

Bulacio v. Argentina

ABSTRACT¹

This case is about the arrest and beating of a teenager outside a stadium where a rock concert was held. Police used excessive force during the arrest, resulting in the eventual death of the victim. The Commission and Argentina agreed on a friendly settlement and Argentina admitted responsibility. The Court reviewed the settlement, found violation of several articles of the American Convention, and determined the quantum of reparations.

I. Facts

A. Chronology of Events

April 19, 1991: At approximately 11:00 p.m., under the command of Police Captain Miguel Angel Espósito, the Federal Police of Police Station No. 35 arrest at least seventy-three people within the vicinity of the National Public Sanitation Works Club stadium, in Buenos Aires, where a rock music concert is taking place.² After tickets to the concert sell out, the police arrest and beat bystanders present on site.³ Seventeen-year-old Walter David Bulacio is among eleven minors arbitrarily apprehended.⁴ Police incarcerate the eleven minors in the juvenile section of Police Station No. 35.⁵

April 20, 1991: At about 6:00 a.m., Mr. Bulacio vomits, and at 11:00

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

2. Bulacio v. Argentina, Admissibility Report, Report No. 29/98, Inter-Am. Comm'n H.R., Case No. 11.752, ¶¶ 1–2 (May 5, 1998); Figures on the number of individuals present and arrested within the vicinity of the National Public Sanitation Works Club stadium on April 19, 1991, vary from one report to another, with figures ranging from at least seventy-three to more than eighty persons. Bulacio v. Argentina, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 100, ¶ 3 (Sept. 18, 2003)

3. *Id.*

4. *Id.* ¶ 6.

5. *Id.*

a.m., while still in police custody, an ambulance transfers him to Pirovano Municipal Hospital.⁶ Police do not advise his parents or a judge.⁷ Mr. Bulacio’s attending doctor diagnoses him with concussion and records the diagnosis in his hospital log.⁸ In the afternoon, authorities transfer Mr. Bulacio to Fernandez Municipal Hospital for x-rays.⁹ Here, Mr. Bulacio explains to his attending physician that the police had beaten him.¹⁰ That evening, after hearing about the arrest from neighbors, Mr. Bulacio’s parents, Mr. Víctor David Bulacio and Mrs. Graciela Rosa Scavone, visit him in the hospital and notice the bruising on his face.¹¹

April 21, 1991: In the afternoon, Mr. Bulacio is transferred to the Mitre Clinic.¹² The physician on duty at the Mitre Sanatorium calls the 7th Police Station to report the incident—indicating that Walter Bulacio is a minor admitted with injuries—for investigation into potentially criminal police activities.¹³

April 23, 1991: The 9th National Juvenile Criminal Trial Court (“the 9th Court”) records Mr. Bulacio’s injuries.¹⁴

April 26, 1991: Mr. Bulacio passes away.¹⁵ An autopsy report indicates that Mr. Bulacio sustained blows to his face, legs and soles of his feet from a hard instrument.¹⁶

The 9th Court declares that it does not have jurisdiction over the case and refers the case to the National Court of First Instance for Investigation of Criminal Offenses N° 5 (“the 5th Court”), which handles crimes committed by adults.¹⁷

6. *Id.*

7. *Id.*

8. *Bulacio v. Argentina*, Merits, Reparations, and Costs, ¶¶ 1, 3.

9. *Bulacio v. Argentina*, Admissibility Report, ¶ 6.

10. *Id.*

11. *Id.* 004; *Bulacio v. Argentina*, Merits, Reparations, and Costs, ¶ 5.

12. *Bulacio v. Argentina*, Admissibility Report, ¶ 7.

13. *Id.*

14. *Bulacio v. Argentina*, Merits, Reparations, and Costs, ¶ 3.

15. *Id.* ¶ 3. Upon his death, Mr. Bulacio left behind his parents; his sister, Lorena Beatriz Bulacio; his grandmother, María Ramona Armas de Bulacio; and two half-siblings, Matías Emanuel Bulacio and Tamara Florencia Bulacio, Mr. Víctor David Bulacio’s children from a previous relationship. *Id.* “Proven Facts” ¶ 7.

16. *Bulacio v. Argentina*, Admissibility Report, ¶ 8.

17. *Id.* ¶¶ 8–9.

