

# Barrios Family v. Venezuela

## ABSTRACT<sup>1</sup>

*This case is about the persecution, since 1998, of an extended family, the Barrios, by police in the State of Aragua, Venezuela. The Court found Venezuela in violation of the American Convention both for the actions of the police officers who caused the death of several members of the Barrios family in various attacks and for failing to properly investigate and prosecute those responsible.*

## I. FACTS

### A. Chronology of Events

**Before 1998:** The Barrios family, most of whom reside in the State of Aragua, Venezuela, consists of Justina Barrios, her twelve children and their respective partners, and her twenty-two grandchildren.<sup>2</sup>

**August 28, 1998:** Four Aragua state police officials remove Benito Antonio Barrios, Justina Barrios' son, from his residence, beat him, and shoot him causing mortal injuries.<sup>3</sup> His two sons, Jorge Antonio and Carlos Alberto Ortuño, who were in the house at the time, witness the initial assault against their father.<sup>4</sup> They are taken to their grandmother Justina Barrios' home.<sup>5</sup> Víctor Daniel Cabrera Barrios, Lilia Ysabel Solórzano Barrios and Darelbis Carolina Barrios, who are at Justina Barrios' home at this time, learn of the events and travel to the home of Benito Antonio Barrios.<sup>6</sup> There they witness the police taking Benito Antonio Barrios, bloodied and injured, away in handcuffs.<sup>7</sup> Luis Alberto Barrios, Benito's brother who is present during the initial moments of

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2. Barrios Family v. Venezuela, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 237, ¶ 36 (Nov. 24, 2011).

3. *Id.* ¶ 62.

4. *Id.*

5. *Id.*

6. *Id.*

7. *Id.*

the police operation, flees the scene with a wounded leg.<sup>8</sup>

Once the police leave the scene, they take Benito Antonio Barrios to the town's health clinic.<sup>9</sup> Because there is no doctor on duty at the time, the police take him to the Barbacoas outpatients' clinic, where he is pronounced dead on arrival.<sup>10</sup> The clinic reveals that Benito was shot at point blank range.<sup>11</sup> The prosecutor charges the four police officials involved in the shooting with the intentional homicide of Benito Antonio Barrios.<sup>12</sup>

**August 28, 1998:** The Technical Unit of the Judicial Police begins a preliminary inquiry into the death of Benito Antonio Barrios.<sup>13</sup>

**August 29, 1998:** An autopsy is performed on Benito Antonio Barrios, which determines that his cause of death was acute anemia due to a punctured lung and liver from the gunshot.<sup>14</sup>

**September 1-2, 1998:** The judicial police request Benito Antonio Barrios' criminal record and take statements from two individuals regarding supposed criminal acts committed by him one week earlier.<sup>15</sup> They also take statements from four police agents who played a role in the incident.<sup>16</sup>

**November 29, 2003:** Uniformed officers from the Aragua State police arrive at the liquor business leased by Luis Barrios and Narciso Barrios.<sup>17</sup> The officers drink alcoholic beverages and refuse to pay for their drinks.<sup>18</sup> One of the officers becomes inebriated and has a heated exchange with Narciso Barrios.<sup>19</sup> Narciso Barrios strikes the officer on the head, which causes the officer's service weapon to fall to the floor.<sup>20</sup> Considering the officer's excessively aggressive state, Narciso Barrios keeps the gun, planning to hand it over to the Guanayén police station

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8. *Id.*

9. *Id.*

10. *Id.*

11. *Id.*

12. *Id.*

13. *Id.* ¶ 192.

14. *Id.*

15. *Id.*

16. *Id.*

17. Narciso Barrios et al. v. Venezuela, Admissibility Report, Report No. 23/05, Inter-Am. Comm'n H.R., Case No. 12.488, ¶ 18 (Feb. 25, 2005).

18. *Id.*

19. *Id.*

20. *Id.*

the next day.<sup>21</sup>

Later that day, a group of fifteen armed officers arrive at the business, including commanding inspector Wilmer Bravo and town prefect Walter Pacheco.<sup>22</sup> The officers steal fifteen cases of beer and cash from the business.<sup>23</sup> Without a court order, this group also raids four homes belonging to members of the Barrios family.<sup>24</sup> While raiding the homes, the officers steal valuables and money from each of the houses, and start a fire in two of the houses, leaving them partially uninhabitable.<sup>25</sup> Once Narciso Barrios learns of these attacks, he returns the gun.<sup>26</sup>

**November 29, 2003:** The family of Brígida Oneyda Barrios move to Miranda State immediately after their home is searched by officers.<sup>27</sup>

**December 2 and 4, 2003:** Brígida Oneyda Barrios and Luis Alberto Barrios file separate complaints for entry, theft, and destruction of property in their homes.<sup>28</sup> Brígida Oneyda Barrios identifies a police agent as the perpetrator.<sup>29</sup> Luis Alberto Barrios reports that several parts of his home were intentionally set on fire.<sup>30</sup>

**December 11, 2003:** Narciso Barrios, accompanied by Nestor Caudi Barrios, son of Maritza Barrios, attempts to stop the arrest of Jorge Antonio Barrios Ortuño.<sup>31</sup> As the police take Jorge Antonio Barrios away, Narciso Barrios runs after the police and shouts at them for an explanation.<sup>32</sup> When Narciso Barrios tries to get in front of them, the police draw their weapons and fire at him several times, striking him, and eventually killing him.<sup>33</sup> The three police agents involved in the incident state that they fired at least ten times in self-defense and to repel Narciso Barrios and Nestor Caudi Barrios.<sup>34</sup> Furthermore, three people state

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21. *Id.*

22. *Id.*

23. *Id.*

24. *Id.* The homes belonged to Brijída Oneyda Barrios, Justina Barrios, Elbira Barrios, and Luis Barrios. *Id.*

25. *Id.*

26. *Id.*

27. *Barrios Family v. Venezuela, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 237, ¶ 156 (Nov. 24, 2011).*

28. *Id.* ¶ 199.

29. *Id.*

30. *Id.*

31. *Id.*

32. *Id.*

33. *Id.*

34. *Id.*

that Narciso Barrios was armed at the time of the incident.<sup>35</sup> The prosecutor responsible for the investigation charges the three Aragua state police agents with the crime of complicity to commit aggravated murder and indicate that the three police agents engaged in criminal conduct by using a weapon against an unarmed individual.<sup>36</sup> A commission from the Scientific, Penal, and Criminal Investigation Corps of the La Villa de Cura station begin an investigation.<sup>37</sup> Additionally, in the judicial proceeding, Narciso Barrios is accused of committing the crime of resisting the authorities.<sup>38</sup>

**December 12, 2003:** An investigation is opened into the death of Narciso Barrios.<sup>39</sup> During a site inspection, evidence of a rifle and a 16-caliber cartridge are found and sent to the forensic laboratory for expert appraisal.<sup>40</sup>

**March 1, 2004:** A complaint is filed before the prosecutor for the warrantless searches of the four homes indicating the fires set and the possessions removed, and identifying a police official as the alleged instigator of the searches.<sup>41</sup>

**March 1, 2004:** Eloisa Barrios files a complaint before the Prosecutor for the execution of Narciso Barrios by police officers.<sup>42</sup> She identifies the officers and requests protective measures for Juan José Barrios, Oscar José Barrios, Jorge Antonio Barrios, Pablo Solórzano Barrios, and Néstor Caudi Barrios because of threats made against the Barrios family by police officials.<sup>43</sup> She also asks for an investigation into procedures that have yet to be carried out, such as the reconstruction of events.<sup>44</sup>

**March 3, 2004:** Jorge Antonio Barrios Ortuño and Rigoberto Barrios, sixteen and fifteen years old respectively, are detained by hooded police officers and taken to a site near the Guárico River.<sup>45</sup> The police handcuff them, make them get down on their knees, strike them, and fire

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35. *Id.*

36. *Id.*

37. *Id.*

38. *Id.*

39. *Id.* ¶ 205.

40. *Id.*

41. *Id.* ¶ 200.

42. *Id.* ¶ 206.

43. *Id.*

44. *Id.*

45. *Id.* ¶ 73.

weapons near their ears while questioning them about an alleged theft of cattle from the “Los Robles” farm.<sup>46</sup> The police threaten to kill them if they report the incident and then take them to the Guanayén police station and beat them.<sup>47</sup> Later, they are transferred to the Barbacoas Police Station, where they remain detained and in solitary confinement.<sup>48</sup>

**March 4, 2004:** Jorge Antonio Barrios Ortuño and Rigoberto Barrios are released from the Barbacoas police station.<sup>49</sup> Rigoberto Barrios identifies one of the police officers that assaulted him.<sup>50</sup> Jorge Antonio Barrios Ortuño indicates that he can recognize his assailants because they removed their hoods when they reached the river.<sup>51</sup>

A complaint is filed before the Senior Prosecutor based on the detention of Jorge Antonio Barrios Ortuño and Rigoberto Barrios without a court order.<sup>52</sup> The complaint alleges physical and mental torture because they were not fed or allowed to contact their families.<sup>53</sup>

**March 5, 2004:** A forensic medical evaluation is performed on Rigoberto Barrios.<sup>54</sup> Six days after his arrest he files a complaint against the policemen, based on the acts perpetrated against him and Jorge Antonio Barrios Ortuño.<sup>55</sup>

**June 1, 2004:** The representative for the Barrios family files a complaint before the Fourteenth Prosecutor of the Public Prosecution Service reporting that on May 26, 2004, a police officer from the Scientific Investigation Unit, assured Néstor Caudí Barrios that he would remain detained because of his involvement with the alleged theft at the Los Robles farm.<sup>56</sup>

**June 16, 2004:** Eloisa Barrios files an application for *amparo* against the Senior Prosecutor for procedural delay, violation of due process, and denial of justice.<sup>57</sup>

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46. *Id.*

47. *Id.*

48. *Id.*

49. *Id.*

50. *Id.*

51. *Id.*

52. *Id.* ¶ 213.

53. *Id.*

54. *Id.* ¶ 214.

55. *Id.*

56. *Id.* ¶ 110.

57. *Id.* ¶ 193.

