

# Carpio Nicolle et al. v. Guatemala

## ABSTRACT<sup>1</sup>

*This case is about an ambush by State-sponsored Civilian Self-Defense Patrols in Guatemala against several politicians. One of the victims was well-known journalist, politician and party leader, Jorge Carpio Nicolle, who had opposed President Serrano Elías' coup d'état.*

## I. FACTS

### A. Chronology of Events

**Early 1980s:** Paramilitary groups, known as the Civilian Self-Defense Patrols (“PACs”), emerge under the influence of the Guatemalan army.<sup>2</sup> PACs are formed to organize civilian populations against the guerrilla movement.<sup>3</sup> The PACs carry out many activities for the Army, including executions and arbitrary disappearances of persons.<sup>4</sup> By virtue of this relationship, the PACs receive resources, arms, training, and direct orders from the Army.<sup>5</sup>

**1983:** Mr. Jorge Carpio Nicolle, a well-known journalist and politician, forms a political party called the National Union for the Center (“UCN”).<sup>6</sup>

**1985:** A transition period to democracy begins in Guatemala.<sup>7</sup>

**1990:** General elections for presidency take place in Guatemala.<sup>8</sup> Mr. Carpio Nicolle wins the first round in these elections, but loses in

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1. Meri Khananashvili, Author; Elise Cossart-Daly, Grace Kim, and Sascha Meisel, Editors; Sarah Frost, Chief Articles Editor; Cesare Romano, Faculty Advisor.

2. Carpio Nicolle et al. v. Guatemala, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 117, ¶ 76(1) (Nov. 22, 2004).

3. *Id.* ¶ 76(2).

4. *Id.* ¶ 76(3).

5. *Id.*

6. *Id.* ¶ 69(a).

7. *Id.* ¶ 76(5).

8. *Id.* ¶ 76(6).

the second round to Mr. Serrano Elías.<sup>9</sup> Mr. Serrano Elías wins with 24.8 percent of the electorate by gaining ten seats in Congress and three percent of the municipalities.<sup>10</sup> Mr. Carpio Nicolle, on the other hand, obtains forty deputies in Congress, which is 34.5 percent of the legislative body.<sup>11</sup>

**1992:** Mr. Serrano Elías seeks the political support of the Christian Democratic Party and the UCN.<sup>12</sup> Mr. Serrano Elías forms an alliance with both parties.<sup>13</sup>

**1993:** During the municipal elections, the Christian Democratic Party announces a populist and national convergence program, and its decision to end its Congressional alliance with the government and the UCN.<sup>14</sup> As a result, the government loses control over the legislature and its support of the UCN; “the military high command remains the Government’s only ally.”<sup>15</sup>

**May 25, 1993:** Mr. Serrano Elías carries out a coup d’état and announces that he has dissolved the Congress of the Republic, the Supreme Court of Justice, and the Constitutional Court.<sup>16</sup> He also (1) announces that he has suspended the positions of Attorney General and Ombudsman; (2) issues a decree suspending fundamental rights; and (3) censors radio, television, and written media.<sup>17</sup> Mr. Serrano Elías justifies the coup d’état as a necessary means of ending the mafias and corruptions in the legislative and judicial powers, and promises to hold immediate legislative elections to re-establish constitutional order.<sup>18</sup>

Mr. Carpio Nicolle opposes Mr. Serrano Elías’s coup d’état, though he receives national and international pressure to support Mr. Serrano Elías.<sup>19</sup>

**May 26, 1993:** Mr. Carpio Nicolle criticizes the coup d’état in *El*

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9. *Id.*

10. *Id.*

11. *Id.*

12. *Id.* ¶ 76(7).

13. *Id.*

14. *Id.* ¶ 76(8).

15. *Id.*

16. *Id.* ¶ 76(9).

17. *Id.*

18. *Id.* ¶ 76(10).

19. *Id.* ¶ 76(11).

*Gráfico*, a newspaper he developed in 1963,<sup>20</sup> but the State censors the issue.<sup>21</sup> The UCN also condemns the coup d'état and the disruption of the constitutional order.<sup>22</sup> As a result, the police and military forces threaten UCN members.<sup>23</sup>

**May 31, 1993:** Mr. Serrano Elías summons Mr. Carpio Nicolle to request his support as the leader of the UCN.<sup>24</sup> Mr. Carpio Nicolle refuses to support Mr. Serrano Elías and urges him to return to the democratic constitutional order.<sup>25</sup>

**June 1, 1993:** The Constitutional Court repudiates Mr. Serrano Elías's powers as President.<sup>26</sup> The Supreme Electoral Tribunal also refuses to allow Congress to reform the Constitution and to call for new elections.<sup>27</sup> Consequently, Mr. Serrano Elías is dismissed from power and flees to El Salvador.<sup>28</sup>

Mr. Gustavo Espina, Vice President of Mr. Serrano Elías's government, proclaims himself the *ad interim* President of the Republic and subsequently summons the Congress to ratify him as President.<sup>29</sup> On September 19, 1993, the Constitutional Court repudiates Mr. Espina as President and grants twenty-four hours to appoint a new President.<sup>30</sup>

**June 5, 1993:** Members of the Congress informally propose several drafts of amnesty laws to benefit the authors, accomplices and accessories of the coup d'état of May 25, 1993.<sup>31</sup>

**June 6, 1993:** Congress appoints the former Ombudsman, Mr. Ramiro de León Carpio, who is also Mr. Carpio Nicolle's cousin, as President of the Republic.<sup>32</sup>

**June 8, 1993:** Mr. Carpio Nicolle, in his capacity as the Secretary

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20. *Id.* ¶ 76(15).

21. *Id.* ¶ 76(16).

22. *Id.*

23. *Id.*

24. *Id.* ¶ 76(17).

25. *Id.*

26. *Id.* ¶ 76(12).

27. *Id.*

28. *Id.*

29. *Id.* ¶ 76(13).

30. *Id.*

31. *Id.* ¶ 76(18).

32. *Id.* ¶ 76(14).

