

García Cruz and Sánchez Silvestre v. Mexico

ABSTRACT¹

This case is about the coerced confession of two men accused of having murdered two police officers, amounting to a violation of both the American Convention and the Inter-American Convention to Prevent and Punish Torture. The State eventually admitted responsibility.

I. FACTS

A. Chronology of Events

December 9, 1996: Two Police officers, Mr. José Asunción Lara Vite and Mr. Enrique Roan, are gunned down near the road to Teotihuacán² by fifteen men disguised by bandanas, who are believed to be associated with the insurgent group Popular Revolutionary Army (*Ejército Popular Revolucionario*, “EPR”).³ Officer Lara Vite dies as a result of the attack, and Officer Roan is injured.⁴ The Public Prosecutor immediately launches a preliminary investigation in order to identify and prosecute the men responsible.⁵

June 6, 1997:⁶ Officers of the Judicial Police of the Federal District raid the house shared by Mr. Juan García Cruz, twenty years old, and Mr. Santiago Sánchez Silvestre, thirty-seven years old, and his family

1. Alexandra Gonzalez, Author; Sean Lask, Editor; Hayley Garscia, Chief IACHR Editor; Cesare Romano, Faculty Advisor.

2. R. Velázquez, *Torturados, Indígenas Acusados de “Eperristas,”* CONTRALÍNEA, Sept. 20, 2011, available at <http://contralinea.info/archivo-revista/index.php/2011/09/20/torturados-indigenas-acusados-de-eperristas/>.

3. García Cruz and Sánchez Silvestre, Report on Merits, Report No. 138/11, Inter-Am. Comm’n H.R., Case No. 12.288, ¶¶ 52, 91 (Oct. 31, 2011).

4. *Id.* ¶ 91.

5. *Id.*

6. There are some discrepancies as to the facts of the June 6 event, but because the State acknowledged its international responsibility in relation to all the facts asserted in Report on Merits No. 138/11, the Court did not make specific findings of fact regarding the events taking place during the raid of the house, and instead, summarized the facts set forth in the Report on the Merits. García Cruz and Sánchez Silvestre v. Mexico, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 273, ¶ 32 (Nov. 26, 2013).

without a valid warrant, at 3:15 a.m.⁷ The police beat the men with their fists and with the butt of a gun that they find in Mr. Sánchez Silvestre's room.⁸ Mr. Sánchez Silvestre is repeatedly suffocated with a plastic bag until he loses consciousness.⁹

From there, the men are taken into police custody and held at the Attorney General's Office of the Federal District.¹⁰ At the Attorney General's Office, the men are beaten repeatedly and threatened with death and the death of their families should they not plead guilty to crimes they are arbitrarily accused of and did not commit.¹¹

Two police officers write a report regarding the arrest of Mr. García Cruz and Mr. Sánchez Silvestre, alleging that the two men were arrested during the daytime, while handing out propaganda fliers promoting the EPR in the Santa Martha Acatitla metro station.¹² This police report alleges that the men were carrying guns and ammunition in a suitcase, along with the EPR fliers.¹³

After enduring torture at the hands of the Judicial Police, Mr. García Cruz and Mr. Sánchez Silvestre give statements to the Public Prosecutor, admitting guilt to crimes such as possession of military firearms, homicide, assault, and other crimes that the men are innocent of.¹⁴ Despite the allegations of the police officers, the men maintain that they were not arrested in the Santa Martha Acatitla metro station, and that they had not been distributing any sort of propaganda material there.¹⁵

While taking Mr. García Cruz and Mr. Sánchez Silvestre's statements, the Public Prosecutor notes that the men have "external signs of recent injuries,"¹⁶ and in their statements, the men state that the Judicial Police had inflicted the injuries.¹⁷ As a result, the Public Prosecutor requests the appointment of an expert in medicine to evaluate the mental and physical state of Mr. García Cruz and Mr. Sánchez Silvestre.¹⁸

7. *Id.* ¶ 34; García Cruz and Sánchez Silvestre v. Mexico, Admissibility Report, Report No. 81/03, Inter-Am. Comm'n H.R., Case No. 12.288, ¶ 5 (Oct. 22, 2003).

8. García Cruz and Sánchez Silvestre v. Mexico, Report on Merits, ¶ 47.

9. *Id.*

10. García Cruz and Sánchez Silvestre v. Mexico, Admissibility Report, ¶ 5.

11. *Id.* ; García Cruz and Sánchez Silvestre v. Mexico, Report on Merits, ¶ 47.