**June 26, 2005:** The Barrios family attorney submits a brief to provide more information for the application for *amparo* submitted on June 16, 2004.<sup>58</sup> The brief indicates that the case file appears to have been misplaced and that the Senior Prosecutor will not accept responsibility for its whereabouts.<sup>59</sup>

**June 19, 2004:** Barrios family members Elbira Barrios, Luisa del Carmen Barrios, Gustavo Ravelo, Jesús Ravelo, Oscar José Barrios, and Jorge Antonio Barrios Ortuño are driving through Guanayén when two police officials intercept them.<sup>60</sup> Jesús Ravelo exits the vehicle and is attacked by the police.<sup>61</sup> One officer orders him to hand over all his money while threatening him with a weapon.<sup>62</sup> Gustavo Ravelo, Jesús' son, protests the treatment of his father, and in turn, Gustavo is then insulted and pushed to the ground by the officers.<sup>63</sup> Luisa del Carmen Barrios is stricken, insulted, and pushed when she protests the treatment of her husband and father-in-law.<sup>64</sup> Additionally, a police agent fires his gun at their vehicle.<sup>65</sup> Another police official, who identifies himself as a sergeant, takes the minors, Oscar José Barrios and Jorge Antonio Barrios Ortuño, to the Camatagua Police Station and then to the Barbacoas Police Station.<sup>66</sup> Jesús Ravelo, Gustavo Ravelo, Elbira Barrios, and Luisa del Carmen Barrios are released.<sup>67</sup> While in detention, the minors are threatened with death and assaulted by the police.<sup>68</sup> They remain in custody until June 21, 2004.<sup>69</sup>

**June 19, 2004:** Police officials detain Gustavo Ravelo in the Camatagua police station.<sup>70</sup> Mr. Ravelo is told that his father must provide money in order for him to be released.<sup>71</sup> On the same day, Victor Daniel Cabrera Barrios is incarcerated and beaten.<sup>72</sup>

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58. *Id.*

59. *Id.*

60. *Id.* ¶ 74.

61. *Id.*

62. *Id.*

63. *Id.*

64. *Id.*

65. *Id.*

66. *Id.*

67. *Id.*

68. *Id.*

69. *Id.*

70. *Id.* ¶ 34.

71. *Id.*

72. *Id.*

**June 19, 2004:** Oscar José Barrios is illegally detained, assaulted, and threatened with death by police agents.<sup>73</sup>

**June 28, 2004:** A complaint regarding the illegal detention of Oscar José Barrios on June 19, 2004 is filed before the Fourteenth Prosecutor requesting specific procedures.<sup>74</sup>

**July 12, 2004:** Néstor Caudi Barrios relocates for fear of harassment by police agents.<sup>75</sup>

**July 23, 2004:** The Twentieth Prosecutor orders an investigation into Oscar José Barrios's detention.<sup>76</sup> The Investigation Unit requests information about the three policemen mentioned in the complaint.<sup>77</sup>

**July 27, 2004:** The Twentieth Prosecutor asks the Director of Internal Affairs of the Police to open an administrative inquiry against the officials involved in the illegal detention of Oscar José Barrios.<sup>78</sup>

**August 2004:** The Twentieth Prosecutor interviews Elbira Barrios and Jesús Ravelo.<sup>79</sup> Jesús Ravelo provides the bullet that hit his vehicle on June 19, 2004, however the police do not carry out a technical inspection of the vehicle.<sup>80</sup>

**August 24, 2004:** The Seventh Review Judge grants a protective measure for Nestor Caudi Barrios.<sup>81</sup>

**September 4, 2004:** Nestor Caudi Barrios and Rigoberto Barrios are arrested by Aragua police officers from the Guanayén police station.<sup>82</sup> They are taken to the Barbacoa police station and beaten.<sup>83</sup> Rigoberto Barrios is released the next day.<sup>84</sup>

**September 6, 2004:** Nestor Caudi Barrios is transferred to the sub-office

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73. *Id.* ¶ 119.

74. *Id.* ¶ 216.

75. *Id.* ¶ 158.

76. *Id.* ¶ 216.

77. *Id.*

78. *Id.*

79. *Id.* ¶ 217.

80. *Id.*

81. *Id.*

82. Narciso Barrios et al. v. Venezuela, Admissibility Report, Report No. 23/05, Inter-Am. Comm'n H.R., Case No. 12.488 ¶ 1 (Feb. 25, 2005).

83. *Id.*

84. *Id.*

of the Scientific, Penal and Criminal Investigation Corps, in the town of Villa Cura.<sup>85</sup> He is released after it is verified that he is not wanted for the commission of any crime.<sup>86</sup>

**September 20, 2004:** Luis Alberto Barrios, home with his companion Orismar Alzul Carolina Garcia, hears a noise on the roof.<sup>87</sup> After hearing the sound a second time, Luis Alberto Barrios walks outside to search for the cause and several gunshots are heard.<sup>88</sup> Orismar Alzul Carolina Garcia calls a relative for help, and the relative informs her that Luis Alberto Barrios has been murdered.<sup>89</sup> The autopsy indicates that he was shot seven times.<sup>90</sup>

Orismar Carolina Alzul García states that on the day Luis Alberto Barrios died, he told her that a police officer had warned him, in the presence of his nephews, to behave and to be prepared to receive a surprise.<sup>91</sup> Elbira Barrios later testifies that Luis Alberto Barrios was threatened several times by a police officer and identifies him.<sup>92</sup>

**September 21, 2004:** The Twentieth Prosecutor orders an investigation into the death of Luis Alberto Barrios.<sup>93</sup>

**November 2004:** The Twentieth Provisional Prosecutor asks the Investigation Unit to obtain the investigations conducted regarding the deaths of Narciso and Luis Alberto Barrios, and asks the police headquarters of Aragua to carry out several investigation procedures.<sup>94</sup>

**December 6, 2004:** Two uniformed police officers approach Néstor Caudi Barrios.<sup>95</sup> One of them, with a razor in his hand, tells Nestor Caudi Barrios that if he finds him alone, he will hurt him.<sup>96</sup> As a result, the representative asks the Public Prosecution Service for protective measures twenty-four hours a day for the Barrios family, especially for Néstor Caudi Barrios and Oscar José Barrios.<sup>97</sup>

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85. Barrios Family v. Venezuela, Merits, Reparations and Costs, ¶ 209.

86. *Id.* ¶ 111.

87. *Id.*

88. *Id.*

89. *Id.*

90. *Id.*

91. *Id.*

92. *Id.*

93. *Id.* ¶ 220.

94. *Id.* ¶ 209.

95. *Id.* ¶ 110.

96. *Id.*

97. *Id.*



**December 25, 2004:** Wilmer José Flores Barrios' mother tells him of a threat she received that something bad would happen to her children before Christmas.<sup>98</sup>

**January 9, 2005:** Rigoberto Barrios is at a car repair shop with a friend, when two armed government officials approach him.<sup>99</sup> The officials ask Rigoberto Barrios his name and order his friend to walk away with her head lowered.<sup>100</sup> Then, they shoot Rigoberto Barrios several times.<sup>101</sup> While bystanders try to help him, a police patrol car drives by without stopping.<sup>102</sup> Rigoberto Barrios is taken to get medical treatment.<sup>103</sup>

**January 10, 2005:** Rigoberto Barrios is admitted to the Maracay Central Hospital, where several tests are performed on him.<sup>104</sup>

**January 13, 2005:** Rigoberto Barrios gives a statement concerning his shooting and identifies one of his assailants as a police officer from the Barbacoas police station.<sup>105</sup> His mother, Maritza Barrios, informs the Public Prosecution Service that a known police officer threatened him on various occasions, and that another identified officer told her that her children would not celebrate Christmas.<sup>106</sup>

**January 13, 2005:** The Barrios family lawyer files a complaint before the Senior Prosecutor and the Twentieth Prosecutor based on the shooting of Rigoberto Barrios on January 9, 2005.<sup>107</sup> The complaint indicates that the victim was in critical condition in the hospital with eight bullet wounds from shots fired by police officials.<sup>108</sup> The Twentieth Prosecutor opens the investigation and requests an interview with the victim.<sup>109</sup> Rigoberto Barrios indicates that he knew one of the officers, and that he could recognize the other.<sup>110</sup> He links the incident to the complaint filed

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98. *Id.* ¶ 120.

99. *Id.* ¶ 93.

100. *Id.*

101. *Id.*

102. *Id.*

103. *Id.*

104. *Id.*

105. *Id.*

106. *Id.*

107. *Id.* ¶ 224.

108. *Id.*

109. *Id.*

110. *Id.*

by Eloisa Barrios concerning his detention the previous year.<sup>111</sup>

**January 15, 2005:** Rigoberto Barrios undergoes surgery because of the injuries he sustained from the police.<sup>112</sup> The post-operative diagnosis indicates that he has suffered damage to his spinal cord.<sup>113</sup>

**January 17, 2005:** The Barrios family lawyer advises the Prosecutor that during surgery, three bullets are removed from the neck of Rigoberto Barrios and asks for a ballistic comparison.<sup>114</sup>

**January 19, 2005:** The hospital where Rigoberto Barrios is treated notes that he has blood in his stool.<sup>115</sup> Following a blood test, the doctor on duty orders three blood transfusion procedures.<sup>116</sup> During one of these procedures, Rigoberto dies from respiratory arrest.<sup>117</sup> The Hospital then requests an autopsy for Rigoberto Barrios.<sup>118</sup>

**January 20, 2005:** The Investigation Unit asks the Hospital for a copy of Rigoberto Barrios's medical record and makes a technical inspection of the corpse.<sup>119</sup> The Unit also asks for the logbook and the names of the personnel on duty at the Barbacoas police station on January 9, 2005.<sup>120</sup> The Investigation Unit forwards the report on the forensic inspection, blood testing and ballistic comparison regarding the death of Rigoberto Barrios to the Twentieth Prosecutor.<sup>121</sup>

On the same day, following the death of Rigoberto Barrios, Mari-tza Barrios leaves Guanayén permanently to live in Charallave, in the State of Miranda, Venezuela.<sup>122</sup>

**January 21, 2005:** The Barrios family attorney sends a note to the Twentieth Prosecutor reporting the death of Rigoberto Barrios resulting from an alleged act of medical negligence.<sup>123</sup> The Prosecutor orders an

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111. *Id.*

112. *Id.* ¶ 93.

113. *Id.*

114. *Id.* ¶ 225.

115. *Id.* ¶ 93.

116. *Id.*

117. *Id.*

118. *Id.* ¶ 225.

119. *Id.*

120. *Id.*

121. *Id.* ¶ 210.

122. *Id.* ¶ 158.

123. *Id.* ¶ 229.

investigation.<sup>124</sup>

**February 2005:** Pablo Julián Solórzano Barrios, his wife Beneraiz de la Rosa, and his son Danilo David Solórzano Barrios, abandon their home in fear of being murdered after they discover two men prowling around their home.<sup>125</sup>

**February 21, 2005:** Eloisa Barrios asks the Twentieth Prosecutor to arrange a reconstruction of the events related to the death of Narciso Barrios, so that probative elements can be collected to clarify his death.<sup>126</sup> She reiterates her request that investigation procedures be carried out, and expresses her disagreement with the Prosecutor's intention of presenting a conclusive decision without having collected all the evidence that would allow both the perpetrator and the accomplices to be charged.<sup>127</sup>

**March 6, 2005:** The Public Prosecution Service charges three police agents with the crime of complicity to commit aggravated homicide for the murder of Benito Antonio Barrios.<sup>128</sup>

**March 15, 2005:** The Court of First Instance decides to set the preliminary hearing for the case of Benito Antonio Barrios for April 4, 2005.<sup>129</sup> This hearing is postponed on several occasions.<sup>130</sup>

**May 25, 2005:** A preliminary hearing for the death of Benito Antonio Barrios is held before the Review Court of First Instance, which admits the charges filed by the Fourteenth and Twentieth Prosecutors against three police officers.<sup>131</sup>

**June 18, 2005:** Five men in civilian clothing intercept Oscar José Barrios, aiming their rifles at him.<sup>132</sup>

**June 19, 2005:** Three hooded men in civilian clothing are seen prowling around the home of Elbira Barrios, looking for her son Oscar José

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124. *Id.*

125. *Id.* ¶ 159.