General of the UCN and the representative of its deputies, states in *El Gráfico* that he rejects potential amnesty for authors, accomplices and accessories of the coup d'état.<sup>33</sup> Congress does not adopt the draft laws because of the UCN's opposition.<sup>34</sup>

**June 9, 1993 – July 3, 1993:** Mr. Carpio Nicolle opposes successive attempts by Mr. Serrano Elías and Gustavo Espina to seize power in Guatemala.<sup>35</sup>

Furthermore, Mr. Carpio Nicolle develops a political strategy for a return to the democratic constitutional order.<sup>36</sup> To this end, Mr. Carpio Nicolle, in conjunction with the UCN, promotes a "political commitment to normalize the constitutional and institutional order,"<sup>37</sup> defining the steps needed to restore democracy in Guatemala.<sup>37</sup> Mr. Carpio Nicolle also establishes the National Consensus forum, which is composed of representatives of political parties, business associations, trade unions, cooperatives, multi-sector groupings and universities.<sup>38</sup>

**July 3, 1993:** More than fifteen armed men near Molino El Tesoro, in the municipality of Chichicastenango, Department of El Quiché, intercept Mr. Carpio Nicolle and a group of delegates comprised of Martha Arrivillaga de Carpio, Juan Vicente Villacorta Fajardo, Sydney Shaw Arrivillaga, Ricardo San Pedro Suárez, Mario Arturo López Arrivillaga, Alejandro Ávila Guzmán and Rigoberto Rivas González, and minor Sydney Shaw Díaz.<sup>39</sup>

The armed men cover the faces of Mr. Carpio Nicolle and his delegation with balaclavas.<sup>40</sup> When they identify Mr. Carpio Nicolle, the armed men shoot him at close range, killing him.<sup>41</sup>

The armed men also kill Juan Vicente Villacorta Fajardo, Alejandro Ávila Guzmán, and Rigoberto Rivas González in the attack, and injure Sydney Shaw Díaz.<sup>42</sup> Sydney Shaw Díaz, Martha Arrivillaga de Carpio, Sydney Shaw Arrivillaga, Mario Arturo López Arrivillaga

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33. *Id.*

34. *Id.*

35. *Id.* ¶ 76(19).

36. *Id.*

37. *Id.*

38. *Id.* ¶ 76(20).

39. *Id.* ¶ 76(21).

40. *Id.*

41. *Id.*

42. *Id.*

and Ricardo San Pedro Suárez survive the attack.<sup>43</sup>

Following the attack, the survivors give an empty cartridge case, and a bullet they found in the microbus in which Mr. Carpio Nicolle was traveling, to Military Base No. 20, in El Quiché.<sup>44</sup> These pieces of evidence are not sent to the Identification Unit of the National Police Directorate General.<sup>45</sup>

**July 4, 1993:** The police search the attack site and find three bullet heads, a backpack with clothes, and nine rounds of bullets.<sup>46</sup> The police send this evidence to the Identification Unit of the National Police Directorate General, but it is never incorporated into the case file.<sup>47</sup>

**July 6-7, 1993:** Thirteen men with criminal histories are arraigned before the magistrate for Criminal Affairs of Chichicastenango, Department of El Quiché, as perpetrators of the attack against Mr. Carpio Nicolle and his delegation.<sup>48</sup> Subsequently, nine of the thirteen are released.<sup>49</sup> The remaining four, Marcelino Tuy Taniel, Nazario Tuy Taniel, Tomás Pérez Pérez and Jesús Cuc Churunel, are detained for ten months facing charges of murder, assault, aggravated robbery, carrying weapons, and possession and manufacture of explosive materials for the Army's exclusive use.<sup>50</sup>

**July 7, 1993:** An expert evaluates the nine rounds and three bullet heads found near the site of the attack, but the report is lost.<sup>51</sup>

**January 19, 1994:** Unknown parties set fire to the office of the judicial agency where Mr. Carpio Nicolle's case file is kept.<sup>52</sup> Officials find remains of Molotov cocktails among the ashes.<sup>53</sup>

**May 19, 1994:** The Fifth Criminal Court of First Instance revokes the pre-trial detention order against Marcelino Tuy Taniel, Nazario Tuy

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43. *Id.*

44. *Id.* ¶ 76(23).

45. *Id.*

46. *Id.* ¶ 76(24).

47. *Id.*

48. *Id.* ¶ 76(36).

49. *Id.*

50. *Id.*

51. *Id.* ¶ 76(25).

52. *Id.* ¶ 76(29).

53. *Id.*

Taniel, Tomás Pérez Pérez and Jesús Cuc Churunel for the crimes of murder, injuries and aggravated robbery.<sup>54</sup> Marcelino Tuy Taniel and Nazario Tuy Taniel remain in prison for the crime of the manufacture or possession of explosive materials.<sup>55</sup>

**May 24, 1994:** The Attorney General's office files an appeal against the decision by the Fifth Criminal Court of First Instance.<sup>56</sup>

**May 25, 1994:** Oscar Abel García Arroyo, a ballistics expert, sends an evaluation report to the Fifth Criminal Court of First Instance.<sup>57</sup> The report contains Oscar Abel Garcia Arroyo's conclusion that the firearm confiscated from Juan Acabal Patzán had fired the rounds that produced the empty cartridges found at the site of the attack.<sup>58</sup> However, the weapon is taken out of Guatemala without any authorization or judicial order.<sup>59</sup>

A National Police spokesman, Darwin de León Palencia, is involved in a car accident during which various evidence collected from the site of the attack is lost.<sup>60</sup> The spokesman indicates that, when he entered the hospital, he handed the evidence to an agent on duty, but the evidence is lost and never recovered.<sup>61</sup> Mr. de León Palencia states that the accident was due to a failure of his vehicle's brakes.<sup>62</sup>

**June 1994:** The Prosecutor General, Ramsés Cuestas Gómez, provides the criminal proceeding with a report prepared by the Homicide Section of the Criminal Investigations Department of the National Police.<sup>63</sup>

The report elaborates on the results of the investigation into the deaths of Mr. Carpio Nicolle, Juan Vicente Villacorta Fajardo, Alejandro Ávila Guzmán and Rigoberto Rivas González, and establishes various facts based on the evidence recovered, the ballistics tests, and the witness's statements.<sup>64</sup>

The report also names eleven individuals as possible direct

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54. *Id.* ¶ 76(38).

55. *Id.*

56. *Id.*

57. *Id.* ¶ 76(26).

58. *Id.*

59. *Id.*

60. *Id.* ¶ 76(28).

61. *Id.*

62. *Id.*

63. *Id.* ¶ 76(39).

64. *Id.*

participants in the attack.<sup>65</sup> Most of the individuals named are members of the Civilian Self-Defense Patrols, but some are government officials.<sup>66</sup>

The only person who remains detained during the proceeding is Juan Acabal Patzán, who is accused in this report of being one of the possible perpetrators of the acts that occurred on July 3, 1993.<sup>67</sup>

**August 4, 1994:** The Tenth Appeals Chamber confirms the May 19, 1994 decision of the Fifth Criminal Court of First Instance to revoke the pre-trial detention order against Marcelino Tuy Taniel, Nazario Tuy Taniel, Tomás Pérez Pérez and Jesús Cuc Churunel for the crimes of murder, assault, and aggravated robbery.<sup>68</sup>

**December 5, 1994:** During a public hearing, Martha Arrivillaga de Carpio files a complaint before the Fifth Criminal Court of First Instance, charging Juan Acabal Patzán with the murders of Mr. Carpio Nicolle, Juan Vicente Villacorta Fajardo, Alejandro Ávila Guzmán and Rigoberto Rivas González, and with seriously injuring Sydney Shaw Díaz.<sup>69</sup> The complainant requests that the crime committed against Mr. Shaw Díaz should be reclassified as attempted murder.<sup>70</sup>

**December 8, 1994:** Ms. Arrivillaga de Carpio requests the renewal of the pre-trial detention order against Marcelino Tuy Taniel, Nazario Tuy Taniel, Tomás Pérez Pérez and Jesús Cuc Churunel.<sup>71</sup> Ms. Arrivillaga de Carpio also files an appeal in case the request is refused.<sup>72</sup>

**February 8, 1995:** Abraham Méndez García, the prosecutor from the Attorney General's office, reports a series of irregularities to the United Nations Verification Mission.<sup>73</sup> The report includes the disappearance of a bullet head found inside the vehicle in which Mr. Carpio Nicolle was traveling, the disappearance of the autopsy photographs of the victims' bodies, and the disappearance of the evidence transported by the

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65. *Id.* ¶ 76(40).