May 2, 1991: Mr. Bulacio's parents file complaints before the 9th Court.¹⁸ The 5th Court divides the case, retaining the investigation of Mr. Bulacio's bodily injuries and death within the 5th Court and referring the investigation of the circumstances surrounding the arrests of April 19, 1991, to the 9th Court.¹⁹

May 22, 1991: The Special Division of the Appellate Court decides to merge the case and refers it to the 9th Court.²⁰

May 28, 1991: The 9th Court begins prosecuting Police Captain Espósito for the unlawful deprivation of liberty, the abuse of authority, and misconduct in public office.²¹

B. Other Relevant Facts

[None]

II. PROCEDURAL HISTORY

A. Before the Commission

May 13, 1997: María del Carmen Verdú and Daniel A. Stragá, co-sponsored by the *Coordinadora contra la Represión Policial e Institucional* ("CORREPI"), the Center for Justice and International Peace ("CEJIL") and the *Centro de Estudios Legales y Sociales* ("CELS"), file a petition with the Inter-American Commission on Human Rights ("the Commission") on behalf of Mr. Bulacio's parents, Víctor David Bulacio and Graciela Rosa Scavone ("the petitioners").²²

December 3, 1997: The State requests that the petition be denied because the petitioners failed to exhaust domestic remedies and failed to demonstrate any of the exceptions set forth in Article 46(2) of the Inter-American Convention on Human Rights.²³

18. *Id.* ¶ 9. There is a discrepancy regarding the date Mr. Bulacio's parents file as complainants—the Admissibility Report indicates May 2, 1991, while the Judgment indicates May 3, 1991.

19. *Id.*

20. *Id.* ¶ 10.

21. *Id.*

22. *Bulacio v. Argentina, Merits, Reparations, and Costs*, ¶ 5.

23. *Id.*

May 5, 1998: The Commission adopts Admissibility Report No. 29/98 during its 99th Special Session and makes itself available as the parties attempt to negotiate a friendly settlement.²⁴

December 18, 1998: The petitioners inform the Commission that they concluded the friendly settlement process with the State, and they ask that the Commission continue to process the case.²⁵

October 3, 2000: The Commission adopts Report No. 72/00 and concludes that the State violated Articles 4 (Right to Life), 5 (Right to Humane Treatment), 7 (Right to Personal Liberty), 8 (Right to a Fair Trial), 19 (Rights of the Child), and 25 (Right to Judicial Protection) in the circumstances surrounding Mr. Bulacio's detention, injuries, and death.²⁶ The Commission recommends that the State conduct an investigation into the detention, injuries, and death of Mr. Bulacio, punish those responsible accordingly, and adopt adequate reparations and compensatory measures for Mr. Bulacio's next of kin.²⁷

October 24, 2000: The Commission forwards Report No. 72/00 to the State, but the State does not respond.²⁸

B. Before the Court

January 24, 2001: The Commission submits the case to the Court after the State fails to adopt its recommendations.²⁹

1. Violations Alleged by Commission³⁰

Article 4 (Right to Life)

Article 5 (Right to Humane Treatment)

24. *Id.* ¶ 7.

25. *Id.* ¶ 8.

26. *Id.* ¶ 10.

27. *Id.*

28. *Id.* ¶ 11.

29. *Id.* ¶ 12.

30. *Id.* ¶ 10. The Commission appoints Robert K. Goldman and Víctor Abramovich as delegates and Raquel Poitevien as legal counsel. The Commission also appoints Viviana Krsticevic (of CEJIL), Andrea Pochak (of CELS) and María del Carmen Verdú (of CORREPI) as assistants. *Id.* ¶ 13.

Article 7 (Right to Personal Liberty)

Article 8 (Right to a Fair Trial)

Article 19 (Rights of the Child)

Article 25 (Right to Judicial Protection)

all in relation to:

Article 1(1) (Obligation to Respect Rights) of the American Convention.

2. Violations Alleged by Representatives of the Victims³¹

Same Violations Alleged by Commission, plus:

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

March 20, 2001: The Court notifies the State of the Commission's petition and informs the State of its right to appoint a judge *ad hoc* to participate in the case.³²

April 11, 2001: The State appoints Ricardo Gil Lavedra as judge *ad hoc*.³³

December 20, 2001: Due to the economic and political turmoil ongoing in the State, the Commission requests an extension for the deadline to submit arguments on possible reparations.³⁴ The Court grants an extension to January 4, 2002.³⁵

July 3, 2002: The Commission reports that parties initiated a friendly settlement.³⁶

February 5, 2003: The State submits a copy of Decree No. 161/2003, which states that the President of Argentina ordered the Bureau of Legal Affairs (*Procuración del Tesoro de la Nación*) to reach a friendly set-

31. *Id.* ¶ 33. Ms. Verdú serves as representative of Mr. Bulacio's next of kin. *Id.* ¶ 13.