126. *Id.* ¶ 211.

127. *Id.*

128. *Id.* ¶ 212.

129. *Id.*

130. *Id.*

131. *Id.*

132. *Id.* ¶ 110.

Barrios.<sup>133</sup>

**June 19, 2005:** After Oscar José Barrios is allegedly intercepted by five armed men, Elbira Barrios and her children Oscar José Barrios, Cirilo Antonio Colorado Barrios, and Lorena del Valle Pugliese Barrios leave Guanayén.<sup>134</sup> Two children, Darelbis Carolina Barrios and Elvis Sarais Colorado Barrios, leave Aragua in fear of being murdered.<sup>135</sup>

**May 17 and 19, 2006:** The Twentieth Prosecutor requests specific firearms in order to carry out examinations.<sup>136</sup> He also requests results of appraisals from the remains of the bullets removed from Rigoberto Barrios' body, previously requested in February 2005.<sup>137</sup>

**May 25, 2006:** The Twentieth Prosecutor orders the proceedings regarding Luis Alberto Barrios and Rigoberto Barrios archived because, due to a lack of evidence and eyewitnesses, it could not be proved that active police were involved in their deaths or that this event could be described as police harassment with the intent to threaten the lives of the Barrios family.<sup>138</sup>

**November 6, 2006:** The Twentieth Prosecutor receives a report with the Advisory Unit's conclusions and recommendations, indicating that the Unit found nothing to justify the delay in Rigoberto Barrios' operation.<sup>139</sup> Further, the report indicates that the medication given to Rigoberto Barrios possibly worsened his condition and that he was not tended to for six hours.<sup>140</sup> The medical report indicates that neither the autopsy nor the medical records indicate Rigoberto's cause of death, and include other gaps of information.<sup>141</sup>

**December 12, 2006:** A police officer comes forward and is charged with the offenses of breaking and entering and simple theft to the detriment of Brígida Oneyda Barrios, Luis Antonio Barrios and his companion, Orismar Carolina Alzul García.<sup>142</sup>

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133. *Id.*

134. *Id.* ¶ 160.

135. *Id.*

136. *Id.* ¶ 223.

137. *Id.*

138. *Id.* ¶¶ 223, 228.

139. *Id.* ¶ 230

140. *Id.*

141. *Id.*

142. *Id.* ¶ 203.

**November 29, 2009:** Oscar José Barrios is shot and killed near a social club in Guanayén.<sup>143</sup>

**February 21 and 28, 2005:** The Investigation Unit interviews Orismar Carolina Alzul Garcia and Brígida Oneyda Barrios regarding the destruction of their homes.<sup>144</sup> Orismar Carolina Alzul García identifies two police officers responsible.<sup>145</sup> A technical inspection is made of the homes, and a record is drawn up for a criminal investigation that indicates that a police officer gave the order to attack the homes.<sup>146</sup>

**April 17, 2007:** The Prosecutor files formal charges against four police agents before the Court of First Instance for the crime of complicity to commit intentional homicide of Benito Antonio Barrios.<sup>147</sup>

**November 25, 2008:** The Twentieth Prosecutor asks the Review Court of the Criminal Judicial Circuit of the Judicial District to dismiss the case of Rigoberto Barrios' murder because of the absence of evidence to determine that the offenses had been committed.<sup>148</sup>

**May 28, 2009:** The prosecution requests an arrest warrant for the four officers who allegedly murdered Benito Antonio Barrios, which is granted on June 9, 2009.<sup>149</sup>

**October 21, 2009:** The case regarding the death of Rigoberto Barrios is dismissed.<sup>150</sup>

**September 1, 2010:** Wilmer José Flores Barrios is shot several times by unidentified individuals.<sup>151</sup> He is pronounced dead on his arrival to the hospital.<sup>152</sup>

**January 2, 2011:** Néstor Caudi Barrios is attacked in the Casitas area of

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143. *Id.* ¶ 112.

144. *Id.* ¶ 201.

145. *Id.*

146. *Id.* ¶ 201.

147. *Id.* ¶ 196.

148. *Id.* ¶ 219.

149. *Id.* ¶ 197.

150. *Id.* ¶ 219.

151. *Id.* ¶ 113.

152. *Id.*

Guanayén.<sup>153</sup> As a result of this attack, he suffers motor impairment and requires several operations.<sup>154</sup>

**May 28, 2011:** Juan José Barrios is murdered and his body is found in a lake behind a Guanayén housing development, with two bullet wounds, one in his shoulder and one in his right leg.<sup>155</sup>

**August 5, 2011:** The results of the criminal investigation of July 29, 2011 are received.<sup>156</sup> They confirm that one of the accused was working with the Camatagua police station, and the other was discharged from the station in 1999.<sup>157</sup>

### *B. Other Relevant Facts*

[None]

## II. PROCEDURAL HISTORY

### *A. Before the Commission*

**March 16, 2004:** The Inter-American Commission on Human Rights receives a petition from Mr. Luis Aguilera, Secretary General of the Human Rights, Justice, and Peace Commission of Aragua State representing Narciso Barrios and his family Eloisa Barrios, Elbira Barrios, Justina Barrios, Luis Barrios, and Brígida Oneyda Barrios.<sup>158</sup>

**February 25, 2005:** The Commission adopts Admissibility Report No. 23/05 regarding the petition of March 16, 2004.<sup>159</sup>

**December 30, 2005:** The Commission receives a petition lodged by Eloisa Barrios, The Human Rights, Justice, and Peace Commission of Aragua State, and the Center for Justice and International Law (“CEJIL”), stating that agents of the State illegally arrested and executed Benito Antonio Barrios on August 28, 1998, in the village of Gua-

153. *Id.*

154. *Id.*

155. *Id.* ¶ 115.

156. *Id.*

157. *Id.* ¶ 198.

158. Narciso Barrios et al. v. Venezuela, Admissibility Report, Report No. 23/05, Inter-Am. Comm'n H.R., Case No. 12.488, ¶ 1 (Feb. 25, 2005).

159. Barrios Family v. Venezuela, Merits, Reparations and Costs, ¶ 1.

nayén.<sup>160</sup> While the petition is being processed they add submissions concerning the alleged extrajudicial execution of Rigoberto Barrios, as well as the illegal arrests and inhumane treatment of several Barrios family members by State agents.<sup>161</sup>

**January 17, 2009:** The Commission adopts Admissibility Report No. 23/05 regarding the petition of December 30, 2005.<sup>162</sup>

**January 7, 2010:** The Commission joins the processing of both cases.<sup>163</sup>

**March 16, 2010:** The Commission issues Merits Report No. 11/10, which concluded that the State violated Articles 4(1), 5(1), 5(2), 7(1), 7(2), 7(3), 7(4), 8(1), 19, 22(1), and 25(1) of the American Convention to the detriment of the victims.<sup>164</sup>

### *B. Before the Court*

**July 26, 2010:** The Commission submits the case to the Court after the State failed to adopt its recommendations.<sup>165</sup>

#### 1. Violations Alleged by Commission<sup>166</sup>

Article 4 (Right to Life)

Article 5 (Right to Personal Integrity)

Article 7 (Right to Personal Liberty)

Article 8 (Right to a Fair Trial)

Article 11 (Right to Privacy)

Article 19 (Rights of the Child)

Article 21 (Right to Property)

Article 22 (Freedom of Movement and Residence)

Article 25 (Right to Judicial Protection)

*all in relation to:*

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

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160. Benito Antonio Barrios et al. v. Venezuela, Admissibility Report, Report No. 1/09, Inter-Am. Comm'n H.R., Case No. 12.488, ¶ 1 (Jan. 17, 2009).

161. *Id.*

162. Barrios Family v. Venezuela, Merits, Reparations and Costs, ¶ 1.

163. *Id.*

164. *Id.*

165. Barrios Family v. Venezuela, Merits, Reparations and Costs, ¶ 1.

166. Barrios Family v. Venezuela, Merits, Reparations and Costs, ¶ 3.

2. Violations Alleged by Representatives of the Victims<sup>167</sup>

Same Violations Alleged by Commission, plus:

Article 13 (Freedom of Thought and Expression)

Article 17 (Rights of the Family)

Article 44 (Right to Petition)

Article 63(2) (Right to Have Provisional Protection)

*all in relation to:*

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

Article 6 (Obligation to Take Effective Measures and Punish Torture and Cruel, Inhuman, and Degrading Treatment)

Article 8 (Obligation to Investigate and Prosecute) of the Inter-American Convention to Prevent and Punish Torture.

### III. MERITS

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

Diego García-Sayán, President

Leonardo A. Franco, Vice President

Manuel E. Ventura Robles, Judge

Margarette May Macaulay, Judge

Rhadys Abreu Blondet, Judge

Alberto Pérez Pérez, Judge, and

Eduardo Vio Grossi, Judge

Pablo Saavedra-Alessandri, Secretary

Emilia Segares Rodríguez, Deputy Secretary

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

**November 24, 2011:** The Court issues its Judgment on Merits, Reparations and Costs.<sup>168</sup>

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167. *Id.* ¶ 4. . Mr. Luis Manuel Aguilera Peñalver of the Human Rights Commission for Justice and Peace of Aragua State, Ms. Viviana Krsticevic, Ms. Ariela Peralta, Mr. Francisco Quintana, and Ms. Annette Marie Martínez Orabona of CEJIL, and Ms. Liliana Ortega Mendoza and Mr. Willy Chang from the Committee of Next of Kin of Victims of the Events of February-March 1989 (“COFAVIC”) serve as representatives of the Barrios family. *Id.*

168. *Barrios Family v. Venezuela, Merits, Reparations and Costs.*



The Court found unanimously that Venezuela had violated:

Article 4(1) (Prohibition of Arbitrary Deprivation of Life) of the American Convention to the detriment of Benito Antonio Barrios and Narciso Barrios, and Articles 5(1) (Right to Physical, Mental, and Moral Integrity), 5(2) (Prohibition of Torture, and Cruel, Inhumane or Degrading Treatment), 7(1) (Right to Personal Liberty and Security) and 7(2) (Prohibition of Deprivation of Liberty Unless for Reasons and Conditions Previously Established by Law), in relation to Article 1(1) of the American Convention, to the detriment of Benito Antonio Barrios,<sup>169</sup> because:

*The Court found that Benito Antonio Barrios and Narciso Barrios were deprived of their lives by State agents, and that Benito Antonio Barrios was detained by State agents prior to his death.*<sup>170</sup>

*The Court determined that Benito Antonio Barrios was illegally arrested because the arrest was not carried out in flagrante delicto, nor was there a court order.*<sup>171</sup> *The facts demonstrate that the State police entered his home, beat him in front of his children, and took him to the police car handcuffed and injured.*<sup>172</sup> *Additionally, the forensic examination determined that he was shot from above, indicating he was in a position of helplessness.*<sup>173</sup> *The Court stated that it can be presumed from this information that Benito Antonio Barrios feared for his life while he was in State custody until his death.*<sup>174</sup>

*Regarding Narciso Barrios, witnesses stated that Narciso Barrios was unarmed when he was shot ten times.*<sup>175</sup> *The Court determined that even if he was armed, which the State disputes, there is no evidence sufficient to indicate that there was a situation of imminent threat of death or injury that justified the use of force.*<sup>176</sup>

*Based on this information, the Court found that the State violated Article 4(1) (Prohibition of Arbitrary Deprivation of Life) of the Convention*

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169. *Id.* ¶¶ 64-68.