12. García Cruz and Sánchez Silvestre v. Mexico, Report on Merits, ¶ 43.

13. *Id.*

14. García Cruz and Sánchez Silvestre v. Mexico, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 273, ¶ 35 (Nov. 26, 2013).

15. García Cruz and Sánchez Silvestre v. Mexico, Report on Merits, ¶¶ 54-55.

16. García Cruz and Sánchez Silvestre v. Mexico, Merits, Reparations and Costs, ¶ 35.

17. *Id.*

18. *Id.*

Later that afternoon, the Departmental Forensic Medicine Unit of the Attorney General's Office issues certificates documenting the men's injuries.¹⁹ The men are kept in the Attorney General's Office for the next two days without being allowed to have food, water, or any outside contact.²⁰

June 7, 1997: Medical experts from the Specialist Services Division of the Federal District Attorney's Office issue another medical certificate stating that the injuries of Mr. García Cruz and Mr. Sánchez Silvestre are not life-threatening and should heal within two weeks.²¹

That evening, a third medical evaluation is released, adding that Mr. García Cruz and Mr. Sánchez Silvestre need x-rays for some of their injuries, and that their injuries are swelling, consequentially causing a limited range of movement.²²

June 8, 1997: Mr. García Cruz and Mr. Sánchez Silvestre appear before the Seventh District Court of Criminal Matters of the Federal District ("Seventh District Court").²³ They give preliminary testimony regarding the charge of possession of military firearms before the Seventh District Court with the assistance of a law student,²⁴ who represents both of them simultaneously.²⁵

June 11, 1997: The Public Prosecutor files criminal charges for "homicide, injuries, violent robbery, organized crime, and damage to property" against Mr. García Cruz and Mr. Sánchez Silvestre with the Criminal Judge of First Instance on Duty in Nezahualcóyotl.²⁶ Later that day, the Fourth Criminal Judge of the First Instance of the Judicial District of Texcoco in Nezahualcóyotl issues an order for the arrest of both men, despite them already being in state custody.²⁷

In yet another judicial proceeding, the judge of the Seventh

19. *Id.*

20. *García Cruz and Sánchez Silvestre v. Mexico*, Admissibility Report, ¶ 5; *García Cruz and Sánchez Silvestre*, Report on Merits, ¶ 47.

21. *García Cruz and Sánchez Silvestre v. Mexico*, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 273, ¶ 35 (Nov. 26, 2013).

22. *Id.*

23. *Id.*

24. Article 287 of the Mexican Federal Code of Criminal Procedure states that confessions must be made before the Public Prosecutor and a judge, and should not be made with coercion or physical or moral violence, and must be made with the assistance of a defense counsel or a person of trust. *Id.* ¶ 36.

25. *Id.* ¶ 35.

26. *Id.* ¶¶ 43, 44.

27. *Id.* ¶ 44.

District Court issues an order of imprisonment for Mr. García Cruz and Mr. Sánchez Silvestre stemming from the charges of criminal conspiracy, rebellion, and possessing firearms that should only be used by the Army, Navy, and Air Force.²⁸

June 24, 1997: Mr. García Cruz and Mr. Sánchez Silvestre dismiss the law student who is representing them jointly, and appoint private attorneys to represent them:²⁹ two to represent each man individually, and one as a joint representative.³⁰

August 28, 1998: The Seventh District Court finds both men guilty of “possession of firearms for the exclusive use of the Army, the Navy, and the Air Force.”³¹ Mr. García Cruz and Mr. Sánchez Silvestre receive a prison sentence of three years each, and an order to pay a fine of twelve days, equaling 428.40 pesos (approximately \$42.62 USD).³²

September 8, 1998: The representatives of Mr. García Cruz and Mr. Sánchez Silvestre appeal, objecting to the decision on numerous grounds, including the lack of adequate representation, the evidence of torture being implemented to coerce the confessions, and the discrepancies in the statements given by the arresting officers regarding where Mr. García Cruz and Mr. Sánchez Silvestre were arrested.³³

January 21, 1999:³⁴ The First Unitary Court of the First Circuit of Mexico (“First Court”) upholds the prison sentences of Mr. García Cruz and Mr. Sánchez Silvestre, claiming that despite the evidence showing the men were beaten, there was no evidence that they were beaten by police in order to coerce confessions.³⁵ Despite its holding, the First Court decides to reduce the fine from the initial judgment of the

28. *Id.* ¶¶ 37(B)(2), 38.

29. *Id.* ¶ 39.

30. García Cruz and Sánchez Silvestre, Report on Merits, Report No. 138/11, Inter-Am. Comm’n H.R., Case No. 12.288, ¶ 75 (Oct. 31, 2011).