32. *Id.* ¶ 15.

33. *Id.* On July 4, 2001, the State additionally appoints María Rosa Cilorzo as agent and Andrea G. Gualde as alternate agent. In March 2003, the State substitutes Silvia Susana Testoni as agent, and again in July 2003, the State substitutes Horacio Daniel Rosatti as agent. *Id.*

34. *Id.*

35. *Id.*

36. *Id.*

tlement.³⁷

February 26, 2003: The parties reach a friendly settlement, and the State acknowledges its international responsibility for violation of Articles 2 (Domestic Legal Effects), 4 (Right to Life), 5 (Right to Humane Treatment), 7 (Right to Personal Liberty), 8 (Right to a Fair Trial), 19 (Rights of the Child), and 25 (Right to Judicial Protection) of the American Convention.³⁸ The State agrees to make full reparations.³⁹

March 6, 2003: Because of the friendly settlement, the Court holds two public hearings.⁴⁰ In the first hearing, the parties clarify the meaning and scope of the terms of the settlement.⁴¹ The Court declares the merits of the case closed.⁴² In the second hearing, the President of the Court informs the parties that the Court would proceed with issuing reparations.⁴³

III. Merits

*A. Composition of the Court*⁴⁴

Antônio A. Cançado Trindade, President
 Sergio García Ramírez, Vice President
 Hernán Salgado Pesantes, Judge
 Oliver Jackman, Judge
 Alirio Abreu Burelli, Judge
 Ricardo Gil Lavedra, Judge *Ad Hoc*

Manuel E. Ventura Robles, Secretary

37. *Id.* ¶¶ 24, 32.

38. *Id.* ¶¶ 25, 33.

39. *Id.* ¶ 33.

40. *Id.* ¶ 27. Robert K. Goldman and Victor Abramovich appear as delegates and Elizabeth Abi-Mershed appears as legal counsel for the Commission. Andrea Pochak and María del Carmen Verdú appear as representatives on behalf of Mr. Bulacio's next of kin. Silvia Susana Testoni, agent, Andrea G. Gualde, alternate agent, and Ambassador Juan José Arcuri all appear on behalf of the State. *Id.* ¶ 26.

41. *Id.* ¶ 27.

42. *Id.*

43. *Id.*

44. Judges Máximo Pacheco Gómez and Carlos Vicente de Roux Rengifo did not participate in the deliberation, decision, and signing of the judgment, for reasons of force majeure, which prevented them from attending the LX Regular Session of the Court. *Id.* n*.

Pablo Saavedra Alessandri, Deputy Secretary

B. Decision on the Merits

September 18, 2003: The Court issues its Judgment on Preliminary Merits, Reparations, and Costs.⁴⁵

The Court found unanimously that the State violated:

Article 4 (Right to Life), in relation to Articles 1(1) and 2 of the American Convention, to the detriment of Mr. Bulacio,⁴⁶ because:

The State acknowledged its responsibility for the unlawful and arbitrary beating and detention of Mr. Bulacio, as well as its failure to inform him of his rights as a detainee and failure to notify his parents and the Juvenile Judge of his detention.⁴⁷ Because the State admitted responsibility for Mr. Bulacio's beating that ultimately caused his death, the State violated Article 4 (Right to Life) when it did not appropriately "exercise the duty of custody."⁴⁸

Article 5 (Right to Humane Treatment), in relation to Articles 1(1) and 2 of the American Convention, to the detriment of Mr. Bulacio,⁴⁹ because:

The State acknowledged its responsibility for the unlawful and arbitrary beating and detention of Mr. Bulacio, as well as its failure to inform him of his rights as a detainee and failure to notify his parents and the Juvenile Judge of his detention.⁵⁰ Because the state admitted responsibility for the arbitrary arrest, battery, and inadequate medical treatment of Mr. Bulacio, the State violated Article 5 (Right to Humane Treatment).⁵¹

Article 7 (Right to Personal Liberty), in relation to Articles 1(1)

45. Bulacio v. Argentina, Merits, Reparations, and Costs.

46. *Id.* "Operative Paragraphs" ¶ 3.

47. *Id.* ¶ 38.

48. *Id.* ¶ 32, "Operative Paragraphs" ¶ 3.

49. *Id.* "Operative Paragraphs" ¶ 3.