66. *Id.*

67. *Id.*

68. *Id.* ¶ 76(38).

69. *Id.* ¶ 76(41).

70. *Id.*

71. *Id.* ¶ 76(38).

72. *Id.*

73. *Id.* ¶ 76(31).

National Police spokesman.<sup>74</sup>

**March 13, 1995:** The Fifth Criminal Court of First Instance decides not to renew the pre-trial detention order.<sup>75</sup> The criminal court also admits the appeal filed additionally by Ms. Arrivillaga de Carpio.<sup>76</sup>

**April 18, 1995:** The Tenth Chamber of the Court of Appeal decides the appeal of March 13, 1995, modifying the classification of the crime of injuries as attempted murder to the detriment of Mr. Shaw Díaz, and orders that the case proceed to trial.<sup>77</sup>

**May 18, 1995:** In response to the order of the Tenth Chamber of the Court of Appeal, the Fifth Criminal Court of First Instance issues a decision amending the pre-trial detention order issued against Jesús Cuc Churunel, Nazario Tuy Taniel, Marcelino Tuy Taniel, Tomás Pérez Pérez, Juan Acabal Patzán and Francisco Ixcoy López and reopens the proceeding.<sup>78</sup>

The decision does not refer to facts revealed when the case was opened for evidence.<sup>79</sup> Instead, the decision continues to consider the matter as if it relates to ordinary criminal activities.<sup>80</sup>

**May 19, 1995:** The Fifth Criminal Court of First Instance, “owing to a procedural element and considering [it] admissible,” revokes the pre-trial detention order issued against Jesús Cuc Churunel, Francisco Ixcoy López and Tomás Pérez Pérez for allegedly committing attempted murder.<sup>81</sup>

**July 7, 1995:** Ms. Arrivillaga de Carpio files a petition for clarification of certain points and expansion in response to the Fifth Criminal Court of First Instance’s lack of reference to the facts that had been brought to light when the case had been opened for evidence, and the court’s continuance in considering the matter as if related to ordinary criminal activities.<sup>82</sup>

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74. *Id.*

75. *Id.* ¶ 76(42).

76. *Id.*

77. *Id.* ¶ 76(43).

78. *Id.* ¶ 76(44).

79. *Id.*

80. *Id.*

81. *Id.* ¶ 76(45).

82. *Id.* ¶ 76(44).



**August 9, 1995:** The Fifth Criminal Court of First Instance declares the petition for clarification and expansion filed by Ms. Arrivillaga de Carpio inadmissible.<sup>83</sup>

**August 16, 1995:** Ms. Arrivillaga de Carpio files an appeal before the Fifth Criminal Court of First Instance against the decision of May 18, 1995.<sup>84</sup>

**August 29, 1995:** The Fifth Criminal Court of First Instance admits the appeal.<sup>85</sup>

**September 11, 1995:** The Attorney General's office endorses the appeal.<sup>86</sup>

**October 12, 1995:** Police Commissioner César Augusto Medina Mateo, who ordered the arrest of the commanders and members of the Civilian Self-Defense Patrols for accusations of perpetrating the execution of Mr. Carpio Nicolle and the members of his delegation, is murdered.<sup>87</sup>

**October 16, 1995:** The Tenth Chamber of the Court of Appeal decides the August 16, 1995 appeal by Ms. Arrivillaga de Carpio.<sup>88</sup> The court revokes the part of the contested order referring to the renewal of the pre-trial detention order against Marcelino Tuy Taniel, Nazario Tuy Taniel, Tomás Pérez Pérez, Jesús Cuc Churunel and Francisco Ixcoy López for the assault, which was changed to attempted murder.<sup>89</sup> The court refers the case to the First Criminal Court of First Instance.<sup>90</sup>

**October 21, 1995:** The prosecutor, Mr. Méndez García, resigns.<sup>91</sup>

**November 7, 1995:** Mr. Méndez García leaves the country to escape harassment, threats, and attacks that he received for prosecuting this

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83. *Id.* ¶ 76(46).

84. *Id.* ¶ 76(47).

85. *Id.*

86. *Id.*

87. *Id.* ¶ 76(64).

88. *Id.* ¶ 76(48).

89. *Id.*

90. *Id.*

91. *Id.* ¶ 76(63).

case.<sup>92</sup>

**January 24, 1996:** The judge of the First Criminal Court of First Instance does not execute the decisions of the Tenth Chamber of the Court of Appeal concerning the renewal of the pre-trial detention order.<sup>93</sup> Instead, he requires the parties to take additional steps but does not grant further hearings so as to allow the parties to submit evidence relating to the new classification of the crime.<sup>94</sup>

**January 26 and 31, 1996:** The Attorney General's office and Ms. Arrivillaga de Carpio file appeals against the decision of January 24, 1996.<sup>95</sup>

**April 15, 1996:** The Tenth Chamber of the Court of Appeal revokes the decision of the First Criminal Court of First Instance and orders it to adapt its proceedings to the corresponding legal procedural principles.<sup>96</sup>

**April 22, 1996:** The judge of the First Criminal Court of First Instance excuses himself from continuing to hear the case.<sup>97</sup>

**April 23, 1996:** The case is transferred to the Second Criminal Court.<sup>98</sup>

**June 10, 1996:** The Second Criminal Court files a question regarding jurisdiction before the Supreme Court of Justice.<sup>99</sup>

**July 23, 1996:** The case is transferred to a new judge of the First Criminal Court of First Instance.<sup>100</sup>

**August 12, 1996:** Pursuant to the decision of the Tenth Chamber of the Court of Appeal, the First Criminal Court of First Instance revokes the release order of May 19, 1994, issued in favor of Nazario Tuy Taniel, Marcelino Tuy Taniel, Jesús Cuc Churunel, Tomás Pérez Pérez and

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92. *Id.*

93. *Id.* ¶ 76(49).

94. *Id.*

95. *Id.*

96. *Id.*

97. *Id.* ¶ 76(50).