170. *Id.*

171. *Id.* ¶ 65.

172. *Id.* ¶ 66.

173. *Id.*

174. *Id.*

175. *Id.*

176. *Id.* ¶ 67.

to the detriment of Benito Antonio Barrios and Narciso Barrios, and found that the State violated Articles 5(1) (Right to Physical, Mental, and Moral Integrity), 5(2) (Prohibition of Torture, and Cruel, Inhumane or Degrading Treatment), 7(1) (Right to Personal Liberty and Security), and 7(2) (Prohibition of Deprivation of Liberty Unless for Reasons and Conditions Previously Established by Law) in relation to Article 1(1) of the Convention to the detriment of Benito Antonio Barrios.<sup>177</sup>

Articles 4(1) (Prohibition of Arbitrary Deprivation of Life), 5(1) (Right to Physical, Mental, and Moral Integrity), and 19 (Rights of the Child), in relation to Article 1(1) of the American Convention, to the detriment of Rigoberto Barrios,<sup>178</sup> because:

*Rigoberto Barrios was the beneficiary of precautionary measures granted by the Commission from June to November 2004.<sup>179</sup> Because of these provisional measures, the State was expressly aware that Rigoberto Barrios's life was in danger and that police officials threatened to kill him.<sup>180</sup> On December 3, 2004, the First Instance Review Court of the Ninth Criminal Judicial Circuit of Aragua state ratified a measure of protection and ordered the establishment of a permanent team of National Guard officers at the homes of the beneficiaries.<sup>181</sup> However, there is no evidence that this permanent team was established.<sup>182</sup>*

*At fifteen years old, Rigoberto Barrios was detained by police, assaulted, and threatened with death.<sup>183</sup> He died as the result of an attempt on his life on January 9, 2005.<sup>184</sup> Before he died, he gave a statement to the Public Prosecution Service and identified one of his assailants as a State police officer who was present at the Barbacoas police station where he was assaulted and threatened with death.<sup>185</sup> His mother testified that a police official had made death threats against him in the past.<sup>186</sup> The young woman who accompanied Rigoberto Barrios just before he was attacked stated that his assailants had identified themselves*

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177. *Id.* ¶ 68.

178. *Id.* ¶ 96.

179. *Id.* ¶ 94.

180. *Id.*

181. *Id.* ¶ 126.

182. *Id.*

183. *Id.* ¶ 94

184. *Id.* ¶ 95.

185. *Id.*

186. *Id.*

as “from the Government.”<sup>187</sup> Although there was no official version of the incident, the body of evidence allowed the Court to conclude that police officials participated in the attack that led to the death of Rigoberto Barrios.<sup>188</sup> The Court concluded that he suffered from the moment he was shot until his death.<sup>189</sup>

Based on this information, the Court found that the State violated Articles 4(1) (Prohibition of Arbitrary Deprivation of Life) and 5(1) (Right to Physical, Mental, and Moral Integrity).<sup>190</sup> Additionally, given that Rigoberto Barrios was a minor at the time of the attack that led to his death, and taking into account the State’s special obligation of protection, the State violated Article 19 (Rights of the Child) of the Convention, when they threatened and assaulted him.<sup>191</sup>

Articles 7(1) (Right to Personal Liberty and Security), 7(2) (Prohibition of Deprivation of Liberty Unless for Reasons and Conditions Previously Established by Law), and 7(4) (Right to Be Informed of Reasons of Arrest and Charges), in relation to Article 1(1) (Obligation of Non-Discrimination) of the Convention, to the detriment of Jesús Ravelo, Gustavo Ravelo, Luisa del Carmen Barrios, Elbira Barrios, Rigoberto Barrios, Jorge Antonio Barrios Ortuño, and Oscar José Barrios,<sup>192</sup> because:

The Court found that during the first detention of minors, Jorge Antonio Barrios Ortuño and Oscar José Barrios, on March 3, 2004, hooded agents assaulted and threatened them with death.<sup>193</sup> Agents took Jorge Antonio Barrios Ortuño and Oscar José Barrios to the Barbacoas police station a second time on June 19, 2004.<sup>194</sup> Further, on June 19, 2004, the police also arrested Gustavo Ravelo, Jesús Ravelo, Luisa del Carmen Barrios, Elbira Barrios, and Rigoberto Barrios.<sup>195</sup> The Court found the victims’ statements regarding these events before the Public Prosecution Service and Scientific Investigation Unit were consistent when describing the facts, the conduct of the police officers, the length

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187. *Id.*

188. *Id.*

189. *Id.*

190. *Id.* ¶ 96.

191. *Id.*

192. *Id.* ¶ 79.

193. *Id.* ¶ 77.

194. *Id.*

195. *Id.*

of the detention, and the assaults and threats.<sup>196</sup>

Moreover, the State did not deny that these detentions occurred, and did not present information on their legality.<sup>197</sup> The Court reasoned that the evidence provided by the State did not contain any justifications for the detentions nor were the detainees advised of the reason for their detention.<sup>198</sup> Furthermore, the Court found that there was no evidence that the detention and the subsequent release of the minors were registered officially, or that the youths were able to communicate with their parents or next of kin.<sup>199</sup> Therefore, the Court found that this failed to meet the requirements of Article 44 of the State Constitution on personal liberty, and therefore, meant that the deprivations of liberty were illegal and contrary to the American Convention.<sup>200</sup>

Article 5(1) (Right to Physical, Mental, and Moral Integrity), in relation to Article 1(1) of the American Convention, to the detriment of Gustavo Ravelo, Jesús Ravelo, Luisa del Carmen Barrios, Elbira Barrios, Rigoberto Barrios, Oscar José Barrios and Jorge Antonio Barrios Ortuño,<sup>201</sup> because:

The Court found that the vulnerability of a person who is detained is exacerbated when the detention is illegal or arbitrary and the person is completely defenseless, which creates the risk that other rights may be violated.<sup>202</sup> Rigoberto Barrios and Jorge Antonio Barrios Ortuño were taken by hooded officers and beaten.<sup>203</sup> The minors Jorge Antonio Barrios Ortuño and Oscar José Barrios were arrested and assaulted by police agents, detained and threatened with an unloaded gun to the

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196. *Id.*

197. *Id.* ¶ 78.

198. *Id.*

199. *Id.*

200. *Id.*

201. *Id.* ¶ 84.

202. *Id.* ¶ 80.

203. *Id.*

head.<sup>204</sup> *The State did not present any arguments refuting these facts.*<sup>205</sup>

*The Court has held that the mere threat of conduct that is sufficiently real and imminent may by itself violate the right to personal integrity.*<sup>206</sup> *In addition, creating a threatening situation or threatening to kill an individual may constitute, at the very least, inhuman treatment in some circumstances.*<sup>207</sup> *Because two members of the Barrios family had already been murdered by State agents prior to the death of Benito Antonio Barrios and Narciso Barrios, the threats against their lives, and the assault on them while they were deprived of liberty necessarily caused them to feel intense anguish and vulnerability, which constituted a violation of personal integrity.*<sup>208</sup>

*The Court found that, on June 19, 2004, the State agents not only assaulted Jesús Ravelo, Gustavo Ravelo, and Luisa del Carmen Barrios, but also threatened them with other acts of violence including firing a shot near them.*<sup>209</sup> *These attacks and threats constituted conduct that violated the right to personal integrity and are prohibited by Article 5 of the Convention.*<sup>210</sup> *The threat with a firearm and the assaults while they were detained necessarily caused Jesús Ravelo, Gustavo Ravelo, Luisa del Carmen Barrios, and Elbira Barrios to feel anguish and vulnerability, which is a violation of their right to personal integrity.*<sup>211</sup>

Article 19 (Rights of the Child), in relation to Article 1(1) of the American Convention, to the detriment of Rigoberto Barrios, Oscar José Barrios, and Jorge Antonio Barrios Ortuño,<sup>212</sup> because:

*The Court observed that Rigoberto Barrios, Oscar José Barrios, and Jorge Antonio Barrios Ortuño were minors at the time of their arrests.*<sup>213</sup> *Because of this, their detentions, assaults, and threats are subjected to higher scrutiny.*<sup>214</sup> *The detention of children must be exceptional and for the shortest time possible.*<sup>215</sup> *Being minors, the acts*

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204. *Id.* ¶ 81.

205. *Id.*

206. *Id.* ¶ 82.

207. *Id.*

208. *Id.*

209. *Id.* ¶ 83.

210. *Id.*

211. *Id.*

212. *Id.* ¶ 85.

213. *Id.*

214. *Id.*

215. *Id.*

against them were severe and exacerbated by threats of death.<sup>216</sup> Consequently, the Court found that the State violated Article 19 (Rights of the Child) to the detriment of Rigoberto Barrios, Oscar José Barrios, and Jorge Antonio Barrios Ortuño.<sup>217</sup>

Article 4(1) (Prohibition of Arbitrary Deprivation of Life) in relation to Article 1(1) of the American Convention, to the detriment of Luis Alberto Barrios, Oscar José Barrios, Wilmer José Flores Barrios, and Juan José Barrios, and Article 5(1) (Right to Physical, Mental, and Moral Integrity) in relation to Article 1(1) to the detriment of Néstor Caudi Barrios,<sup>218</sup> because:

*Luis Alberto Barrios, Oscar José Barrios, Wilmer José Flores Barrios, and Juan José Barrios were the beneficiaries of provisional measures ordered by the Court and were nonetheless murdered.<sup>219</sup> Luis Alberto Barrios was present at the onset of the police operation that resulted in the death of his brother Benito Antonio Barrios.<sup>220</sup>*

*On June 19, 2004, Oscar José Barrios was illegally detained, assaulted and threatened with death by police agents.<sup>221</sup> Five men in civilian dress aimed their rifles at him and took him away. Death threats were made to Wilmer José Flores Barrios.<sup>222</sup> Néstor Caudi Barrios was an eyewitness to the murder of Narciso Barrios on December 11, 2003 and was threatened with death on three separate occasions.<sup>223</sup> A police officer told Juan José Barrios that he was going to kill him the way he did his brothers.<sup>224</sup>*

*The Court stated that the State's obligation of diligence to prevent the violation of rights became more specific with regard to Luis Alberto Barrios, Oscar José Barrios, Wilmer José Flores Barrios, Néstor Caudi Barrios, and Juan José Barrios after the threats and acts of violence were committed against them and their families.<sup>225</sup> This obligation required the State to take prompt and immediate action to determine those*

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216. *Id.*

217. *Id.*

218. *Id.* ¶ 131.