50. *Id.* ¶ 38.

51. *Id.* ¶¶ 32, 38, 131.

and 2 of the American Convention, to the detriment of Mr. Bulacio,⁵² because:

The State acknowledged its responsibility for the unlawful and arbitrary beating and detention of Mr. Bulacio, as well as its failure to inform him of his rights as a detainee and failure to notify his parents and the Juvenile Judge of his detention.⁵³ Because the State admitted responsibility for illegally arresting and detaining Mr. Bulacio without notifying his parents or informing him of the reason for the arrest, it violated Article 7 (Right to Personal Liberty).⁵⁴

Article 8 (Right to a Fair Trial), in relation to Articles 1(1) and 2 of the American Convention, to the detriment of Mr. Bulacio,⁵⁵ because:

The State acknowledged its responsibility for the unlawful and arbitrary beating and detention of Mr. Bulacio, as well as the existence of ongoing criminal proceedings against Mr. Bulacio.⁵⁶ The State did not afford Mr. Bulacio the opportunity to be brought before a judicial body in a timely manner because the criminal proceedings against him remained open for more than ten years.⁵⁷ Furthermore, the State did not provide Mr. Bulacio's next of kin with a means of clarifying the causes of Mr. Bulacio's detention and subsequent death.⁵⁸ Because the State admitted responsibility for the delayed judicial proceedings and failure to provide judicial remedies, the State violated Article 8 (Right to a Fair Trial).⁵⁹

Article 19 (Rights of the Child), in relation to Articles 1(1) and 2 of the American Convention, to the detriment of Mr. Bulacio,⁶⁰ because:

The State acknowledged its responsibility for the unlawful and arbitrary beating and detention of Mr. Bulacio, as well as its failure to adopt special protective measures for minors, as required by Article 19 (Rights of

52. *Id.* "Operative Paragraphs" ¶ 3.

53. *Id.* ¶ 38.

54. *Id.* ¶¶ 32–33, 38.

55. *Id.* "Operative Paragraphs" ¶ 3.

56. *Id.* ¶¶ 38, 81.

57. *Id.* ¶ 81.

58. *Id.* ¶ 38.

59. *Id.* ¶ 32, "Operative Paragraphs" ¶ 3.

60. *Id.* "Operative Paragraphs" ¶ 3.

the Child).⁶¹ Because the State admitted responsibility for the fact that Mr. Bulacio, a minor, was not afforded any additional protective measures as a minor in police custody, the State violated Article 19 (Rights of the Child).⁶²

Article 25 (Right to Judicial Protection), in relation to Articles 1(1) and 2 of the American Convention, to the detriment of Mr. Bulacio,⁶³ because:

The State acknowledged its responsibility for the unlawful and arbitrary beating and detention of Mr. Bulacio, as well as its failure to inform him of his rights as a detainee and failure to notify his parents and the Juvenile Judge of his detention.⁶⁴ The State neglected to notify the Juvenile Judge immediately upon Mr. Bulacio's detention.⁶⁵ The State further failed to provide Mr. Bulacio's next of kin with appropriate judicial remedies and failed to identify a reason for the minor's detention.⁶⁶ Because the State admitted responsibility for failing to notify Mr. Bulacio's parents and failing to provide judicial remedies, the State violated Article 25 (Right to Judicial Protection).⁶⁷

C. Dissenting and Concurring Opinions

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

In a separate opinion, Judge A.A. Cançado Trindade discussed the importance of adherence to the rules of the Convention and respect for the rights guaranteed within it.⁶⁸ The opinion stressed the turmoil that the State's insensitivity and impunity of those responsible inflicted on the Bulacio family following Mr. Bulacio's death.⁶⁹ The minor's grief-stricken father attempted to commit suicide multiple times before finally succumbing to a heart attack.⁷⁰ Mr. Bulacio's younger sister also at-

61. *Id.* ¶¶ 33, 38.

62. *Id.* ¶¶ 32–33, 136, “Operative Paragraphs” ¶ 3.

63. *Id.* “Operative Paragraphs” ¶ 3.

64. *Id.* ¶¶ 33, 38.

65. *Id.*

66. *Id.*

67. *Id.* ¶ 32, “Operative Paragraphs” ¶ 3.

68. See *Bulacio v. Argentina, Merits, Reparations, and Costs, Judgment, Reasoned Opinion of Judge A.A. Cançado Trindade, Inter-Am. Ct. H.R. (ser. C) No. 100 ¶ 1 (Sept. 18, 2003).*

69. *Id.* ¶¶ 2–7.