31. García Cruz and Sánchez Silvestre v. Mexico, Merits, Reparations and Costs, ¶ 40.

32. García Cruz and Sánchez Silvestre v. Mexico, Report on Merits, ¶ 80.

33. *Id.* ¶ 80-81; García Cruz and Sánchez Silvestre v. Mexico, Merits, Reparations and Costs, ¶ 40.

34. The Commission’s Report on the Merits lists this date as occurring in January, however, the Court’s Judgment on the Merits, Reparations and Costs lists this date as occurring in August. García Cruz and Sánchez Silvestre v. Mexico, Report on Merits, ¶ 83; García Cruz and Sánchez Silvestre v. Mexico, Merits, Reparations and Costs, ¶ 41.

35. García Cruz and Sánchez Silvestre v. Mexico, Report on Merits, ¶ 84; García Cruz and Sánchez Silvestre v. Mexico, Merits, Reparations and Costs, ¶ 41.

Seventh District Court.³⁶

October 18, 1999: The Third Collegiate Court upholds the judgment of the First Court, and addresses the arguments of the defendants' appeal.³⁷ With regard to the reports of injuries sustained to Mr. García Cruz and Mr. Sánchez Silvestre, the Third Collegiate Court finds that while they evidence physical injuries, the reports do not reflect that the Judicial Police were the perpetrators of these injuries to the defendants.³⁸

The Third Collegiate Court also states that even if the defendants had inadequate counsel, it does not impact the outcome of the case because ineffective counsel is not an error made by the trial judge.³⁹ With regard to the discrepancy in the reports of where the defendants were arrested, the Third Collegiate Court also finds that there is no proof to demonstrate that the men were arrested in their home.⁴⁰

June 13, 2000: Mr. García Cruz and Mr. Sánchez Silvestre make preliminary statements in connection with the charges of homicide, injuries, violent robbery, organized crime, and damage to property.⁴¹ The men deny the all of the alleged crimes, and state again that they have been tortured.⁴²

September 6, 2001: The Third Criminal Judge of the Court of First Instance of the Judicial District of Nezahualcóyotl⁴³ ("Court of First Instance") issues a guilty verdict against Mr. García Cruz and Mr. Sánchez Silvestre for the crimes of homicide, injuries, violent robbery, organized crime, and damage to property.⁴⁴ They are both sentenced to forty years in prison, and a fine of 1,000 days.⁴⁵ The defendants file an appeal.⁴⁶

February 12, 2002: The Superior Court of Justice ("Superior Court")

36. García Cruz and Sánchez Silvestre v. Mexico, Merits, Reparations and Costs, ¶ 41.

37. *Id.*

38. *Id.* ¶ 42.

39. *Id.*

40. *Id.*

41. *Id.* ¶¶ 37(B)(3), 45.

42. *Id.* ¶ 45.

43. *Id.* ¶ 51.

44. *Id.* ¶ 46.

45. *Id.* The Merits Judgment did not provide a conversion rate to calculate 1,000 days into pesos for this domestic court decision. Using the calculation from the Seventh District Court judgment of August 28, 1998, one day would equal 35.70 pesos and thus, 1,000 days would equal 35,700 pesos.

46. *Id.*

upholds the sentence of forty years, while amending various parts of the judgment made by the Court of First Instance.⁴⁷ The Superior Court finds that the claims of torture by the Mr. García Cruz and Mr. Sánchez Silvestre are unsubstantiated.⁴⁸ Mr. García Cruz and Mr. Sánchez Silvestre file a writ of *amparo*, a type of appeal, with the First Collegiate Criminal Court of Texcoco of the Superior Court of Justice in the State of Mexico (“First Collegiate Court”) in response to the Superior Court’s judgment.⁴⁹

October 5, 2007: More than seven years later, the First Collegiate Court affirms the decision of the Superior Court, upholding that the Mr. García Cruz’s and Mr. Sánchez Silvestre’s claims of torture are unsubstantiated, and that the coerced statements they made have “full evidentiary value.”⁵⁰

December 19, 2011: The Prosecutor’s Office for the Investigation of Crimes Committed by Public Servants launches a preliminary investigation into the torture of Mr. García Cruz and Mr. Sánchez Silvestre.⁵¹

March 26, 2012: The Second Collegial Criminal Court of Texcoco (“Second Collegial Court”) finds that Mr. García Cruz and Mr. Sánchez Silvestre’s writ of *amparo*, asking to be declared innocent of the crimes for which they are convicted, is inadmissible.⁵² The Second Collegial Court states that even if the convictions are tainted, there is enough other evidence of “convicting value” to render the men guilty.⁵³

June 27, 2012: Mr. García Cruz and Mr. Sánchez Silvestre file a direct *amparo* appeal against the judgment of the First Collegiate Court from October 2007.⁵⁴

March 25, 2013: The Collegiate Court of the Auxiliary Circuit of the Seventh Region (“Auxiliary Circuit Court”) issues a judgment on the direct *amparo* appeal of the October 2007 ruling of the First Collegiate

47. *Id.* ¶ 47.