219. *Id.* ¶ 118.

220. *Id.*

221. *Id.* ¶ 119.

222. *Id.* ¶ 120.

223. *Id.* ¶ 121.

224. *Id.* ¶ 122.

225. *Id.* ¶ 124.

responsible for the threats and the crimes against the Barrios family.<sup>226</sup>

*Prior to February 2011, there was no evidence that the State made any attempt to coordinate directly with the family or with the Public Prosecution Service about the type of protective measures required to reduce the risks they faced.<sup>227</sup> Further, there is no evidence that protective visits were carried out after August 2008.<sup>228</sup> The Court found that the argument that the beneficiaries had refused protection by police agents from specific police stations, or that they lived in two states, cannot justify the failure to adopt protective measures to counter the risks they faced. Indeed, several members of the Barrios family relocated as a result of the danger they felt and the threats received in Guanayén.<sup>229</sup>*

*The Court found that the State did not demonstrate that it took adequate and effective steps to prevent the attempts on the lives of these members of the Barrios family.<sup>230</sup> Rather, the domestic measure of protection consisted exclusively of sporadic patrols to the homes of some members of the Barrios family.<sup>231</sup> Moreover, the State did not provide evidence that it conducted a serious and thorough investigation of the facts that preceded the attacks.<sup>232</sup> Hence, the Court found that the measure was insufficient to mitigate the danger suffered by the victims and to prevent future acts of violence.<sup>233</sup>*

*Regarding the deaths of Luis Alberto Barrios, Oscar José Barrios, Wilmer José Flores Barrios, and Juan José Barrios that occurred in September 2004, November 2009, September 2010, and May 2011 respectively, and the attempt on the life of Néstor Caudi Barrios in January 2011, the Court determined that the State was fully aware of the specific situation, and the danger to the victims, which increased with the passage of time.<sup>234</sup>*

*Consequently, the Court found that the State failed to fulfill its obligation to adopt the necessary and reasonable measures to ensure the right to life, under Article 4(1), of Luis Alberto Barrios, Oscar José Barrios,*

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226. *Id.*

227. *Id.* ¶ 126.

228. *Id.*

229. *Id.* ¶ 128.

230. *Id.* ¶ 130.

231. *Id.*

232. *Id.*

233. *Id.*

234. *Id.* ¶ 131.

*Wilmer José Flores Barrios, and Juan José Barrios, and the right to personal integrity, under Article 5(1), of Néstor Caudi Barrios, all of whom were beneficiaries of precautionary and provisional measures granted by the Inter-American human rights system.*<sup>235</sup> *The Court also determined that the evidence demonstrating these violations required the State to investigate the detention, assaults, threats, and deaths of these members of the Barrios family.*<sup>236</sup>

Article 11(2) (Prohibition of Arbitrary Interference with Private Life, Family, Home, Correspondence, and of Unlawful Attacks on Honor, and Dignity), in relation to Article 1(1) of the American Convention, to the detriment of Brígida Oneyda Barrios, Luis Alberto Barrios, and Orismar Carolina Alzul García and their direct family,<sup>237</sup> because:

*The Court found that the entry of police agents into the homes of Brígida Oneyda Barrios, Luis Alberto Barrios, and Orismar Carolina Alzul García, without a judicial order or legal authorization and without the consent of the inhabitants, constituted arbitrary and abusive interference in their family home.*<sup>238</sup> *Consequently, the Court determined that the State violated the right to privacy embodied in Article 11(2)(Prohibition of Arbitrary Interference with Private Life, Family, Home, Correspondence, and of Unlawful Attacks on Honor, and Dignity) to the detriment of Brígida Oneyda Barrios, Luis Alberto Barrios and Orismar Carolina Alzul García and of their direct family who, the Court has verified, lived in these homes.*<sup>239</sup>

Articles 21(1) (Right to Use and Enjoyment of Property) and 21(2) (Right to Compensation in Case of Expropriation), in relation to Article 1(1) of the American Convention, to the detriment of Brígida Oneyda Barrios, Luis Alberto Barrios, and Orismar Carolina Alzul García and their next of kin,<sup>240</sup> because:

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235. *Id.*

236. *Id.* ¶ 133.

237. *Id.* ¶ 147.

238. *Id.*

239. *Id.* ¶ 147. The direct family who lived in these homes at the time consisted of Marcos Antonio Díaz Barrios, Sandra Marivi Betancourt Barrios, Junior José Betancourt Barrios, Wilneidys Betania Pimentel Barrios, Ronis David Barrios Alzul, and Roniel Alberto Barrios Alzul. *Id.*

240. *Id.* ¶ 150. Their next of kin consist of Marcos Antonio Díaz Barrios, Sandra Marivi Betancourt Barrios, Junior José Betancourt Barrios, Wilneidys Betania Pimentel Barrios, Ronis David Barrios Alzul, and Roniel Alberto Barrios Alzul. *Id.*



*Regarding the right to property, the Court developed a broad definition that covers, among other matters, the use and enjoyment of property, defined as material objects that can be acquired, and any right that can form part of the personal wealth of a person.<sup>241</sup> This includes both personal possessions and real estate, tangible and intangible elements and any other non-material objects of value.<sup>242</sup>*

*The Court found that the right to property of Brígida Oneyda Barrios, Luis Alberto Barrios, Orismar Carolina Alzul García, and the next of kin were affected by the search of their homes.<sup>243</sup> State agents removed and failed to return, without authorization, household appliances, money, medicine, clothes, and articles of personal hygiene.<sup>244</sup> Further, the agents destroyed documents, clothes, and household appliances, and set fire to part of the residence of Luis Alberto Barrios and Orismar Carolina Alzul García.<sup>245</sup> The Court determined that the victims were deprived of the said possessions without any justification, and the State did not specifically contest these facts or provide explanations about what happened.<sup>246</sup> Therefore, the Court found that the State violated Articles 21(1) (Right to Use and Enjoyment of Property) and 21(2) (Right to Compensation in Case of Expropriation) of the Convention to the detriment of the victims.<sup>247</sup>*

Article 22(1) (Right to Move Freely Within a State), in relation to Article 1(1) of the American Convention, to the detriment of Elbira Barrios, Oscar José Barrios, Cirilo Antonio Colorado Barrios, Lorena del Valle Pugliese Barrios, Darelbis Carolina Barrios, Elvis Sarais Colorado Barrios, Pablo Julián Solórzano Barrios, Beneraiz de la Rosa, Danilo David Solórzano Barrios, Maritza Barrios, Wilmer José Flores Barrios, Néstor Caudi Barrios, Génesis Andreína Navarro Barrios, Víctor Tomás Navarro Barrios, Heilin Alejandra Navarro Barrios, Brígida Oneyda Barrios, Marcos Antonio Díaz Barrios, Sandra Marivi Betancourt Barrios, Junior Jose Betancourt Barrios, Wilneidys Betania Pimentel Barrios, Eloisa Barrios, Víctor Daniel Cabrera Barrios, Luilmari Carolina Guzmán Barrios and Luiseidys Yulianny Guzmán Barrios, and Article 19 (Rights of the Child) in relation to Article 1(1) to those of this group

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241. *Id.* ¶ 149.

242. *Id.*

243. *Id.*

244. *Id.*

245. *Id.*

246. *Id.*

247. *Id.* ¶ 150.

who are minors,<sup>248</sup> because:

*The Court previously established that the right to freedom of movement and residence is an essential condition for the free development of the individual, and includes, the right of those who are legally within a State to move freely in it, and to choose their place of residence.<sup>249</sup> The Court indicated that freedom of movement and residence could be violated by de facto restrictions, if the State has not established conditions that allow it to be exercised.<sup>250</sup>*

*The Court considered that the State did not formally restrict the freedom of movement and residence of the members of the Barrios family.<sup>251</sup> Nevertheless, it found that their freedom was limited by serious de facto restrictions arising from threats, harassment, and other violent acts that led to the departure of several of the family members from Guanayén.<sup>252</sup> Their hesitance to return was due to a well-founded fear that their lives were in danger, stemming from a failure to investigate and prosecute those responsible.<sup>253</sup> The Court noted that the State was responsible for the conduct of its agents that caused the displacement, and for not establishing the conditions or providing the means to allow the members of the Barrios family to return safely.<sup>254</sup> The Court ruled that the absence of an effective investigation of violent acts can lead to or perpetuate forced displacement.<sup>255</sup>*

*Thus, the Court considers that the households of Elbira Barrios, Oscar José Barrios, Pablo Julián Solórzano Barrios, Maritza Barrios, Brígida Oneyda Barrios, and Eloisa Barrios either moved or suffered a restriction of their freedom of movement.<sup>256</sup> Furthermore, the Commission indicated that Carlos Alberto Ortuño, his mother Dalila Ordaly's Ortuño and his brother Jorge Antonio Barrios Ortuño were victims of displacement.<sup>257</sup> Further, the Court found that those who were children at the time of the facts were especially affected by the family displacements, so that the State violated Article 19 (Rights of the Child) to the*

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248. *Id.* ¶ 168.

249. *Id.* ¶ 162.

250. *Id.*

251. *Id.* ¶ 165.

252. *Id.*

253. *Id.*

254. *Id.*

255. *Id.* ¶ 167.

256. *Id.* ¶ 166.

257. *Id.* ¶ 167.

*detriment of those who were minors at this time.*<sup>258</sup>

Articles 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal) and 25(1) (Right of Recourse Before a Competent Court), in relation to Article 1(1) of the American Convention, to the detriment of Justina Barrios, Jorge Antonio Barrios Ortuño, Carlos Alberto Ortuño, and Eloisa Barrios for the State's lack of due diligence in investigating Benito Antonio Barrios' death,<sup>259</sup> because:

*Eight domestic criminal investigations were initiated within the factual context of this case.*<sup>260</sup> *None of these investigations resulted in the judicial clarification of the facts or the punishment of those responsible.*<sup>261</sup> *These investigations all have common elements that show a lack of due diligence by the State.*<sup>262</sup>

*The Court observed that during the on-site inspections, there was a failure to immediately photograph the sites of the incidents, the evidence found, the bodies of the deceased victims, and the property affected.*<sup>263</sup> *Furthermore, there was no record that fingerprints were taken from the weapons involved, or from other evidence collected, or that inquiries were made to determine to whom the weapons belonged.*<sup>264</sup> *No forensic technical inspections were made at the onset of the investigations and information collected during the autopsies of the bodies showed insufficient diligence.*<sup>265</sup> *In addition, the police officials involved and previously identified were not immediately summoned to testify, nor were possible witness or the next of kin of the victims.*<sup>266</sup> *Thus, the Court found that the shortcomings and omissions in obtaining evidence reveal the State's lack of due diligence in recovering and preserving probative*

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258. *Id.* ¶ 168. The minors consist of Oscar José Barrios, Luilmari Carolina Guzmán Barrios, Luiseidys Yulianny Guzmán Barrios, Danilo David Solórzano, Elvis Sarais Colorado Barrios, Cirilo Antonio Colorado Barrios, Lorena del Valle Pugliese Barrios, Wilmer José Flores Barrios, Génesis Andreina Navarro Barrios, Victor Tomas Navarro Barrios, Heilin Alejandra Navarro Barrios, Marcos Antonio Díaz Barrios, Sandra Marivi Betancourt Barrios, Junior Jose Betancourt Barrios, and Wilneidys Betania Pimentel Barrios. *Id.*

259. *Id.* ¶ 245.