70. *Id.* ¶ 4.

tempted suicide before secluding herself with Mr. Bulacio's mother.⁷¹ The entire Bulacio family spun into a relentless cycle of depression and self-destruction.⁷² As the Court stated in the Judgment, reparations providing some form of restitution to the victims or their next of kin show a general intolerance for indifference to unnecessary human suffering at the hands of governments.⁷³ Judge Caçado Trindade stressed, however, that no amount of legal reparation could truly put the family together and compensate it for the loss it sustained.⁷⁴

2. Concurring Opinion of Judge Sergio García Ramírez

Judge Sergio García Ramírez issued a concurring opinion to specify the scope of certain points of law and measures applicable to minors.⁷⁵ Judge García Ramírez pointed out that the State's acknowledgement of responsibility and the friendly settlement of February 26, 2003, are two converging acts, and while related, their nature is different and each carries with it a unique set of legal consequences.⁷⁶

Judge García Ramírez stated that the State's acknowledgement of responsibility means that the State accepts that behaviors of its agents breached the rights of the victim in such ways that violated the victim's right to humane treatment and right to life.⁷⁷ The agreement, on the other hand, asks the Court to issue considerations regarding the imprisonment of children, a consideration which spans beyond the specific case at hand.⁷⁸ The Court has the authority to do so under Article 2 of the Convention, which encompasses the steps that a State must take to meet its obligations under the treaty.⁷⁹

Judge García Ramírez further points to Advisory Opinion OC-17/2002, which serves as a reference point regarding juvenile offenders and other subject matter with regard to minors, including the need for pro-

71. *Id.* ¶ 5.

72. *Id.* ¶¶ 7, 9.

73. *Id.* ¶ 30.

74. *Id.* ¶ 27.

75. *See* *Bulacio v. Argentina*, Merits, Reparations, and Costs, Judgment, Reasoned Concurring Opinion of Judge Sergio García Ramírez in the Judgment Issued by the Inter-American Court of Human Rights in the *Bulacio v. Argentina Case*, Inter-Am. Ct. H.R. (ser. C) No. 100, ¶ 1 (Sept. 18, 2003).

76. *Id.* ¶ 6.

77. *Id.* ¶ 8.

78. *Id.* ¶ 10.

79. *Id.*

tection from the State.⁸⁰ In Judge García Ramírez's view, the parties' requests contained in the second clause of the friendly settlement do not mean that the State declines its regulatory authority in the matter, nor does it impede or limit its ability to carry out reforms it may deem necessary to comply with its domestic and international duties.⁸¹

The issues under discussion in this case, Judge García Ramírez noted, are the substantive and procedural issues of justice as they relate to alleged juvenile offenders, including issues pertaining to a state's coercive detention measures and its actions in executing measures ordered by the proper authorities.⁸² In this respect, Judge García Ramírez stressed that penal or quasi-penal social control must be utilized as a measure of last resort when it pertains to minors.⁸³ Here, Judge García Ramírez made it clear that the State police's duties to preserve peace and order did not authorize them to take violent actions against youths who were not violating the legal order, or who did so with only scarcely significant ramifications.⁸⁴

Judge García Ramírez stressed the importance of using legitimate means of judgment by following proper protocol along with complete judicial proceedings, down to the final order.⁸⁵ Presumptions of innocence must apply, with defense counsel on hand from the time of the defendant's arrest and arraignment.⁸⁶ Judge García Ramírez noted that this protocol would be particularly crucial when dealing with minors, who are especially defenseless and vulnerable.⁸⁷

The police detention itself must be organized to ensure reasonability, necessity, and proportionality to offense charged.⁸⁸ *Razzias*, or police practices of collective detention, are often the subject of complaints, largely due to the practice of issuing general charges without identifying individual actions.⁸⁹ Any restrictions on rights must be based on a charged offense, as defined by the law.⁹⁰ Coercive or preventative measures by the police must also be based on an actual illegal behavior, which would establish a link between the individual offender and pre-

80. *Id.* ¶ 11.

81. *Id.* ¶ 12.

82. *Id.* ¶ 13.

83. *Id.* ¶ 14.

84. *Id.*

85. *Id.* ¶ 16.

86. *Id.* ¶ 17.

87. *Id.* ¶ 18.

88. *Id.* ¶ 20.