48. *Id.*

49. *Id.*

50. *Id.* ¶ 48.

51. *Id.* ¶ 49.

52. *Id.* ¶ 50.

53. *Id.*

54. *Id.* ¶ 51.

Court.⁵⁵ The Auxiliary Circuit Court holds that the confessions used to convict Mr. García Cruz and Mr. Sánchez Silvestre were coerced, and that the sentence itself “contravene[s] the Constitutional principles of non-self-incrimination, presumed innocence and adequate defense.”⁵⁶

The Auxiliary Circuit Court remands the case and returns the original documents to the First Collegiate Court and orders that court to: (1) void the judgment; (2) issue a new judgment in place of the original one that mentions the considerations that were previously not taken into account in the original *amparo* judgment, (3) rule that the charge of organized crime is void; (4) to render the evidence of the statements of arresting officers, identification via photographs, and the confessions coerced through torture all as invalid, and to consider that Mr. García Cruz and Mr. Sánchez Silvestre have a right to an adequate defense; (5) issue a judgment that follows the parameters of the law and the considerations listed above with regard to the charges of aggravated homicide, injuries, violent robbery, and damage to property.⁵⁷

April 18, 2013: The First Collegiate Criminal Chamber of Texcoco reviews the sentence in light of the considerations set forth by the Auxiliary Circuit Court and decides to overturn the convictions of homicide, injuries, violent robbery, organized crime, and damage to property with respect to Mr. García Cruz and Mr. Sánchez Silvestre.⁵⁸ The First Collegiate Court issues an acquittal for both men, and orders that they be released.⁵⁹ After sixteen years of imprisonment, Mr. García Cruz and Mr. Sánchez Silvestre are released from prison.⁶⁰

B. Other Relevant Facts

State domestic law relies on, and the domestic courts applied in this case, the doctrine of “procedural immediacy,” which means that an individual’s first statements pertaining to guilt or innocence will be given more evidentiary weight than subsequent statements.⁶¹ Thus, initial statements, like the coerced admissions of guilt from Mr. García Cruz and Mr. Sánchez Silvestre, will carry more weight regardless of whether the statements were coerced, made without representation, or

55. *Id.*

56. *Id.*

57. *Id.*

58. *Id.*

59. *Id.*

60. *Id.*

61. *García Cruz and Sánchez Silvestre v. Mexico*, Report on Merits, Report No. 138/11, Inter-Am. Comm’n H.R., Case No. 12.288, ¶ 229 (Oct. 31, 2011).

without a judge present.⁶²

II. PROCEDURAL HISTORY

A. Before the Commission

May 10, 2000: The Legal Services and Research and Juridical Studies (*Servicios Legales e Investigación y Estudios Jurídicos*, “SLIEJ”) and the Center for Justice and International Law (*Centro por la Justicia y el Derecho Internacional*, “CEJIL”) submit a petition with the Inter-American Commission on Human Rights on behalf of Mr. García Cruz and Mr. Sánchez Silvestre.⁶³

October 22, 2003: The Commission adopts Report on Admissibility No. 80/03, finding that it has jurisdiction to hear the case.⁶⁴

October 31, 2011: The Commission issues Report on Merits No. 138/11, finding that the State violated the American Convention.⁶⁵ The Commission recommends that the State: (1) conduct a thorough and impartial investigation into the circumstances surrounding Mr. García Cruz and Mr. Sánchez Silvestre’s arrest and detention; (2) align State legal standards with those in the Convention regarding the use of torture; (3) reassess the validity of the confessions and proceedings against the victims in light of the evidence of torture; (4) compensate the victims for material and other losses; and (5) implement measures to prevent the recurrence of similar situations.⁶⁶

B. Before the Court

March 17, 2013: The Commission submits the case to the Court after the State failed to adopt its recommendations.⁶⁷

1. Violations Alleged by Commission⁶⁸

Article 2 (Obligation to Give Domestic Legal Effect to Rights)

62. *Id.* ¶ 230.

63. *Id.* ¶ 1.