260. *Id.* ¶ 233.

261. *Id.*

262. *Id.*

263. *Id.* ¶ 234.

264. *Id.*

265. *Id.* ¶ 237.

266. *Id.* ¶ 234.

material.<sup>267</sup> In several cases, this resulted in the loss of important evidence, the difficulty in determining the truth, and the failure to identify and punish those responsible.<sup>268</sup> The Court held that the Prosecutor should have exhausted all possible lines of investigation.<sup>269</sup>

The investigation into the death of Benito Antonio Barrios focused initially on collecting information on the victim's criminal record, without any observations regarding the possible connection between the events that led to his death.<sup>270</sup> In July 2005, following more than five years without any procedures being recorded, the Directorate for the Protection of Human Rights tried to locate the case file and obtain the necessary information to take action.<sup>271</sup> Lastly, the State indicated that an arrest warrant was issued for the individuals accused, despite evidence that only one of them was arrested in August 2011.<sup>272</sup> The Court considered that it was not sufficient that the State merely indicated that an arrest warrant exists to justify the lack of progress in the case; rather it must prove that effective measures were taken.<sup>273</sup> Consequently, the Court concluded that the authorities did not act with due diligence in the investigation of the death of Benito Antonio Barrios, which violated Justina Barrios, Jorge Antonio Barrios Ortuño, Carlos Alberto Ortuño, and Eloisa Barrios' rights under Article 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal) and 25(1) (Right of Recourse Before a Competent Court).<sup>274</sup>

Articles 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal) and 25(1) (Right of Recourse Before a Competent Court), in relation to Article 1(1) of the American Convention, to the detriment of Luis Alberto Barrios, Orismar Carolina Alzul García, Brígida Oneyda Barrios, Justina Barrios and Elbira Barrios for the State's lack of due diligence in investigating the search, destruction, and theft of their homes,<sup>275</sup> because:

*The Court found that the State authorities did not act with due diligence in investigating the searches, destruction of property, and torching of*

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267. *Id.* ¶ 238.

268. *Id.*

269. *Id.* ¶ 239.

270. *Id.* ¶ 242.

271. *Id.* ¶ 244.

272. *Id.*

273. *Id.*

274. *Id.* ¶ 245.

275. *Id.* ¶ 249.

*the homes of these victims.*<sup>276</sup> *The Court found that relevant procedures were not conducted immediately to ascertain the facts regarding the break-ins into the private homes of the Barrios family so that the prompt and thorough collection of evidence could have prevented its loss.*<sup>277</sup> *There is no evidence that the searches of Elbira Barrios' home or Justina Barrios' home were taken into account in an investigation despite authorities being aware of the incidents at the homes.*<sup>278</sup>

*The Court also noted that, from December 2003 to February 2005, no steps were taken to clarify the facts surrounding the break-ins.*<sup>279</sup> *In addition, five years after the incidents, the Prosecutor requested information on the police officials at the Penitas police station.*<sup>280</sup> *This information was not included in his decision to archive the prosecution's case, which was issued three days after the request and there was no evidence of police statements that were requested by the prosecutor.*<sup>281</sup>

*Therefore, the State violated Articles 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal) and 25(1) (Right of Recourse Before a Competent Court) to the detriment of the victims whose houses were broken into.*<sup>282</sup>

Articles 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal) and 25(1) (Right of Recourse Before a Competent Court), in relation to Article 1(1) of the American Convention, to the detriment of Néstor Caudi Barrios, Justina Barrios, Annarys Alexandra Barrios Rangel, Benito Antonio Barrios Rangel and Eloisa Barrios due to the State's lack of due diligence in investigating the death of Narciso Barrios and the threats against Néstor Caudi Barrios,<sup>283</sup> because:

*Following the death of Narciso Barrios and the threats against Néstor Caudi Barrios, the authorities in charge of the investigations proceeded to order and carry out various procedures to determine the facts.*<sup>284</sup>

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276. *Id.*

277. *Id.* ¶ 246.

278. *Id.* ¶ 247.

279. *Id.* ¶ 248.

280. *Id.*

281. *Id.*

282. *Id.* ¶ 249.

283. *Id.* ¶ 256.

284. *Id.* ¶ 250.

However, the Court noted several shortcomings.<sup>285</sup> For example, when removing the body and collecting the corresponding evidence, the weapons used by the police involved were not confiscated, rather, only the weapon supposedly carried by the victim was removed.<sup>286</sup> Additionally, there was no record that the authorities in charge took statements from people gathered at the scene.<sup>287</sup> Moreover, the police stated that they did not verify the condition of the victim before leaving the scene.<sup>288</sup> Furthermore, there was no record of an official reconstruction of the event, a ballistic trajectory appraisal, or that those involved were located.<sup>289</sup> No steps were taken to verify why a multiple armed response by the police was required even though the ballistic comparison appraisal concluded that five cartridge shells retrieved from the scene were shot by one of the rifles assigned to the Barbacoas police station.<sup>290</sup> Lastly, the Court emphasized that despite the different statements and evidence that linked these facts to the threats against Néstor Caudi Barrios and the searches and destruction of the homes of some members of the family, the authorities did not investigate the events or take measures aimed at confirming whether or not those links existed between these incidents.<sup>291</sup>

The Court noted that a previous incident between Narciso Barrios and the police was a possible motive for the attack against him.<sup>292</sup> Further, Néstor Caudi Barrios and other family members advised the authorities of threats against him after he witnessed the death of Narciso Barrios.<sup>293</sup> The Court considered that all the possible lines of investigation permitting the elucidation of the facts were not exhausted because although protective measures were ordered in favor of Néstor Caudi Barrios, there is no record that any investigation was conducted to determine where the threats came from or to punish those responsible.<sup>294</sup>

Consequently, the Court concluded that the authorities did not act with due diligence in the investigation into the death of Narciso Barrios, and did not investigate the threats against Néstor Caudi Barrios violating

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285. *Id.*

286. *Id.*

287. *Id.*

288. *Id.*

289. *Id.* ¶ 252.

290. *Id.*

291. *Id.* ¶ 253.

292. *Id.* ¶ 254.

293. *Id.*

294. *Id.* ¶¶ 255-256.

*the right to judicial guarantees and to judicial protection articulated in Articles 8(1) and 25(1).*<sup>295</sup>

Articles 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal) and 25(1) (Right of Recourse Before a Competent Court), in relation to Article 1(1) of the American Convention and Articles 6 (Obligation to Take Effective Measures and Punish Torture and Cruel, Inhuman, and Degrading Treatment) and 8 (Obligation to Investigate and Prosecute) of the Inter-American Convention to Prevent and Punish Torture to the detriment of Rigoberto Barrios and Jorge Antonio Barrios Ortuño due to the State's lack of due diligence in investigating the deprivation of liberty suffered by them,<sup>296</sup> because:

*The Court determined that the measures taken by authorities to investigate the arbitrary detention, physical and mental violence, and alleged torture of Rigoberto Barrios and Jorge Antonio Barrios Ortuño attributed to police agents were insufficient.*<sup>297</sup> *The only measures taken were an interview with Jorge Antonio Barrios Ortuño, a forensic medical examination of Rigoberto Barrios, and a request for the logbooks of the police stations, which were not provided.*<sup>298</sup> *No forensic medical examination was performed on Jorge Antonio Barrios Ortuño.*<sup>299</sup> *In addition, his case was dismissed on the basis that the injuries sustained were minor.*<sup>300</sup> *The characterization of the injuries as minor did not contemplate that the victims complained that they were arbitrarily deprived of liberty, transferred to different locations, beaten by several authorities, had shots fired near them, and were threatened with death.*<sup>301</sup>

*The Court noted that the State organs in charge of the investigation had a duty to perform their tasks diligently and thoroughly, and negligent or omissive actions of the State are incompatible with the obligations required by the American Convention.*<sup>302</sup>

*Consequently, the Court concluded that the authorities did not act with due diligence in investigating the deprivation of liberty, violence,*

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295. *Id.* ¶ 256.

296. *Id.* ¶ 260.

297. *Id.* ¶ 257.

298. *Id.*

299. *Id.* ¶ 258.

300. *Id.*

301. *Id.*

302. *Id.*

*threats and torture suffered by the minors Rigoberto Barrios and Jorge Antonio Barrios Ortuño.*<sup>303</sup> *Therefore, the State violated Articles 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal) and 25(1) (Right of Recourse Before a Competent Court), in relation to Article 1(1) of the American Convention and Articles 6 (Obligation to Take Effective Measures and Punish Torture and Cruel, Inhuman, and Degrading Treatment) and 8 (Obligation to Investigate and Prosecute) of the Inter-American Convention to Prevent and Punish Torture to the detriment of the victims.*<sup>304</sup>

Articles 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal) and 25(1) (Right of Recourse Before a Competent Tribunal), in relation to Article 1(1) of the American Convention, to the detriment of Luisa del Carmen Barrios, Gustavo Ravelo, Jesús Ravelo, Elbira Barrios, Oscar José Barrios and Jorge Antonio Barrios Ortuño due to the State's lack of due diligence in investigating their deprivation of liberty,<sup>305</sup> because:

*The Court noted that authorities did not act with due diligence in investigating the deprivation of liberty, violence, and threats against certain members of the Barrios family.*<sup>306</sup> *During the investigation several measures were omitted, and despite flaws, the Prosecutor ordered the dismissal of the case.*<sup>307</sup> *There was no evidence that any steps were taken to implement the procedures he ordered.*<sup>308</sup> *There was no evidence that sanctions were adopted against the authorities who failed to collaborate in the preliminary investigation of the case.*<sup>309</sup> *In July 2004, the Prosecutor asked the Internal Affairs Directorate of the police to open an administrative inquiry against a police agent, but there is no evidence that this was done.*<sup>310</sup> *Consequently, the Court determined that the authorities violated the right to judicial guarantees and judicial protection to the detriment of these victims.*<sup>311</sup>

Articles 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal) and 25(1) (Right of Recourse Be-

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303. *Id.* ¶ 260.

304. *Id.*

305. *Id.* ¶ 263.

306. *Id.* ¶ 263.

307. *Id.* ¶ 262.