89. *Id.*

90. *Id.*

ventative measures that would restrict the offender's rights.⁹¹

The Inter-American Court of Human Rights maintains that the State assumes the role of a guarantor with respect to these obligations toward its citizenry.⁹² As guarantor, the State must be held accountable for the consequences of its authority, and it must be held to answer for duties toward individuals under its detention, especially minors.⁹³ The State is, therefore, the guarantor of life, of the humane treatment, and of the well being of its detainees.⁹⁴

3. Concurring Opinion of Judge Ricardo Gil Lavedra

Judge Ricardo Gil Lavedra issued his concurring opinion to discuss certain concepts raised by the judgment and also to give several general comments on the matter.⁹⁵ In Judge Gil Lavedra's view, the most significant themes were: (1) the way in which the parties arrived at a "friendly settlement," in light of the Court's Rules of Procedure; (2) criminal punishment as a component of reparations for the State's human rights violations; (3) and the judges' obligations to conduct the criminal proceeding on the basis of the right to judicial protection and the effectiveness of the Court's decisions upon domestic legal impediments.⁹⁶

The main components of the friendly settlement—the State's acknowledgement of international responsibility, the basic agreement on the facts, and the offer to provide full reparation—led the Court to accept the agreement.⁹⁷ Judge Gil Lavedra noted that Article I of the American Convention sets forth states' primary obligation as the respect for rights recognized therein, and the duty to ensure that states comply with their responsibility to investigate and punish those charged with violating any protected rights.⁹⁸ Thorough investigation satisfies victims' rights to the truth.⁹⁹ Punishment of convicted parties reinforces crime prevention while also serving as reparation for the victim or his

91. *Id.*

92. *Id.* ¶ 22.

93. *Id.* ¶ 23.

94. *Id.*

95. *See* *Bulacio v. Argentina*, Merits, Reparations, and Costs, Judgment, Reasoned Opinion of Judge Ricardo Gil Lavedra, Inter-Am. Ct. H.R. (ser. C) No. 100, ¶ 1 (Sept. 18, 2003).

96. *Id.*

97. *Id.* ¶ 2.

98. *Id.* ¶ 3.

99. *Id.*

next of kin.¹⁰⁰ Impunity, on the other hand, would foster recidivism of the same criminal activity and would limit any reparative effects.¹⁰¹

Judge Gil Lavedra pointed to this unwanted side effect because he believed the rights of Mr. Bulacio's next of kin, through the criminal punishment of responsible parties, had been extinguished.¹⁰² Thirteen years had elapsed from the time the events surrounding the case had transpired, and there was no justification for such a delay in the proceedings.¹⁰³ Judicial bodies must, therefore, require parties to act in good faith, which would prevent the cessation of a party's right to seek criminal prosecution simply because time had passed.¹⁰⁴ Without such safeguards, effective judicial protection would cease to exist.¹⁰⁵

Judge Gil Lavedra emphasized another significant point in the Court's judgment, that domestic legal provisions, such as extinguishment, could not be raised as obstacles to the Court's decision-making process and its order for reparations.¹⁰⁶ Extinguishment, he noted, involves the abandonment of criminal prosecution by the State due to the lapse of time.¹⁰⁷ This extinguishment would raise the presumption that social concerns caused by criminal activity had expired, causing any imposed punishment to lack preventative purpose.¹⁰⁸ In consideration of these risks, the judgments of the Court that order investigations and appropriate punishments based upon Article I are binding upon the states, in light of their international commitments to comply with the Convention.¹⁰⁹ Without this binding obligation, mechanisms of international protection of human rights would lose effectiveness.¹¹⁰

In terms of the duty to adjust domestic legislation to fit international standards, Judge Gil Lavedra stated that the State had made substantial changes to regulations that had existed at the time its police illegally detained Mr. Bulacio.¹¹¹ One pending adjustment is the State's adoption of a juvenile criminal system that complies with the require-

100. *Id.*

101. *Id.*

102. *Id.* ¶ 4.

103. *Id.*

104. *Id.*

105. *Id.*

106. *Id.* ¶ 5.

