportunity to respond to the decision.²⁴⁶ Thus, the Court requested the State to advise the Court on the issue of whether the Supreme Court’s decision presented an obstacle for the victims to file claims domestically.²⁴⁷

The Court requested that the State submit a report on the steps taken to comply with its judgment by May 6, 2013.²⁴⁸ The Court also requested that the Commission and victims’ representatives present their observations to the State’s report within a period of four and six weeks, respectively, from the date of receipt.²⁴⁹

VII. LIST OF DOCUMENTS

A. *Inter-American Court*

1. Preliminary Objections

[Baena Ricardo et al. v. Panama, Preliminary Objections, Judgment, Inter-Am. Ct. H.R. \(ser. C\) No. 61 \(Nov. 18, 1999\).](#)

2. Decisions on Merits, Reparations and Costs

[Baena Ricardo et al. v. Panama, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. \(ser. C\) No. 72 \(Feb. 2, 2001\).](#)

243. *Id.* “Considering That” ¶ 27.

244. *Id.* “Considering That” ¶ 28.

245. *Id.*

246. *Id.* “Considering That” ¶ 29.

247. *Id.*

248. *Id.* “And Decides” ¶ 4.

249. *Id.*

3. Provisional Measures

[None]

4. Compliance Monitoring

[Baena Ricardo et al. v. Panama, Monitoring Compliance with Judgment, Order, Inter-Am. Ct. H.R. \(Feb. 5, 2013\).](#)

[Baena Ricardo et al. v. Panama, Monitoring Compliance with Judgment, Order, Inter-Am. Ct. H.R. \(June 28, 2012\).](#)

[Baena Ricardo et al. v. Panama, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. \(Feb. 22, 2011\).](#)

[Baena Ricardo et al. v. Panama, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. \(May 28, 2010\).](#)

[Baena Ricardo et al. v. Panama, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. \(July 1, 2009\).](#)

[Baena Ricardo et al. v. Panama, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. \(Oct. 30, 2008\).](#)

[Baena Ricardo et al. v. Panama, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. \(Feb. 11, 2008\).](#)

[Baena Ricardo et al. v. Panama, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. \(Nov. 28, 2005\) \(Available only in Spanish\).](#)

[Baena Ricardo et al. v. Panama, Competence, Judgment, Inter-Am. Ct. H.R. \(ser. C\) No. 104 \(Nov. 28, 2003\).](#)

[Baena Ricardo et al. v. Panama, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. \(Nov. 22, 2002\) \(Available only in Spanish\).](#)

[Baena Ricardo et al. v. Panama, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. \(June 21, 2002\)](#)

[\(Available only in Spanish\).](#)

5. Review and Interpretation of Judgment

[None]

B. Inter-American Commission

1. Petition to the Commission

Baena Ricardo et al. v. Panama, Petition No. 11.325, Inter-Am. Comm'n H.R. (Feb. 22, 1994).

2. Report on Admissibility

[None]

3. Provisional Measures

[None]

4. Report on Merits

Baena Ricardo et al. v. Panama, Report on Merits, Report No. 37/97, Inter-Am. Ct. H.R., Case No. 11.325 (Oct. 16, 1997).

5. Application to the Court

Baena Ricardo et al. v. Panama, Petition to the Court, Inter-Am. Ct. H.R., Case No. 11.325 (Jan. 16, 1998).

VIII. BIBLIOGRAPHY

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