98. *Id.*

99. *Id.*

100. *Id.*

Francisco Ixcoy López.<sup>101</sup>

The court also renews the pre-trial detention orders against these individuals, and also against Juan Acabal Patzán, for the crimes of murder, attempted murder, and aggravated robbery.<sup>102</sup>

**February 25, 1997:** A judicial inspection in the Identification Unit of the National Police finds that the bullet heads used in the attack are missing.<sup>103</sup> While there is an official communication recording that they had been forwarded to the Fifth Criminal Court of First Instance, which was hearing the case, this court has no information on the whereabouts of this evidence.<sup>104</sup> The cartridges and bullets extracted from the bodies of the victims have also disappeared.<sup>105</sup>

**April 21, 1997:** A public hearing is held in the First Criminal Court of First Instance.<sup>106</sup>

**October 15, 1997:** The First Criminal Court of First Instance delivers a judgment that disqualifies the eyewitnesses' statements based on the fact that the victims, who are the interested parties in the results of the trial, made them.<sup>107</sup>

The proceeding against Tomás Pérez Pérez, Jesús Cuc Churunel and Francisco Ixcoy stays open and Marcelino Tuy Taniel and Nazario Tuy Taniel are acquitted of the crimes of murder and attempted murder and sentenced to five years' imprisonment, with possible commutation of sentence, for the crime of the manufacture or possession of explosive materials.<sup>108</sup>

Juan Acabal Patzán receives a sentence to thirty years' imprisonment as a perpetrator of the murders of Mr. Carpio Nicolle, Juan Vicente Villacorta Fajardo, Alejandro Ávila Guzmán and Rigoberto Rivas González, and also of the murder of Francisco Ajnac Ixcoy and Juan Patzán Pérez.<sup>109</sup>

**November 12, 1997:** The person in charge of the National Police's

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101. *Id.* ¶ 76(51).

102. *Id.*

103. *Id.* ¶ 76(32).

104. *Id.*

105. *Id.*

106. *Id.* ¶ 76(52).

107. *Id.* ¶ 76(53).

108. *Id.*

109. *Id.*

Identification Unit Ballistics Laboratory responds to a judge's request that he carry out an expert evaluation of the weapon confiscated from Mr. Acabal Patzán and of additional evidence related to the facts.<sup>110</sup>

The letter states that following an exhaustive search that he concluded the Unit never received the evidence.<sup>111</sup> He also states that the evidence that belongs to Mr. Carpio Nicolle's case is not fully identified, in exception to some bullets and empty cartridge cases, which were supposedly collected from the site of the facts.<sup>112</sup>

**November 26, 1997:** The Attorney General's office files an appeal against the judgment of October 15, 1997 on the grounds that it closed the possibility of investigating the masterminds of the case and that the judgment had not ruled on the crime of perjury committed by the high command of the State's security forces.<sup>113</sup>

**November 28, 1997:** Ms. Arrivillaga Carpio files a petition before the First Criminal Court of First Instance, requesting clarification and expansion regarding the October 15, 1997 judgment.<sup>114</sup> In the petition she requests a clarification of the criminal liability of Juan Acabal Patzán for the four crimes; the disappearance of the bullet heads which killed Mr. Carpio Nicolle; the arbitrary action of removing the weapon with which the latter had been murdered from Guatemalan jurisdiction; and the failure to rule on the crime of perjury committed by several soldiers.<sup>115</sup> She also requests that Juan Acabal Patzán be declared responsible for the crime of attempted murder against Mr. Shaw Díaz.<sup>116</sup>

**December 19, 1997:** The First Criminal Court of First Instance declares admissibility of the petition for clarification and expansion of the judgment of October 15, 1997, filed by the private complainant.<sup>117</sup> The court also finds Juan Acabal Patzán guilty of murder and attempted murder of Mr. Shaw Díaz.<sup>118</sup> The court leaves open the proceeding with regard to the perpetrators, accomplices and accessories to the crimes.<sup>119</sup>

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110. *Id.* ¶ 76(33).

111. *Id.*

112. *Id.*

113. *Id.* ¶ 76(55).

114. *Id.* ¶ 76(56).

115. *Id.*

116. *Id.*

117. *Id.* ¶ 76(57).

118. *Id.*

119. *Id.*

**December 26, 1997:** The private complainant files an appeal against the judgment of October 15, 1997, before the First Criminal Court of First Instance, which admitted it on December 29, 1997.<sup>120</sup>

This appeal points out a series of arbitrary acts committed during the proceeding.<sup>121</sup> One of these arbitrary acts refers to the failure of the Army to provide information on the name of the military officer who was based in Chichicastenango, and who carried out a search of the crime scene half an hour after the attack took place.<sup>122</sup>

Other arbitrary acts refer to the loss of evidence and bullet heads, to the simultaneous scheduling of probative procedures in different parts of the country prejudicing the right to defense, to the presentation of false statements by Army officers, and also to the unjustified rejection of probative evidence.<sup>123</sup>

**April 28, 1999:** The Third Chamber of the Court of Appeal revokes the judgment of October 15, 1997 and acquits Juan Acabal Patzán, the only person sentenced in first instance for the execution of Mr. Carpio Nicolle and the members of his delegation, and for the attempted murder of Mr. Shaw Díaz due to a lack of evidence.<sup>124</sup> The court orders his immediate release.<sup>125</sup>

Regarding the lack of evidence, the Chamber declares that since there is no official record of the entry and registration of this evidence in the Evidence Control Section, it is not possible to know what objects the ballistics expert, Oscar Abel García Arroyo, had evaluated.<sup>126</sup> The Chamber also declares that the expert report or any other cannot be taken into consideration if the evidence is not fully identified.<sup>127</sup>

However, in the same judgment, the Chamber decides that political motivation possibly exists, principally with regard to Mr. Carpio Nicolle.<sup>128</sup> The Chamber therefore leaves the proceeding open against those who might have planned the crime.<sup>129</sup>

The Chamber also leaves open the proceeding for perjury against

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120. *Id.* ¶ 76(58).

121. *Id.*

122. *Id.*

123. *Id.*

124. *Id.* ¶ 76(59).

125. *Id.*

126. *Id.*

127. *Id.*

128. *Id.*

129. *Id.*

Mr. García Arroyo, who had provided the ballistics report.<sup>130</sup>

**June 25, 1999:** The Attorney General's office files a petition for annulment, to contest the judgment of second instance handed down by the Third Chamber of the Court of Appeal.<sup>131</sup>

**August 30, 1999:** The Criminal Chamber of the Supreme Court of Justice rejects the petition for annulment and its failure to comply with procedural requirements, including that the prosecutor had not indicated who he was representing nor provided an address to receive notifications, that the petition does fulfill the requirements for a first request, and that, in the motives for annulment, the argument relating to each of the laws reportedly violated has not been stated.<sup>132</sup>

*B. Other Relevant Facts*

[None]

II. PROCEDURAL HISTORY

*A. Before the Commission*

**July 12, 1994:** Ms. Arrivillaga de Carpio and Karen Fischer, the Human Rights Office of the Archbishop of Guatemala, the Center for Justice and International Law, Human Rights Watch/Americas and the International Human Rights Law Group file a petition to the Inter-American Commission on Human Rights on behalf of Mr. Carpio Nicolle, Juan Vicente Villacorta, Alejandro Ávila Guzmán, Rigoberto Rivas and Sydney Shaw Díaz.<sup>133</sup>

**March 4, 2003:** The Commission adopts Admissibility and Merits Report No. 27/03.<sup>134</sup>

The Commission determines that the State violated Articles 4 (Right to Life), 5 (Right to Humane Treatment), and 13 (Freedom of Thought and Expression) to the detriment of Sydney Shaw and Mr. Carpio Nicolle, Juan Vicente Villacorta, Alejandro Ávila Guzmán

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130. *Id.*

131. *Id.* ¶ 76(60).