107. *Id.*

108. *Id.*

109. *Id.*

110. *Id.*

111. *Id.* ¶ 6.

ments of the Convention on the Rights of the Child.¹¹² The most effective modification, Judge Gil Lavedra concluded, would be the adoption of police practices committed to the respect of human rights and the judicial system.¹¹³

IV. REPARATIONS

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

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

1. Investigate and Punish Those Responsible

The State must continue and complete investigations into Mr. Bulacio's detention and punish those found responsible.¹¹⁴ The State must keep Mr. Bulacio's next of kin fully apprised of the facts and allow them to act at all stages of these investigations.¹¹⁵ The results of the investigations must be made public in compliance with the terms of the Judgment.¹¹⁶

2. Modify Domestic Legal System

The State must adopt legislation necessary to modify the domestic legal system to conform to standards of international human rights provisions.¹¹⁷ The State must ensure that these modifications are fully effective.¹¹⁸

3. Conduct Measures with Transparency

The State must publish chapter IV and the operative paragraphs of the Judgment in the State's Daily Gazette at least once.¹¹⁹

112. *Id.*

113. *Id.*

114. *Id.* "Operative Paragraphs" ¶ 4.

115. *Id.*

116. *Id.*

117. *Id.* "Operative Paragraphs" ¶ 5.

118. *Id.*

119. *Id.* ¶ 145, "Operative Paragraphs" ¶ 6.

B. Compensation

The Court awarded the following amounts:

1. Pecuniary Damages

The Court awarded \$124,000.00 to Mr. Bulacio's mother, sister, and grandmother, to be distributed in the amounts of \$110,000.00 to Graciela Rosa Scavone and \$14,000.00 each to Maria Ramona Armas de Bulacio and Lorena Beatriz Bulacio.¹²⁰

2. Non-Pecuniary Damages

The Court awarded \$210,000.00 to Mr. Bulacio's next of kin, to be distributed in the amounts of \$114,333.00 to Graciela Rosa Scavone; \$44,330.00 to María Ramona Armas de Bulacio; \$39,333.00 to Lorena Beatriz Bulacio; and \$12,000.00 each to the children Matías Emanuel and Tamara Florencia Bulacio.¹²¹ Compensation to the children must be deposited into an investment fund at a solid Argentinian banking institution by the State in the children's names while they are minors.¹²²

3. Costs and Expenses

The Court awarded \$40,000.00 for legal costs and expenses.¹²³ The State must pay \$12,000.00 to María del Carmen Verdú; \$12,000.00 to Daniel A. Stragá; \$7,000.00 to CORREPI; \$7,000.00 to CELS; and \$2,000.00 to CEJIL.¹²⁴

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

\$374,000.00

120. *Id.* "Operative Paragraphs" ¶ 7. On April 4, 2000, Mr. Víctor David Bulacio had two heart attacks and required surgery, after which he passed away. The Court determined Mr. Bulacio's father suffered pecuniary and non-pecuniary damage, but because he passed away before the Judgment, his reparations would pass on to his children, Lorena Beatriz, Matías Emanuel, and Tamara Florencia Bulacio. *Id.* ¶¶ 56(a), 79, "Proven Facts" ¶ 7.

121. *Id.* "Operative Paragraphs" ¶ 8.

122. *Id.* "Operative Paragraphs" ¶ 13.

123. *Id.* "Operative Paragraphs" ¶ 9.

124. *Id.* ¶ 152.

C. Deadlines

The State must deposit the funds of the children, Tamara Florencia and Matías Emanuel Bulacio, into a bank within six months.¹²⁵ The State must pay legal costs and expenses within six months of the date that it receives notice of the Judgment.¹²⁶ The State must submit a report to the Court on its efforts to comply with the provisions of the Judgment.¹²⁷

V. INTERPRETATION AND REVISION OF JUDGMENT

[None]

VI. COMPLIANCE AND FOLLOW-UP

April 6, 2004: The Court requested that the State submit its first compliance report, as the deadline had passed on April 3, 2004.¹²⁸

May 13, 2004: The State submitted a compliance report.¹²⁹

November 17, 2004: The State fully complied with its obligation to publish chapter IV and the operative paragraphs of the Judgment in the Daily Gazette.¹³⁰

The State fully complied with its obligation to compensation Mr. Bulacio's next of kin for pecuniary and non-pecuniary damages.¹³¹ The State fully complied with its obligation to pay the legal costs and expenses of the parties.¹³² The State fully complied with its obligation to establish bank accounts for Mr. Bulacio's half-siblings, Tamara Florencia Bulacio and Matías Emanuel Bulacio.¹³³

The Court noted that compliance is pending regarding the State's

125. *Id.* "Operative Paragraphs" ¶ 13.

126. *Id.* "Operative Paragraphs" ¶ 10.

127. *Id.* "Operative Paragraphs" ¶ 14.

128. *Bulacio v. Argentina*, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. "Having Seen" ¶ 2 (Nov. 17, 2004).

129. *Id.* ¶ 3.