308. *Id.*

309. *Id.*

310. *Id.*

311. *Id.* ¶ 263.



fore a Competent Court), in relation to Article 1(1) of the American Convention, to the detriment of Justina Barrios, Orismar Carolina Alzul García, Ronis David Barrios Alzul, Roniel Alberto Barrios Alzul, and Luis Alberto Alzul and Eloisa Barrios due to the State's lack of due diligence in investigating the death of Luis Alberto Barrios,<sup>312</sup> because:

*The Court found that the authorities did not act with due diligence in investigating the death of Luis Alberto Barrios.<sup>313</sup> The investigation into his death contained several irregularities, including failure to take a statement from Jorge Antonio Barrios Ortuño, who witnessed the identified police agent threaten Luis Alberto Barrios,<sup>314</sup> Therefore, the Court found a lack of collaboration between the authorities in obtaining and providing evidence.<sup>315</sup>*

*Additionally, the Court noted that there was no record that the evidence that had been obtained was ever delivered to the authority in charge of the investigation.<sup>316</sup> In September 2005, the Prosecutor was still requesting the evidence obtained in October 2004. Based on this evidence, the Court concluded that the State violated the right to judicial guarantees and judicial protection to the detriment of these victims.<sup>317</sup>*

Articles 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal) and 25(1) (Right of Recourse Before a Competent Court), in relation to Article 1(1) of the American Convention, to the detriment of Maritza Barrios due to the State's lack of due diligence in investigating the death and attempt on the life of Rigoberto Barrios,<sup>318</sup> because:

*The Court noted that the investigation of the attempt on Rigoberto Barrios's life was opened four days after it occurred, following a complaint filed by the family's lawyer. There was no record that the local police or the hospital officials had reported it to the corresponding authorities.<sup>319</sup> Only after he died did the authorities request the logbook and information on the personnel on duty at the Barbacoas police station*

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312. *Id.* ¶ 266.

313. *Id.*

314. *Id.*

315. *Id.*

316. *Id.* ¶ 265.

317. *Id.* ¶ 263.

318. *Id.* ¶ 272.

319. *Id.* ¶ 267.

despite indications of police involvement.<sup>320</sup> The police did not make a technical inspection of the crime scene until January 25, 2005.<sup>321</sup>

The Court observed that requests were reiterated on several occasions for certain measures to be taken, including various appraisals, inspections, tests, and requests.<sup>322</sup> Although the forensic inspection and blood tests of the fragments of bullet extracted from the victim's body had been performed in March 2005, the Twentieth Prosecutor requested that tests be forwarded to his office over a year later.<sup>323</sup> Consequently, the Court concluded that the authorities did not act with due diligence in investigating the murder of Rigoberto Barrios.<sup>324</sup> Therefore, the State violated Maritza Barrios' rights under Articles 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal) and 25(1) (Right of Recourse Before a Competent Court) of the Convention.<sup>325</sup>

Article 5 (Right to Humane Treatment), in relation to Article 1(1) of the American Convention, to the detriment of, Justina Barrios, Brígida Oneyda Barrios, Maritza Barrios, Elbira Barrios, Eloisa Barrios, Inés Josefina Barrios, Lilia Ysabel Solórzano Barrios, Luisa del Carmen Barrios, Pablo Julián Solórzano Barrios, Jorge Antonio Barrios Ortuño, Carlos Alberto Ortuño, Orismar Carolina Alzul García, Ronis David Barrios Alzul, Roniel Alberto Barrios Alzul, Luis Alberto Alzul, Annarays Alexandra Barrios Rangel, Benito Antonio Barrios Rangel, Orianny Nazareth Pelae, Oriana Nazareth Pelae, Michael José Barrios Espinosa, Dinosca Alexandra Barrios Espinosa, Marcos Antonio Diaz Barrios, Sandra Marivi Betancourt Barrios, Junior José Betancourt Barrios, Wilneidys Betania Pimentel Barrios, Beatriz Adriana Cabrera Barrios, Victor Daniel Cabrera Barrios, Luilmari Carolina Guzmán Barrios and Luiseidys Yulianny Guzmán Barrios,<sup>326</sup> because:

*The Court found that the right to mental and moral integrity of the next of kin of the victims was violated because of the additional anguish they suffered as a result of the violations perpetrated against their loved ones, and because of the subsequent acts or omissions of State authori-*

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320. *Id.* ¶ 268.

321. *Id.*

322. *Id.* ¶ 269.

323. *Id.*

324. *Id.* ¶ 272.

325. *Id.*

326. *Id.* ¶ 312.

ties.<sup>327</sup> *The Court presumed the violation of the right to personal integrity of the immediate family of Benito Antonio Barrios, Narciso Barrios and Rigoberto Barrios, as well as of the immediate family of Luis Alberto Barrios, Oscar José Barrios, Wilmer José Flores Barrios, and Juan José Barrios.*<sup>328</sup>

*The Court found that regarding some of the non-immediate members of the victims' families, there were close ties between them and the victims who were executed or they were involved in filing domestic complaints or actions to obtain justice.*<sup>329</sup> *Further, the death of their next of kin affected them personally, physically, and emotionally, their family relationships, or have ruptured family dynamics and forced some of them to assume new roles within the family.*<sup>330</sup> *The effects they experienced have been compounded by the State's omissions in relation to the absence of an investigation regarding why their next of kin were executed.*<sup>331</sup> *Some were forced to move residences.*<sup>332</sup> *The Court determined which next of kin were considered to have close ties with the victims or were affected personally, physically, and emotionally by the victims' deaths, despite not having an immediate familial relationship.*<sup>333</sup>

*The Court observed that the lack of investigation and response from the State authorities harmed the personal integrity of Eloisa Barrios.*<sup>334</sup> *Moreover, the Court considered that in some cases, the harm to the right to integrity of the next of kin of the victims is manifested in the fact that they felt obliged to move elsewhere for fear of their safety, leaving the village of Guanayén in which almost all their family, causing the disintegration and rupture of the relations of certain members of the Barrios family.*<sup>335</sup>

*Therefore the Court found that the State violated Article 5 (Right to Humane Treatment) to the detriment of specific next of kin of the victims.*<sup>336</sup>

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327. *Id.* ¶ 301.

328. *Id.* ¶ 303.

329. *Id.* ¶ 306.

330. *Id.*

331. *Id.*

332. *Id.*

333. *Id.* ¶¶ 307-309.

334. *Id.* ¶ 308.

335. *Id.* ¶ 311.

336. *Id.* ¶ 312.

### C. *Dissenting and Concurring Opinions*

#### 1. Concurring Opinion of Judge Eduardo Vio Grossi

Judge Eduardo Vio Grossi concurred with the Judgment, but wished to place on record that since this was the final and non-appealable judgment that effectively concluded the case, it is only incumbent on the Court to monitor compliance with the said judgment.<sup>337</sup> Judge Vio Grossi felt that the guarantee that the injured party be ensured the enjoyment of his right or freedom that was violated also required the State adopt the pertinent measures to avoid irreparable damage to persons as a part of the final and non-appealable judgment.<sup>338</sup>

## IV. REPARATIONS

The Court ruled that the State had the following obligations:

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

#### 1. Investigate, Prosecute, and Punish Those Responsible

Because of the lack of investigative effort, the Court ordered that the State conduct an effective criminal investigation into the facts of the case to determine corresponding criminal responsibilities and apply punishments and consequences established by law.<sup>339</sup>

Moreover the safety of the individuals that will take part in the investigation, including the victims' next of kin, the witnesses, and the agents of justice, must be duly guaranteed.<sup>340</sup>

The Court found that that the investigation could not be subject to mechanisms such as amnesty to the benefit of the perpetrators, or to any other similar provisions, such as statute of limitations, non-retroactivity of criminal law, *res judicata*, *ne bis in idem*, or any other similar means of waiving responsibility.<sup>341</sup>

#### 2. Provide Medical Treatment

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337. Barrios Family v. Venezuela, Merits, Reparations and Costs, Concurring Opinion of Judge Eduardo Vio Grossi, Inter-Am. Ct. H.R. (ser. C) No. 237 (Nov. 24, 2011).

338. *Id.*

339. Barrios Family v. Venezuela, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 237, ¶ 322 (Nov. 24, 2011).

340. *Id.*

341. *Id.* ¶ 323.

The State must provide adequate attention to the physical and mental ailments suffered by the victims.<sup>342</sup> Therefore, the Court found it appropriate to order that the State provide free, immediate, adequate, and effective medical and psychological treatment, through its specialized public health institutions to the victims that request it.<sup>343</sup> In addition, the respective treatment must be provided for as long as necessary and must include the free provision of any medicines required.<sup>344</sup>

State institutions must provide psychological treatment and personnel specialized in attending victims of acts such as those perpetrated in this case.<sup>345</sup> The Court held that if the State does not have the institutions or personnel to provide the required level of care, it must have recourse to specialized civil or private institutions.<sup>346</sup> Lastly, this treatment must be provided, insofar as possible, in the nearest centers to their residence.<sup>347</sup>

### 3. Publish the Judgment

The Court ordered the State to publish the official summary of the Judgment prepared by the Court, once in the Official Gazette, and once in a national newspaper with widespread circulation, and the Judgment in its entirety, for a period of one year, on an official web site.<sup>348</sup>

### 4. Publicly Acknowledge International Responsibility

The Court found that the State must organize a public act to acknowledge international responsibility in relation to the facts of the case, referring to the violations established in this judgment.<sup>349</sup> The act must be carried out by means of a public ceremony conducted by senior national and state authorities, in the presence of the members of the Barrios family, and must be disseminated by the media.<sup>350</sup> Additionally, the State must reach an agreement with the Barrios Family or their representatives regarding the details of this obligation.<sup>351</sup>

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342. *Id.* ¶ 329.

343. *Id.*

344. *Id.*

345. *Id.* ¶ 330.

346. *Id.*

347. *Id.*

348. *Id.* ¶ 332.

349. *Id.* ¶ 334.

350. *Id.*

351. *Id.*

### 5. Provide Educational Scholarships

The Court ordered the State to grant scholarships in State public institutions to specific victims.<sup>352</sup> The Court decided that these scholarships must cover the educational costs corresponding to enrolment and educational material, until the conclusion of their advanced education, whether they undertake vocational or university studies.<sup>353</sup> The State's compliance with this obligation was predicated on the beneficiaries taking certain steps to exercise their right to this measure of reparation.<sup>354</sup>

### 6. Train State Officials in Human Rights

In order to guarantee the non-repetition of human rights violations, the Court ordered the State to train State police of Aragua State on the principles and norms of the protection of human rights, including the rights to life, personal integrity, personal liberty, and restrictions to when arresting a person.<sup>355</sup> The Court held that the State must implement a compulsory program or course on the elements indicated as part of the general and continuous training of all ranks of the police of Aragua state.<sup>356</sup> This program or course, must reference the judgment, the case law of the Court concerning the prohibition of torture, personal integrity and personal liberty, the use of force, and the rights of children and adolescents in relation to the penal system, as well as to the international human rights obligations arising from the treaties to which the State is party.<sup>357</sup>

### 7. Adaptation of Domestic Law Concerning the Lethal Use of Force

The Court observed that the State established the principles on the use of force in the *Manual de Uso Progresivo and Diferenciado de la Fuerza Policial* (Manual on Progressive and Differentiated Use of Force

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352. *Id.* ¶ 336. The victims entitled to the scholarships consist of Jorge Antonio Barrios Ortuño, Carlos Alberto Ortuño, Ronis David Barrios Alzul, Roniel Alberto Barrios Alzul, Benito Antonio Barrios Rangel, Annarys Alexandra Barrios Rangel, Michael Jose Barrios Espinosa, Dinisca Alexandra Barrios Espinosa, Luis Alberto Alzul, Orianny Nazareth, Oriana Nazareth, Luilmari Carolina Guzman Barrios, Luiseidys Yulianny Guzmán Barrios, Danilo David Solórzano, Elvis Sarais Colorado Barrios, Cirilo Antonio Colorado Barrios, Lorena del Valle Pugliese Barrios, Génesis Andreina Navarro Barrios, Victor Tomás Navarro Barrios, Heilin Alejandra Navarro Barrios, Marcos Antonio Díaz Barrios, Sandra Marivi Betancourt Barrios, and Junior Jose Betancourt Barrios. *Id.*

353. *Id.*

354. *Id.*

355. *Id.* ¶ 341.