132. *Id.* ¶ 76(61).

133. *Id.* ¶ 5.

134. *Id.* ¶ 9.

and Rigoberto Rivas, as well as Article 19 (Rights of the Child) to the detriment of Ms. Shaw Diaz.<sup>135</sup> The Commission also finds that the State violated Articles 8(1) (Right to a Hearing Within A Reasonable Time by a Competent and Independent Tribunal) and 25 (Right to Judicial Protection) in relation to Article 1(1) (Obligation to Respect Rights) of the American Convention to the detriment of Sydney Shaw and the families of Mr. Carpio Nicolle, Juan Vicente Villacorta, Alejandro Ávila Guzmán and Rigoberto Rivas.<sup>136</sup>

In the report, the Commission recommends that the State: (1) carry out a complete, impartial and effective investigation and prosecute and punish the perpetrators of the human rights violations committed against Mr. Carpio Nicolle, Juan Vicente Villacorta, Alejandro Ávila Guzmán, Rigoberto Rivas and Sydney Shaw Díaz; (2) provide reparations to Sydney Shaw Díaz and the next of kin of Mr. Carpio Nicolle, Juan Vicente Villacorta, Alejandro Ávila Guzmán and Rigoberto Rivas; and (3) adopt the necessary measures to avoid similar acts in future.<sup>137</sup>

**June 1, 1995:** The Commission requests the Inter-American Court to order provisional measures in favor of Ms. Arrivillaga de Carpio, Karen Fischer, Mario Arturo López Arrivillaga, Ángel Isidro Girón Girón and Abraham Méndez García for protection against alleged threats and intimidation.<sup>138</sup>

**June 4, 1995:** The President of the Court orders provisional measures, in which he requests the State protect the lives and integrity of Martha Arrivillaga de Carpio, Karen Fischer, Mario Arturo López Arrivillaga, Ángel Isidro Girón Girón and Abraham Méndez García.<sup>139</sup>

**July 26, 1995:** The President includes Lorraine Marie Fischer Privaral, Karen Fischer's sister, as a beneficiary of the provisional measures after she asserts that she has been constantly followed and threatened.<sup>140</sup>

**September 19, 1995:** The Court ratifies the measures adopted by its President on June 4 and July 26, 1995.<sup>141</sup>

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135. Carpio Nicolle et al. v. Guatemala, Petition to the Court, Inter-Am. Comm'n H.R., Case No. 11.333, ¶ 14 (June 10, 2003).

136. *Id.*

137. Carpio-Nicolle et al. v. Guatemala, Merits, Reparations and Costs, ¶ 9.

138. *Id.* ¶ 12.

139. *Id.* ¶ 13.

140. *Id.*

141. *Id.* ¶ 14.

**June 19, 1998:** The Court lifts the provisional measures ordered in favor of Mario Arturo López Arrivillaga, Ángel Isidro Girón Girón, Abraham Méndez García and Lorraine Marie Fischer Pivaral, while maintaining the measures with regard to Ms. Arrivillaga de Carpio and Karen Fischer.<sup>142</sup>

**November 27, 1998:** The Court declares that the State should adopt pertinent measures to protect Karen Fischer.<sup>143</sup>

**September 30, 1999 and September 5, 2001:** The Court requires that the State maintain provisional measures to protect the lives and integrity of Ms. Arrivillaga de Carpio and Karen Fischer.<sup>144</sup>

### B. Before the Court

**June 10, 2003:** The Commission submits the case to the Court after the State failed to adopt its recommendations.<sup>145</sup>

#### 1. Violations Alleged by Commission

Article 4 (Right to Life)

Article 5 (Right to Humane Treatment)

Article 8 (Right to a Fair Trial)

Article 13 (Freedom of Thought and Expression)

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.<sup>146</sup>

#### 2. Violations Alleged by Representatives of the Victims<sup>147</sup>

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142. *Id.* ¶ 15.

143. *Id.*

144. *Id.*

145. *Id.* ¶ 11.

146. *Id.* ¶ 2.

147. *Id.* ¶ 19. The Center for Justice and International Law (“CEJIL”) served as representatives of Mr. Carpio Nicolle, Juan Vicente Villacorta, Alejandro Ávila Guzmán, Rigoberto Rivas and Sydney Shaw.



Same Violations Alleged by Commission.

**August 13, 2003:** The State appoints Oscar Luján Fappiano as Judge *ad hoc*.<sup>148</sup>

**March 1, 2004:** The State requests that the Court substitute Oscar Luján Fappiano with Alejandro Sánchez Garrido as the Judge *ad hoc*.<sup>149</sup>

**April 29, 2004:** The Court rejects the State's request to replace Oscar Luján Fappiano with Alejandro Sánchez Garrido as Judge *ad hoc*.<sup>150</sup>

**July 5, 2004:** At the first public hearing and in a brief presented on this day, the State acknowledges its responsibility, as follows:

The State accepts international responsibility for human rights violations committed on July 3, 1993 and for the violation of the Article 4(1) (Prohibition of Arbitrary Deprivation of Life) of the American Convention by failing to protect the right to life of Mr. Carpio Nicolle, Mr. Vicente Villacorta, Mr. Ávila Guzmán, and Mr. Rivas.<sup>151</sup>

The State also accepts international responsibility for the violation of Article 5 (Right to Humane Treatment) of the American Convention because it failed to protect the right to humane treatment of Ms. Shaw Díaz, and the right to mental integrity of the victims' next of kin.<sup>152</sup>

Also, the State accepts international responsibility for the violation of Article 19 (Rights of the Child) in relation to Article 1(1) (Obligation to Respect Rights) of the American Convention for failing to provide special protective measures for the child, Ms. Shaw Díaz.<sup>153</sup>

Additionally, the State accepts international responsibility for the violation of Articles 13(1) (Right to Seek, Receive, and Impart Information and Ideas), 13(2) (Prohibition of A Priori Censorship), 13(3) (Prohibition of Restriction of Freedom of Expression by Indirect Means), 23(1)(a) (Right to Participate in Public Affairs), (b) (Right to Elect and Be Elected) and (c) (Right to Have Access to Public Service) of the American Convention, to the detriment of Mr. Carpio Nicolle.<sup>154</sup>

Furthermore, the State apologizes and expresses "its profound

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148. *Id.* ¶¶ 18, 20.

149. *Id.* ¶ 25.

150. *Id.* ¶ 28.

151. *Id.* ¶ 38.