64. *Id.* ¶ 4.

65. *Id.* ¶ 247.

66. *Id.* ¶ 248.

67. *García Cruz and Sánchez Silvestre v. Mexico*, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 273, ¶ 2 (Nov. 26, 2013).

68. *García Cruz and Sánchez Silvestre v. Mexico*, Report on Merits, ¶ 5.

Article 5(1) (Right to Physical, Mental, and Moral Integrity)
 Article 5(2) (Prohibition of Torture, and Cruel, Inhumane or Degrading Treatment)
 Article 7(1) (Right to Personal Liberty and Security)
 Article 7(2) (Prohibition of Deprivation of Liberty Unless for Reasons and Conditions Previously Established by Law)
 Article 7(3) (Prohibition of Arbitrary Arrest or Imprisonment)
 Article 7(4) (Right to Be Informed of Reasons of Arrest and Charges)
 Article 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal)
 Article 8(2) (Right to Be Presumed Innocent)
 Article 8(2)(d) (Right to Self-Defense or Legal Assistance and to Communicate Freely with Counsel)
 Article 8(2)(e) (Right to Assistance by Counsel Provided by State)
 Article 8(2)(f) (Right of Defense to Obtain the Appearance of Witnesses and Examine Them)
 Article 8(2)(g) (Right Not to Self-Incriminate)
 Article 8(3) (A Confession is Valid Only if Not Coerced)
 Article 25 (Right to Judicial Protection)

all in relation to:

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

Article 1 (Obligation to Prevent and Punish Torture)
 Article 6 (Obligation to Take Effective Measures and Punish Torture and Cruel, Inhuman, and Degrading Treatment)
 Article 8 (Obligation to Investigate and Prosecute)
 Article 10 (Statements Obtained Through Torture Are Inadmissible) of the Inter-American Convention to Prevent and Punish Torture.

2. Violations Alleged by Representatives of the Victims⁶⁹

Same Violations Alleged by Commission.

November 7-8, 2013: The State admits responsibility for all violations alleged by the representatives and the Commission in the Report on the Merits No. 138/11.⁷⁰ The parties inform the Court that they have

69. *Id.* ¶¶ 2, 149, 191, 199. CEJIL, SLIEJ, and the Lawyers for Justice and Human Rights organization (*Abogadas y Abogados para la Justicia y los Derechos Humanos*, “AJDH”) served as representatives of Mr. García Cruz and Mr. Sánchez Silvestre. *García Cruz and Sánchez Silvestre v. Mexico*, Merits, Reparations and Costs, ¶ 3.

70. *Id.* ¶ 12.

reached a friendly settlement agreement and ask if they can sign the agreement at the Court.⁷¹ The State also requests that the Court “issue a judgment and ‘close the case.’”⁷²

November 18, 2013: The representatives and the State meet in San José, Costa Rica and sign the “friendly settlement agreement and the State’s acknowledgment of responsibility.”⁷³ The parties ask the Court to issue a judgment accepting the settlement, clarifying the provisions, and monitoring compliance with the settlement.⁷⁴

In the settlement both parties concede that the facts alleged in the Commission’s Report No. 138/11 are true, and the State admits to alleged violations of the Convention and the Inter-American Convention to Prevent and Punish Torture, to the detriment of Mr. García Cruz and Mr. Sánchez Silvestre.⁷⁵

Additionally, both parties request that the Court clarify the international standard with regard to the principle of procedural immediacy and the evidentiary value of confessions.⁷⁶

III. MERITS

*A. Composition of the Court*⁷⁷

Diego García-Sayán, President
 Manuel E. Ventura Robles, Vice-President
 Alberto Pérez Pérez, Judge
 Eduardo Vio Grossi, Judge
 Roberto de Figueiredo Caldas, Judge
 Humberto Antonio Sierra Porto, Judge

Pablo Saavedra Alessandri, Secretary
 Emilia Segares Rodríguez, Deputy Secretary

B. Decision on the Merits

November 26, 2013: The Court issues its Judgment on the Merits,

71. *Id.* ¶ 7.

72. *Id.*

73. *Id.* ¶¶ 7, 10.

74. *Id.* ¶ 10.

75. *Id.* ¶ 11.

76. *Id.* ¶ 8 n.8.

77. Because he is a Mexican national, Judge Eduardo Ferrer Mac-Gregor Poisot did not participate in the deliberation or signing of this Judgment. *Id.* at n.*.