356. *Id.*

357. *Id.*

by the Police) and other State laws.<sup>358</sup> The Court did not find it necessary to order an additional measure of reparation in this regard.<sup>359</sup>

#### 8. Comply with Obligations Under Provisional Measures

The Court previously ordered the investigation of the facts.<sup>360</sup> In addition, the Court held that the State must comply with the obligations derived from the provisional measures ordered, which include protection of the beneficiaries and the investigation of the facts that gave rise to the protection measures.<sup>361</sup>

#### *B. Compensation*

The Court awarded the following amounts:

##### 1. Pecuniary Damages

The Court ordered the State to pay as compensation \$600, or the equivalent in Bolívares Fuertes, to Brígida Oneyda Barrios, and \$5,000, or the equivalent in Bolívares Fuertes, to Orismar Carolina Alzul García and Luis Alberto Barrios for the destruction to their private property and damage caused to their personal wealth.<sup>362</sup>

The Court ordered the State to pay, in equity, \$2,000, or the equivalent in Bolívares Fuertes, to Maritza Barrios to reimburse her expenses for medical treatment.<sup>363</sup>

The Court found that the children of Narciso Barrios, Benito Antonio Barrios Rangel and Annarys Alexandra Barrios Rangel, went to live with Luisa del Carmen Barrios following the death of Narciso Barrios.<sup>364</sup> While the Court found no probative support to determine the actual expenses incurred, the Court found it reasonable to assume that Luisa del Carmen Barrios incurred financial burdens caring for the children of Narciso Barrios.<sup>365</sup> Consequently, the Court ordered the State to pay \$5,000, or its equivalent in Bolívares Fuertes, in her favor.<sup>366</sup>

Regarding the loss of earnings, the Court took into account the age

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358. *Id.* ¶ 346.

359. *Id.*

360. *Id.* ¶ 351.

361. *Id.*

362. *Id.* ¶ 364.

363. *Id.* ¶ 366.

364. *Id.* ¶ 370.

365. *Id.*

366. *Id.*

of the victims at the time of their death and the elements of the case, and ordered the Court to pay the following amounts, in equity, for pecuniary damage: \$55,000 to Benito Antonio Barrios, Luis Alberto Barrios, and Juan José Barrios; \$57,500 to Oscar José Barrios; \$60,000 to Rigoberto Barrios and Wilmer José Flores Barrios; and \$457,500 to Narciso Barrios.<sup>367</sup>

## 2. Non-Pecuniary Damages

Taking into consideration the violations committed, the suffering caused, the time elapsed, the denial of justice, the change in their living conditions, the proven effects on the personal integrity of the next of kin of the victims, and other consequences of a non-pecuniary nature suffered, the Court established, in equity, the following amounts in favor of the victims, as compensation for non-pecuniary damage:<sup>368</sup> \$70,000 to Rigoberto Barrios; \$60,000 to Benito Antonio Barrios, Narciso Barrios, and Oscar José Barrios; \$50,000 to Luis Alberto Barrios, Wilmer José Flores Barrios, and Juan José Barrios; \$35,000 to Justina Barrios; \$25,000 to Néstor Caudi Barrios, and Maritza Barrios; \$20,000 to Jorge Antonio Barrios Ortuño, Orismar Carolina Alzul García, and Elbira Barrios; \$10,000 to Carlos Alberto Ortuño, Ronis David Barrios Alzul, Roniel Alberto Barrios Alzul, Luis Alberto Alzul, Annarys Alexandra Barrios Rangel, Benito Antonio Barrios Rangel, Orianny Nazareth Pelae, Oriana Nazareth Pelae, Michael José Barrios Espinosa, Dinosca Alexandra Barrios Espinosa, and Eloisa Barrios; and \$5,000 to Jesús Ravelo, Gustavo Ravelo, Luisa del Carmen Barrios, Cirilo Antonio Colorado Barrios, Lorena del Valle Pugliese Barrios, Darelbis Carolina Barrios, Elvis Sarais Colorado Barrios, Pablo Julián Solórzano Barrios, Beneraiz de la Rosa, Danilo David Solórzano Barrios, Beatriz Adriana Cabrera Barrios, Víctor Daniel Cabrera Barrios, Luiseidys Yulianny Guzmán Barrios, Brígida Oneyda Barrios, Marcos Antonio Diaz Barrios, Sandra Marivi Betancourt Barrios, Junior José Betancourt Barrios, Wilneidys Betania Pimentel Barrios, Inés Josefina Barrios, Lilia Ysabel Solórzano Barrios, Génesis Andreina Navarro Barrios, Heilin Alejandra Navarro Barrios, Luilmari Carolina Guzmán Barrios, and Victor Tomás Navarro Barrios.

## 3. Costs and Expenses

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367. *Id.* ¶ 373.

368. *Id.* ¶ 378.



The Court determined, in equity, that the State must pay \$2,000, or the equivalent in Bolívares Fuertes, to Eloisa Barrios, and a total of \$18,000 to the Justice and Peace Commission of Aragua state, COFAVIC, and CEJIL for costs and expenses.<sup>369</sup>

The Court ordered the State to reimburse the Legal Assistance Fund \$3,232.16 for the expenses incurred for the appearance of one deponent and one expert witness at the public hearing in this case, as well as the presentation of a statement by affidavit.<sup>370</sup>

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

\$1,616,432.16

*C. Deadlines*

The State was ordered to pay the compensation for pecuniary and non-pecuniary damage and the reimbursement of costs and expenses within one year of notification of the Judgment.<sup>371</sup> The payment to the Legal Assistance Fund must be paid within 90 days of notification of the Judgment.<sup>372</sup> The Court held that, if for reasons attributed to the beneficiaries the State, the amounts were not paid within this time period, the State should deposit the amounts in an account or deposit certificate in a solvent State financial institution in United States dollars, and in the most favorable financial terms allowed by law and banking practice.<sup>373</sup> If after ten years the compensation remains unclaimed the amounts are to be returned to the State with the accrued interest.<sup>374</sup>

The obligation to investigate must be performed within a reasonable time.<sup>375</sup> The family members who request medical treatment have a period of six months from notification of this Judgment to advise the State, in person or through their legal representatives, of their wish to receive medical or psychological attention.<sup>376</sup> The State must publish the judgment within six months of the notification of this Judgment.<sup>377</sup> The State must publicly acknowledge international responsibility within

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369. *Id.* ¶ 383.

370. *Id.*

371. *Id.* ¶ 387.

372. *Id.* ¶ 386.

373. *Id.* ¶ 390.

374. *Id.*

375. *Id.* ¶ 322.

376. *Id.* ¶ 330.

377. *Id.* ¶ 332.

one year of notification of the Judgment.<sup>378</sup> Those victims who request the educational scholarship must do so within six months from notification of this Judgment.<sup>379</sup> The State must implement a course or training program to train its officials in human rights within a reasonable time.<sup>380</sup>

## V. INTERPRETATION AND REVISION OF JUDGMENT

[None]

## VI. COMPLIANCE AND FOLLOW-UP

[None]

## VII. LIST OF DOCUMENTS

### A. *Inter-American Court*

#### 1. Preliminary Objections

[None]

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

[Barrios Family v. Venezuela, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. \(ser. C\) No. 237, \(Nov. 24, 2011\).](#)

#### 3. Provisional Measures

[Barrios Family v. Venezuela, Provisional Measures, Order of the Court, Inter-Am. Ct. H.R. \(ser. E\) \(May 30, 2013\).](#)

[Barrios Family v. Venezuela, Provisional Measures, Order of the Court, Inter-Am. Ct. H.R. \(ser. E\) \(Feb. 13, 2013\).](#)

[Eloisa Barrios et al. regarding Venezuela, Provisional Measures, Order of the Court, Inter-Am. Ct. H.R. \(ser. E\) \(July 5, 2011\).](#)

[Barrios Family v. Venezuela, Provisional Measures, Order of the President of the Court, Inter-Am. Ct. H.R. \(ser. E\) \(June 1, 2011\) \(Available](#)

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378. *Id.* ¶ 334.

379. *Id.* ¶ 336.

380. *Id.* ¶ 341.

[only in Spanish\).](#)

[Eloisa Barrios et al. regarding Venezuela, Provisional Measures, Order of the Court, Inter-Am. Ct. H.R. \(ser. E\) \(Feb. 21, 2011\) \(Available only in Spanish\).](#)

[Eloisa Barrios et al. regarding Venezuela, Provisional Measures, Order of the Court, Inter-Am. Ct. H.R. \(ser. E\) \(Nov. 25, 2010\).](#)

[Eloisa Barrios et al. regarding Venezuela, Provisional Measures, Order of the Court, Inter-Am. Ct. H.R. \(ser. E\) \(Feb. 4, 2010\).](#)

[Eloisa Barrios et al. regarding Venezuela, Provisional Measures, Order of the President of the Court, Inter-Am. Ct. H.R. \(ser. E\) \(Dec. 18, 2009\) \(Available only in Spanish\).](#)

[Eloisa Barrios et al. regarding Venezuela, Provisional Measures, Order of the Court, Inter-Am. Ct. H.R. \(ser. E\) \(Sept. 22, 2005\) \(Available only in Spanish\).](#)

[Eloisa Barrios et al. regarding Venezuela, Provisional Measures, Order of the Court, Inter-Am. Ct. H.R. \(ser. E\) \(June 29, 2005\) \(Available only in Spanish\).](#)

[Eloisa Barrios et al. regarding Venezuela, Provisional Measures, Order of the Court, Inter-Am. Ct. H.R. \(ser. E\) \(Nov. 23, 2004\) \(Available only in Spanish\).](#)

#### 4. Compliance Monitoring

[None]

#### 5. Review and Interpretation of Judgment

[None]

#### *B. Inter-American Commission*

##### 1. Petition to the Commission

[None]

## 2. Report on Admissibility

[Narciso Barrios et al. v. Venezuela, Admissibility Report, Report No. 23/05, Inter-Am. Comm'n H.R., Case No. 12.488 \(Feb. 25, 2005\).](#)

[Benito Antonio Barrios et al. v. Venezuela, Admissibility Report, Report No. 1/09, Inter-Am. Comm'n H.R., Case No. 12.488 \(Jan. 17, 2009\).](#)

## 3. Provisional Measures

[None]

## 4. Report on Merits

[Not Available]

## 5. Application to the Court

[None]

## VIII. BIBLIOGRAPHY

[None]