152. *Id.*

153. *Id.*

154. *Id.*

respect and consideration for the victims and their next of kin.”<sup>155</sup>

**July 5, 2004:** The Commission, the representatives, and the Court accept the State’s acknowledgment of responsibility.<sup>156</sup>

**July 8, 2004:** The Court approves the provisional measures of September 5, 2001 in favor of Mrs. Arrivillaga de Carpio and Ms. Fischer.<sup>157</sup> The Court also orders the State to expand the provisional measures to protect the lives and personal integrity of Jorge and Rodrigo Carpio Arrivillaga, Abraham Méndez García and his wife and children, and Rodrigo and Daniela Carpio Fischer, if and when they return to Guatemala.<sup>158</sup>

**August 9, 2004:** Fernando Linares Beltranena submits an *amicus curiae* brief to the Court.<sup>159</sup>

### III. MERITS

#### A. *Composition of the Court*

Sergio García Ramírez, President  
Alirio Abreu Burelli, Vice-President  
Oliver H. Jackman, Judge  
Antônio Augusto Cançado Trindade, Judge  
Cecilia Medina Quiroga, Judge  
Manuel E. Ventura Robles, Judge  
Diego García-Sayán, Judge  
Oscar Luján Fappiano, Judge *ad hoc*

Pablo Saavedra Alessandri, Secretary  
Emilia Segared Rodríguez, Deputy Secretary

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

**November 22, 2004:** The Court issues its Judgment on Merits,

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155. *Id.* ¶ 3.

156. *Id.* ¶¶ 43, 44.

157. *Id.* ¶ 16.

158. *Id.* ¶ 16.

159. *Id.* ¶ 48.

Reparations, and Costs.<sup>160</sup>

The Court found unanimously that Guatemala had violated:

Article 4(1) (Prohibition of Arbitrary Deprivation of Life), in relation to Article 1(1) of the Convention, to the detriment of Mr. Carpio Nicolle, Mr. Villacorta Fajardo, Mr. Guzmán, and Mr. González,<sup>161</sup> based on the facts of the case.<sup>162</sup>

Article 5(1) (Right to Physical, Mental, and Moral Integrity), in relation to Article 1(1) of the Convention, to the detriment of Sydney Shaw Díaz, Martha Arrivillaga de Carpio, Mario Arturo López Arrivillaga, Sydney Shaw Arrivillaga, Ricardo San Pedro Suárez, Jorge Carpio Arrivillaga, Rodrigo Carpio Arrivillaga, Karen Fischer, Rodrigo Carpio Fischer, Daniela Carpio Fischer, Silvia Arrivillaga de Villacorta, Álvaro Martín Villacorta Arrivillaga, Silvia Piedad Villacorta Arrivillaga, Juan Carlos Villacorta Arrivillaga, María Isabel Villacorta Arrivillaga, José Arturo Villacorta Arrivillaga, Rosa Everilda Mansilla Pineda, Lisbeth Azucena Rivas Mansilla, Dalía Yaneth Rivas Mansilla, César Aníbal Rivas Mansilla, Nixon Rigoberto Rivas Mansilla, Sonia Lisbeth Hernández Saraccine, Alejandro Ávila Hernández, Sydney Roberto Ávila Hernández, María Paula González Chamo and María Nohemi Guzmán,<sup>163</sup> based on the facts of the case.<sup>164</sup>

Article 5(2) (Prohibition of Torture, and Cruel, Inhumane or Degrading Treatment), in relation to Article 1(1) of the Convention, to the detriment of Sydney Shaw Díaz, Martha Arrivillaga de Carpio, Sydney Shaw Arrivillaga, Mario Arturo López Arrivillaga and Ricardo San Pedro Suárez,<sup>165</sup> based on the facts of the case.<sup>166</sup>

Article 19 (Rights of the Child), in relation to Article 1(1) of the

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160. *Carpio Nicolle et al. v. Guatemala*, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 117, (Nov. 22, 2004).

161. *Id.* ¶ 82(a).

162. *Id.* ¶¶ 76, 81. The Court does not provide a detailed explanation as to why the State violated these Articles of the American Convention.

163. *Id.* ¶ 82(b).

164. *Id.* ¶¶ 76, 81. The Court does not provide a detailed explanation as to why the State violated these Articles of the American Convention.

165. *Id.* ¶ 82(c).

166. *Id.* ¶¶ 76, 81. The Court does not provide a detailed explanation as to why the State violated these Articles of the American Convention.

Convention, to the detriment of Sydney Shaw Díaz,<sup>167</sup> based on the facts of the case.<sup>168</sup>

Articles 13(1) (Right to Seek, Receive, and Impart Information and Ideas), 13(2)(a) (Prohibition of A Priori Censorship), and 13(3) (Prohibition of Restriction of Freedom of Expression by Indirect Means) in relation to Article 1(1) of the Convention, to the detriment of Mr. Carpio Nicolle,<sup>169</sup> based on the facts of the case.<sup>170</sup>

Articles 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal) and 25 (Right to Judicial Protection), in relation to Article 1(1) of the Convention, to the detriment of Sydney Shaw Díaz, Martha Arrivillaga de Carpio, Mario Arturo López Arrivillaga, Sydney Shaw Arrivillaga, Ricardo San Pedro Suárez, Jorge Carpio Arrivillaga, Rodrigo Carpio Arrivillaga, Karen Fischer, Rodrigo Carpio Fischer, Daniela Carpio Fischer, Silvia Arrivillaga de Villacorta, Álvaro Martín Villacorta Arrivillaga, Silvia Piedad Villacorta Arrivillaga, Juan Carlos Villacorta Arrivillaga, María Isabel Villacorta Arrivillaga, José Arturo Villacorta Arrivillaga, Rosa Everilda Mansilla Pineda, Lisbeth Azucena Rivas Mansilla, Dalia Yaneth Rivas Mansilla, César Aníbal Rivas Mansilla, Nixon Rigoberto Rivas Mansilla, Sonia Lisbeth Hernández Saraccine, Alejandro Ávila Hernández, Sydney Roberto Ávila Hernández, María Paula González Chamo and María Nohemi Guzmán,<sup>171</sup> based on the facts of the case.<sup>172</sup>

Articles 23(1)(a) (Right to Participate in Public Affairs), (b) (Right to Elect and Be Elected), and (c) (Right to Have Access to Public Service) in relation to Article 1(1) of the Convention, to the detriment of Mr. Carpio Nicolle,<sup>173</sup> based on the facts of the case.<sup>174</sup>

### C. *Dissenting and Concurring Opinions*

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167. *Id.* ¶ 82(d).

168. *Id.* ¶¶ 76, 81. The Court does not provide a detailed explanation as to why the State violated these Articles of the American Convention.

169. *Id.* ¶ 82(e).

170. *Id.* ¶¶ 76, 81. The Court does not provide a detailed explanation as to why the State violated these Articles of the American Convention.

171. *Id.* ¶ 82(f).

172. *Id.* ¶¶ 76, 81. The Court does not provide a detailed explanation as to why the State violated these Articles of the American Convention.

173. *Id.* ¶ 82(g).

174. *Id.* ¶¶ 76, 81. The Court does not provide a detailed explanation as to why the State violated these Articles of the American Convention.