130. *Id.* "Considering" ¶ 8.

131. *Id.* "Considering" ¶ 9.

132. *Id.*

133. *Id.*

obligation to investigate those responsible for Mr. Bulacio's detention and subsequent death and to publish the findings.¹³⁴ The Court requested that the State provide information as to its compliance with this obligation.¹³⁵ The Court will continue to monitor this area for compliance.¹³⁶

The Court noted that compliance is pending regarding the State's obligation to modify domestic legislation to comply with international human rights laws.¹³⁷ The Court requested that the State provide information as to its compliance with this obligation.¹³⁸ The Court will continue to monitor this area for compliance.¹³⁹

The Court ordered the State to comply with and submit a report on the pending obligations.¹⁴⁰

August 14, 2008: The State partially complied with its obligation to investigate the identities of those responsible for Mr. Bulacio's detention and death because the State Supreme Court overturned an order that dismissed the prosecution of a perpetrator responsible for Mr. Bulacio's illegal detention.¹⁴¹ However, the investigation was not completed.¹⁴² The Court will continue to monitor this area for full compliance.¹⁴³

The State partially complied with its obligation to adopt domestic legislation to comply with international human rights laws because it complied with the Court's Judgment.¹⁴⁴ The Court will continue to monitor this area for full compliance.¹⁴⁵

The Court ordered the State to comply with and submit a report on the pending obligations.¹⁴⁶

During this hearing, the parties signed an agreement and submitted it to the Court, which stated that the State would organize a meeting between the State Minister of Justice, Security, and Human Rights and the

134. *Id.* "Considering" ¶ 10.

135. *Id.* "Decides" ¶ 2.

136. *Id.* "Declares" ¶ 2.

137. *Id.* "Considering" ¶ 10.

138. *Id.* "Decides" ¶ 2.

139. *Id.* "Declares" ¶ 2.

140. *Id.* "Decides" ¶¶ 1–2.

141. *Bulacio v. Argentina*, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. "Considering" ¶ 8, "Declares" ¶ 1 (Nov 26, 2008).

142. *Id.* "Considering" ¶ 8.

143. *Id.* "Declares" ¶ 2.

144. *Id.* "Declares" ¶ 1.

145. *Id.* "Declares" ¶ 2.

146. *Id.* "Considering" ¶ 7, "Decides" ¶ 2.

Human Rights Secretary 30 days to facilitate compliance.¹⁴⁷

VII. LIST OF DOCUMENTS

A. Inter-American Court

1. Preliminary Objections

[None]

2. Decisions on Merits, Reparations and Costs

[Bulacio v. Argentina, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. \(ser. C\) No. 100 \(Sept. 18, 2003\).](#)

[Bulacio v. Argentina, Merits, Reparations, and Costs, Judgment, Reasoned Opinion of Judge A.A. Cançado Trindade, Inter-Am. Ct. H.R. \(ser. C\) No. 100 \(Sept. 18, 2003\).](#)

[Bulacio v. Argentina, Merits, Reparations, and Costs, Judgment, Reasoned Concurring Opinion of Judge Sergio García Ramírez In the Judgment Issued by the Inter-American Court of Human Rights in the *Bulacio v. Argentina Case*, Inter-Am. Ct. H.R. \(ser. C\) No. 100 \(Sept. 18, 2003\).](#)

[Bulacio v. Argentina, Merits, Reparations, and Costs, Judgment, Reasoned Opinion of Judge Ricardo Gil Lavedra, Inter-Am. Ct. H.R. \(ser. C\) No. 100 \(Sept. 18, 2003\).](#)

3. Provisional Measures

[None]

4. Compliance Monitoring

[Bulacio v. Argentina, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. \(Nov. 17, 2004\).](#)

147. *Id.* “Having Seen” ¶ 6.

[Bulacio v. Argentina, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. \(Nov 26, 2008\).](#)

5. Review and Interpretation of Judgment

[None]

B. Inter-American Commission

1. Petition to the Commission

[Not Available]

2. Report on Admissibility

[Bulacio v. Argentina, Admissibility Report, Report No. 29/98, Inter-Am. Comm'n H.R., Case No. 11.752 \(May 5, 1998\).](#)

3. Provisional Measures

[None]

4. Report on Merits

[Not Available]

5. Application to the Court

[Not Available]

VIII. BIBLIOGRAPHY

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María del Carmen Verdú, *Qué pasó con Walter?* (2009), <https://juiciowalterbulacio.wordpress.com/quepasoconwalterbulacio/>.