Reparations and Costs.⁷⁸

The Court found unanimously that Mexico had violated:

Articles 5(1) (Right to Physical, Mental, and Moral Integrity) and 5(2) (Prohibition of Torture, and Cruel, Inhumane or Degrading Treatment) in relation to Article 1(1) of the American Convention, and Articles 1 (Obligation to Prevent and Punish Torture), 6 (Obligation to Take Effective Measures and Punish Torture and Cruel, Inhuman, and Degrading Treatment), 8 (Obligation to Investigate and Prosecute), and 10 (Statements Obtained Through Torture Are Inadmissible) of the Inter-American Convention to Prevent and Punish Torture, to the detriment of Mr. García Cruz and Mr. Sánchez Silvestre,⁷⁹ because:

The Court held that Mexico violated the aforementioned articles when State Police tortured Mr. García Cruz and Mr. Sánchez Silvestre after their arrest, and before they gave their initial statements to the Public Prosecutor.⁸⁰ Further, the State's failure to investigate the allegations of torture, despite both men stating they had been tortured during their medical examinations and testimony, resulted in further violations of the rights of Mr. García Cruz and Mr. Sánchez Silvestre.⁸¹

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), 7(3) (Prohibition of Arbitrary Arrest or Imprisonment), and 7(4) (Right to Be Informed of Reasons of Arrest and Charges), in relation to Articles 5(1) (Right to Physical, Mental, and Moral Integrity) and 5(2) (Prohibition of Torture, and Cruel, Inhumane or Degrading Treatment), all in relation to Article 1(1) of the American Convention, to the detriment of Mr. García Cruz and Mr. Sánchez Silvestre,⁸² because:

The Court found that the State violated the rights of Mr. García Cruz and Mr. Sánchez Silvestre relating to personal liberty when State Police illegally arrested the men in their home without a warrant, and subjected them to torture, which resulted in arbitrary detention.⁸³

78. García Cruz and Sánchez Silvestre v. Mexico, Merits, Reparations and Costs.

79. *Id.* ¶ 53.

80. *Id.*

81. *Id.*

82. *Id.* ¶ 54.

83. *Id.*

*Additionally, the Court found that the State's judicial review of the legality of the arrests of Mr. García Cruz and Mr. Sánchez Silvestre was insufficient, as the judiciary summarily dismissed the allegations of torture made by both of the men.*⁸⁴

Articles 8(2) (Right to be Presumed Innocent), 8(2)(d) (Right to Self-Defense or Legal Assistance and to Communicate Freely with Counsel), 8(2)(e) (Right to Assistance by Counsel Provided by State), and 8(2)(f) (Right of Defense to Obtain the Appearance of Witnesses and Examine Them), 8(2)(g) (Right Not to Self-Incriminate), 8(3) (A Confession is Valid Only if Not Coerced), and 25 (Right to Judicial Protection), in relation to Article 1(1) of the American Convention and Articles 1 (Obligation to Prevent and Punish Torture), 6 (Obligation to Take Effective Measures and Punish Torture and Cruel, Inhuman, and Degrading Treatment), 8 (Obligation to Investigate and Prosecute), and 10 (Statements Obtained Through Torture Are Inadmissible) of the Inter-American Convention to Prevent and Punish Torture, to the detriment of Mr. García Cruz and Mr. Sánchez Silvestre,⁸⁵ because:

*The Court held that the State violated the victims' rights to a fair trial and judicial protection when it allowed statements obtained through torture in two criminal proceedings, and thus failed to investigate the allegations of torture despite the men's withdrawal of the statements made under coercion and their insistence in all of the trials that they had been tortured, and that the statements made by the Judicial Police as to the location of arrest were not accurate.*⁸⁶

Additionally, the State violated Articles 8(2)(d) (Right to Self-Defense or Legal Assistance and to Communicate Freely with Counsel), 8(2)(e) (Right to Assistance by Counsel Provided by State), and 8(2)(f) (Right of Defense to Obtain the Appearance of Witnesses and Examine Them) when it forced Mr. García Cruz and Mr. Sánchez Silvestre to give statements to Judicial Police on June 6, 1997, and Federal Public Prosecutors on June 8, 1997, without allowing the petitioners to have access to defense counsel.⁸⁷ The State again violated the rights set forth in Article 8 of the Convention when it assigned inadequate defense counsel to represent the men jointly in the trial for the possession of

84. *Id.*

85. *Id.* ¶ 55.

86. *Id.* ¶ 55(i).

87. *Id.* ¶ 55(ii).