[None]

#### 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, Prosecute, and Punish Responsible Parties

The State must conduct an effective investigation into the facts of this case in order to identify, prosecute and punish those who perpetrated and masterminded the extrajudicial execution of Mr. Carpio Nicolle, Mr. Villacorta Fajardo, Mr. Ávila Guzmán and Mr. Rivas González, and the serious injuries to Mr. Shaw Díaz.<sup>175</sup> The State must publish the results of this investigation so that Guatemalan society knows the truth.<sup>176</sup>

To comply with the obligation to investigate and punish responsible parties, the State must remove all the obstacles and mechanisms that maintain impunity, grant sufficient guarantees of security to witnesses, judicial authorities, prosecutors, other judicial agents, and the next of kin of the victims.<sup>177</sup> The State must use all possible measures to advance this proceeding.<sup>178</sup>

Additionally, the State must adopt concrete measures designed to strengthen its investigatory capacity.<sup>179</sup> To this end, the State should provide the entities responsible for preventing and investigating extrajudicial executions with sufficient human, financial, logistic, and scientific resources to adequately process all evidence of a scientific or other type.<sup>180</sup> The investigations of the criminal acts should take into account relevant international norms, such as those established in the United Nations Manual on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions.<sup>181</sup>

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175. *Id.* ¶ 129.

176. *Id.*

177. *Id.* ¶ 134.

178. *Id.*

179. *Id.* ¶ 135.

180. *Id.*

181. *Id.*

## 2. Publicly Acknowledge International Responsibility

The State must organize a public act acknowledging its responsibility for the attack of July 3, 1993, the subsequent obstruction of justice in this case, and honoring the memory of Mr. Carpio Nicolle, Villacorta Fajardo, Ávila Guzmán and Rivas González, in the presence of the State's highest authorities.<sup>182</sup>

During the public act, the State must publicly render homage to the dedication and courage of Police Commissioner César Augusto Medina Mateo, who was murdered during his involvement in the case, and Abraham Méndez García, a prosecutor who was forced into exile as a result of his investigations of the case.<sup>183</sup>

## 3. Publish the Judgment

The State must publish, at least once, specific paragraphs from the decision of the Court in the Official Gazette, in another newspaper with national circulation, and in the bulletin with the highest circulation within the Guatemalan armed forces, within six months from notification of this judgment.<sup>184</sup>

### *B. Compensation*

The Court awarded the following amounts:

#### 1. Pecuniary Damages

The State must make a compensatory payment of \$60,000 for the loss of earnings of Mr. Carpio Nicolle,<sup>185</sup> \$60,000 for the loss of earnings of Mr. Villacorta Fajardo;<sup>186</sup> \$50,000 for the loss of earnings of Mr. Rivas González;<sup>187</sup> and \$110,000 for the loss of earnings of Mr. Ávila Guzmán.<sup>188</sup>

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182. *Id.* ¶ 136.

183. *Id.* ¶ 137.

184. *Id.* ¶ 138.

185. *Id.* ¶ 106.

186. *Id.* ¶ 107.

187. *Id.* ¶ 108.

188. *Id.* ¶ 109.

The above-listed payments are to be distributed as follows:

Fifty percent of the compensation to be distributed to the person who was the wife of the victim at the time of his death and fifty percent of the compensation to be divided equally among the children of each of the victims.<sup>189</sup>

The State must make a compensatory payment of \$25,000 to Ms. Arrivillaga de Carpio for the expenses incurred as a result of Mr. Carpio Nicolle's arbitrary execution.<sup>190</sup>

The State must make a compensatory payment of \$12,500 each to Rodrigo and Jorge Carpio Arrivillaga for the expenses incurred as a result of Mr. Carpio Nicolle's arbitrary execution.<sup>191</sup>

The State must make a compensatory payment of \$25,000 to Karen Fischer for the series of expenses incurred to advance the domestic proceedings of the case, to live in exile, to cover psychological treatment for her children, and to pay expenses related to her personal security, all as a result of Mr. Carpio Nicolle's arbitrary execution.<sup>192</sup>

The State must make a compensatory payment of \$10,000 to Mario Arturo López Arrivillaga for the expenses incurred as a result of psychiatric treatment and personal security.<sup>193</sup>

The State must make a compensatory payment of \$8,000 to Sydney Shaw Arrivillaga for the hospitalization and rehabilitation of his son, Sydney Shaw Díaz, who was injured during the attack of July 3, 1993.<sup>194</sup>

## 2. Non-Pecuniary Damages

The Court found that compensation to the victims was appropriate for their suffering from the extreme cruelty in the executions of their family members, the time that had elapsed since the executions, the denial of justice, the change in living conditions, and other non-pecuniary damages.<sup>195</sup>

Accordingly, the State must pay: \$100,000 to Mr. Carpio Nicolle;<sup>196</sup> \$80,000 each to Silvia Arrivillaga de Villacorta, Rosa

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189. *Id.* ¶ 99.

190. *Id.* ¶ 110.

191. *Id.*

192. *Id.* ¶ 111.

193. *Id.* ¶ 112.

194. *Id.* ¶ 113.

195. *Id.* ¶ 118.

196. *Id.* ¶ 120.

Everlida Mansilla Pineda, and Sonia Lisbeth Hernández Saraccine;<sup>197</sup> \$55,000 each to Jorge Carpio Nicolle, Juan Vicente Villacorta Fajardo, Rigoberto Rivas González, María Paula González Chamo, Alejandro Ávila Guzmán, and María Nohemi Guzmán;<sup>198</sup> \$40,000 each to Jorge Carpio Arrivillaga, Rodrigo Carpio Arrivillaga, Karen Fischer, Álvaro Martín Villacorta Arrivillaga, Silvia Piedad Villacorta Arrivillaga, Juan Carlos Villacorta Arrivillaga, María Isabel Villacorta Arrivillaga, José Arturo Villacorta Arrivillaga, Lisbeth Azucena Rivas Mansilla, Dalia Yaneth Rivas Mansilla, César Rivas Mansilla, Nixon Rigoberto Rivas Mansilla, Alejandro Ávila Hernández, and Sydney Roberto Ávila Hernández;<sup>199</sup> \$25,000 to Sydney Shaw Arrivillaga;<sup>200</sup> \$20,000 to Mario Arturo López Arrivillaga and Ricardo San Pedro Suárez;<sup>201</sup> and \$8,000 to Daniela Carpio Fischer and Rodrigo Carpio Fischer.<sup>202</sup>

### 3. Costs and Expenses

The Court awarded \$25,000 to Martha Arrivillaga de Carpio, \$12,500 to Rodrigo Carpio Arrivillaga, and \$12,000 to Jorge Carpio Arrivillaga for the costs and expenses related to the present case.<sup>203</sup> The Court also awarded \$12,000 to Martha Arrivillaga de Carpio, Rodrigo Carpio Arrivillaga, and Jorge Carpio Arrivillaga in order to reimburse CEJIL for the expenses it assumed in the international proceedings before the Inter-American system for the protection of human rights.<sup>204</sup>

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

\$1,783,500

### C. Deadlines

The State must pay pecuniary and non-pecuniary damages and costs and expenses within one year of notification of the Judgment.<sup>205</sup>

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197. *Id.*

198. *Id.*

199. *Id.*

200. *Id.*

201. *Id.*

202. *Id.*

203. *Id.* ¶ 145.

204. *Id.*

205. *Id.* ¶ 146.



The State must comply with the order of the Court to publish the pertinent part of this Judgment and to hold the public act of acknowledging international responsibility within six months of notification of the Judgment.<sup>206</sup>

The State must also make reparations to the victims within six months of notification of the Judgment.<sup>207</sup>

#### V. INTERPRETATION AND REVISION OF JUDGMENT

[None]

#### VI. COMPLIANCE AND FOLLOW-UP

**July 10, 2007:** The Court found that the State fully complied with the requirement to publish the corresponding parts of the Judgment in the Official Newspaper, in another newspaper of national circulation, and in the Army's Gazette.<sup>208</sup>

However, the State still had not fully complied with the order to pay pecuniary and non-pecuniary damages, or costs and expenses.<sup>209</sup>

The Court requested the State to present a report, no later than September 28, 2007, indicating all the measures adopted to comply with the reparations ordered by this Court that were still pending compliance.<sup>210</sup>

**July 1, 2009:** The Court found that the State had fully complied with the requirement to pay compensation awarded for pecuniary and non-pecuniary damages, and to reimburse the costs and expenses.<sup>211</sup>

However, the State still had not complied with the order to investigate, identify, and punish the perpetrators and masterminds of the extrajudicial execution of Mr. Carpio Nicolle, Villacorta Fajardo, Ávila Guzmán, and Rivas González, as well as the serious injuries to Sydney Shaw Díaz;<sup>212</sup> remove all obstacles and mechanisms that perpetuate impunity in the case, grant the witnesses, judicial authorities,

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206. *Id.*

207. *Id.*

208. Carpio Nicolle et al. v. Guatemala, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. "Declares" ¶ 1 (July 10, 2007).

209. *Id.* ¶ 2.

210. *Id.* "Decides" ¶ 2.

211. Carpio Nicolle et al. v. Guatemala, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. "Declares" ¶ 2 (July 1, 2009).

212. *Id.*

prosecutors, other judicial agents and the next of kin of the victims sufficient guarantees of security, and use all possible measures to advance the proceeding;<sup>213</sup> adopt specific measures to improve its investigative capacity;<sup>214</sup> and hold a public ceremony to acknowledge its responsibility.<sup>215</sup>

Furthermore, the Court requested that the State report, no later than September 15, 2009, on all measures adopted to comply with the reparations ordered by this Court still pending compliance.<sup>216</sup>

The Court also requested the representatives of the victims and the Commission submit such comments on the State's report within four and six weeks respectively.<sup>217</sup>

## VII. LIST OF DOCUMENTS

### A. *Inter-American Court*

#### 1. Preliminary Objections

[None]

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

[Carpio Nicolle et al. v. Guatemala, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. \(ser. C\) No. 117 \(Nov. 22, 2004\).](#)

#### 3. Provisional Measures

[Carpio Nicolle et al. v. Guatemala, Provisional Measures, Order of the Court, Inter-Am. Ct. H.R. \(ser. E\) \(July 6, 2009\).](#)

[Carpio Nicolle et al. v. Guatemala, Provisional Measures, Order of the Court, Inter-Am. Ct. H.R. \(ser. E\) \(July 8, 2004\).](#)

[Carpio Nicolle et al. v. Guatemala, Provisional Measures, Order of the Court, Inter-Am. Ct. H.R. \(ser. E\) \(Sept. 5, 2001\).](#)

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213. *Id.*

214. *Id.*

215. *Id.*

216. Carpio Nicolle et al. v. Guatemala, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. "And Decides" ¶ 2 (July 1, 2009).

217. *Id.* ¶ 3.

[Carpio Nicolle et al. v. Guatemala, Provisional Measures, Order of the President of the Court, Inter-Am. Ct. H.R. \(ser. E\) \(Feb. 16, 2001\) \(Available only in Spanish\).](#)

[Carpio Nicolle et al. v. Guatemala, Provisional Measures, Order of the Court, Inter-Am. Ct. H.R. \(ser. E\) \(Sept. 30, 1999\).](#)

[Carpio Nicolle et al. v. Guatemala, Provisional Measures, Order of the Court, Inter-Am. Ct. H.R. \(ser. E\) \(Nov. 27, 1998\).](#)

[Carpio Nicolle et al. v. Guatemala, Provisional Measures, Order of the Court, Inter-Am. Ct. H.R. \(ser. E\) \(June 19, 1998\).](#)

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[Carpio Nicolle et al. v. Guatemala, Provisional Measures, Order of the Court, Inter-Am. Ct. H.R. \(ser. E\) \(Sept. 10, 1996\).](#)

[Carpio Nicolle et al. v. Guatemala, Provisional Measures, Order of the Court, Inter-Am. Ct. H.R. \(ser. E\) \(Feb. 1, 1996\).](#)

[Carpio Nicolle et al. v. Guatemala, Provisional Measures, Order of the Court, Inter-Am. Ct. H.R. \(ser. E\) \(Sept. 19, 1995\).](#)

[Carpio Nicolle et al. v. Guatemala, Provisional Measures, Order of the President of the Court, Inter-Am. Ct. H.R. \(ser. E\) \(July 26, 1995\).](#)

[Carpio Nicolle et al. v. Guatemala, Expansion of Provisional Measures, Order of the President of the Court, Inter-Am. Ct. H.R. \(ser. E\) \(July 26, 1995\).](#)

[Carpio Nicolle et al. v. Guatemala, Provisional Measures, Order of the President of the Court, Inter-Am. Ct. H.R. \(ser. E\) \(June 4, 1995\).](#)

#### 4. Compliance Monitoring

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

[Carpio Nicolle et al. v. Guatemala, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. \(Nov. 18, 2008\) \(Available only in Spanish\).](#)

[Carpio Nicolle et al. v. Guatemala, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. \(July 10, 2007\).](#)

5. Review and Interpretation of Judgment

[None]

*B. Inter-American Commission*

1. Petition to the Commission

Carpio Nicolle et al. v. Guatemala, Petition No. 11.333, Inter-Am. Comm'n H.R. (July 12, 1994).

2. Report on Admissibility

Carpio Nicolle et al. v. Guatemala, Admissibility Report, Report No. 27/03, Inter-Am. Comm'n H.R., Case No. 11.333 (Mar. 4, 2003).

3. Provisional Measures

[None]

4. Report on Merits

Carpio Nicolle et al. v. Guatemala, Report on Merits, Report No. 27/03, Inter-Am. Comm'n H.R., Case No. 11.333 (Mar. 4, 2003).

5. Application to the Court

Carpio Nicolle et al. v. Guatemala, Petition to the Court, Inter-Am. Comm'n H.R., Case No. 11.333 (June 10, 2003).

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