*military firearms.*⁸⁸

The State violated Articles 8(2) (Right to be Presumed Innocent), 8(2)(g) (Right Not to Self-Incriminate), and 8(3) (A Confession is Valid Only if Not Coerced) of the American Convention, and Article 10 (Statements Obtained Through Torture Are Inadmissible) of the Inter-American Convention to Prevent and Punish Torture when it accepted statements made as a result of torture as the basis for convictions in two separate trials.⁸⁹ The State further violated these rights when it placed the burden of proof on Mr. García Cruz and Mr. Sánchez Silvestre, and held in both trials that there was no evidence of torture.⁹⁰ According to the Court, the State domestic courts should have entirely excluded the coerced statements.⁹¹

Article 2 (Obligation to Give Domestic Legal Effect to Rights) of the American Convention, in connection with Article 6 (Obligation to Take Effective Measures and Punish Torture and Cruel, Inhuman, and Degrading Treatment) of the Inter-American Convention to Prevent and Punish Torture, to the detriment of Mr. García Cruz and Mr. Sánchez Silvestre,⁹² because:

The Court noted that the State admitted that its domestic law did not comport with international standards pertaining to the prohibition of torture and the right to defense, and referred to the Report on the Merits No. 138/11 for an in depth analysis on how the State's domestic law does not meet Inter-American standards.⁹³

C. Dissenting and Concurring Opinions

[None]

88. *Id.*

89. *Id.* ¶ 55(iii).

90. *Id.*

91. *Id.*

92. *Id.* ¶ 56.

93. *Id.*

IV. REPARATIONS

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

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

1. Investigate and Punish Those Responsible

In accordance with the settlement agreement, the Court stated that the State has an obligation to conduct a thorough investigation into the torture of Mr. García Cruz and Mr. Sánchez Silvestre.⁹⁴ Included in this obligation is the mandate to remove all obstacles to conducting a complete investigation into those responsible, and implementing appropriate punishment.⁹⁵ The Court also mandated that the State punish those accountable while keeping in mind that those responsible for torture or the denial of judicial rights may still be connected or employed by the same offices commissioned to investigate.⁹⁶

2. Expunge Criminal Records

The settlement agreement stipulated that the State must expunge all criminal convictions of Mr. García Cruz and Mr. Sánchez Silvestre in connection with the events of this case.⁹⁷ The Court notes that the State already reversed the convictions for homicide, injuries, violent robbery, organized crime, and damage to property.⁹⁸ The Court also acknowledged the existence of documents annulling the men's convictions for possession of military firearms, and encouraged that the State complete the expungement of all legal, administrative, criminal, and police records in connection with this case.⁹⁹

3. Provide Medical and Psychological Treatment

The Court validated the provisions set forth in the settlement agreement pertaining to the issuance of medical and mental health care

94. *Id.* ¶ 69.

95. *Id.* ¶ 69(i).

96. *Id.* ¶ 69(iii).

97. *Id.* ¶ 72.

98. *Id.* ¶ 73.

99. *Id.*

to Mr. García Cruz, Mr. Sánchez Silvestre, and his wife.¹⁰⁰ Under the agreement, all three were entitled to free medical care provided by the State under the Program of Free Access to Medical Services and Medicines for Federal District Residents Lacking Social Security Benefits.¹⁰¹ This program includes treatment for medical and mental illnesses, pharmaceuticals, and reimbursement for travel and living expenses should any of the recipients require treatment in a facility that is not near their home.¹⁰² The victims may also receive specialized treatment in the National Health Institutes, the Federal Referral Hospitals, and the Regional High Specialty Hospitals.¹⁰³ In the event that the victims move to a different Mexican state, a comparable state plan will be provided.¹⁰⁴

With respect to psychological care, the victims and Mr. Sánchez Silvestre's wife will be covered through the Social Advocate for Victims of Crime group, and will be able to receive treatment either at one of the group's facilities, or if preferred, in their homes.¹⁰⁵ The Human Rights Defense Unit of the Interior Ministry and the Federal Health Ministry's General Liaison for Legal Affairs and Human Rights will oversee compliance with the disbursement of medical and psychological treatment.¹⁰⁶

4. Provide Housing for Victims

In accordance with the settlement agreement, the Court mandated that the State enroll the victims in the New Collective Housing Program, and offer them entirely cost-free housing in Mexico City.¹⁰⁷ The enrollment and implementation of the program will be monitored by the Human Rights Defense Unit of the Interior Ministry and the General Directorate of Human Rights and Democracy of the Ministry of Foreign Affairs.¹⁰⁸

5. Provide Education

The Court ratified the provisions in the settlement agreement that

100. *Id.* ¶¶ 74, 77.

101. *Id.* ¶ 74.

102. *Id.*

103. *Id.*

104. *Id.* ¶ 75.

105. *Id.* ¶ 76.

106. *Id.* ¶ 75.

107. *Id.* ¶ 79.

108. *Id.*

guarantee scholarships to the victims, as well as Mr. Sánchez Silvestre's daughter.¹⁰⁹ The scholarships will provide for university or technical studies in a field of the recipients' choosing.¹¹⁰ The scholarships will be awarded through the Trust for the Fulfillment of Human Rights Obligations, and will be disbursed by the Interior Ministry.¹¹¹ The amount of the scholarship will be determined by the Rules of Operation of the Trust for the Fulfillment of Human Rights Obligations.¹¹²

6. Publicly Apologize

The settlement agreement mandated that the State, with the consent of the victims, must publicly apologize and accept responsibility for violating the victims' rights.¹¹³ The apology must be carried out by a public official of the rank of Under-Secretary of State or higher, and must involve officials from the Federal Judicial Authority, the Minister of Foreign Relations, and the Minister of the Interior.¹¹⁴ The Court added that the public apology should also highlight the human rights violations committed by the State.¹¹⁵

7. Publish the Judgment

The Court endorsed the provisions in the settlement agreement that mandated the State to publish the official summary of the Judgment on the Merits in the Official Gazette of the Federation and one more nationally circulated newspaper.¹¹⁶ Additionally, the Ministry of Foreign Relations must maintain a publication of the official summary of the Judgment on its website for one year.¹¹⁷

8. Organize a Seminar

The Court mandated, in accordance with the terms of the settlement agreement, that the State hold a seminar with legal experts, with the objective of scrutinizing its policies regarding procedural

109. *Id.* ¶¶ 81-82.

110. *Id.* ¶ 81.

111. *Id.*

112. *Id.* ¶ 82.

113. *Id.* ¶ 84.

114. *Id.*

115. *Id.* ¶ 85.

116. *Id.* ¶ 86.

117. *Id.*

immediacy.¹¹⁸ The results of the seminar must be given to the authorities in charge of public defense and the administration and implementation of justice.¹¹⁹

9. Publish the Judgment of *Amparo* Action No. 778/2012

The Court held that the State must publish the official summary of the *amparo* judgment that led to the release of Mr. García Cruz and Mr. Sánchez Silvestre, in the Official Gazette of the Federation and one other nationally circulated newspaper.¹²⁰ Additionally, the State must ask the Supreme Court of Justice to publish the official summary on its website for one year, and should it refuse to do so, the parties will agree on another federal agency to publish the summary on its website for one year.¹²¹ This was stipulated by the parties in the settlement agreement and upheld by the Court.¹²²

10. Train Judicial Officials in Human Rights

In accordance with the settlement agreement, the Court mandated that the State continue to train government authorities who oversee public defense and the administration and implementation of justice in methods to identify, prevent, and punish torture.¹²³ The State also agreed to update the Court with the specific methods it has undertaken to implement this training and the effects of the training.¹²⁴

B. Compensation

The Court awarded the following amounts:

1. Pecuniary Damages

The amounts of pecuniary damages to be received by the victims were determined in the friendly settlement agreement, and the Court ratified those amounts.¹²⁵ The settlement also stipulated that the amounts awarded to the victims and their families was to remain confidential,

118. *Id.* ¶ 88.

119. *Id.*

120. *Id.* ¶¶ 90-91.

121. *Id.* ¶ 90.

122. *Id.*

123. *Id.* ¶ 92.

124. *Id.*

125. *Id.* ¶ 99.

and thus the exact dollar amounts were not disclosed in the Judgment on the Merits, Reparations and Costs.¹²⁶

2. Non-Pecuniary Damages

The amounts of non-pecuniary damages to be received by the victims were determined in the friendly settlement agreement, and the Court ratified those amounts.¹²⁷ The settlement also stipulated that the amounts awarded to the victims and their families was to remain confidential, and thus the exact dollar amounts were not disclosed in the Judgment on the Merits, Reparations and Costs.¹²⁸

3. Costs and Expenses

The State must reimburse the representatives of the victims, namely Ms. María del Pilar Noriega García and CEJIL the costs and expenses incurred from the domestic and international proceedings.¹²⁹

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

The amounts of compensation awarded were omitted from the Judgment for confidentiality.¹³⁰

C. Deadlines

The Court ordered the State to investigate and punish those responsible for torturing Mr. García Cruz and Mr. Sánchez Silvestre within a reasonable amount of time.¹³¹ The Court noted that the State has ignored this obligation for the past fourteen years, and emphasized the importance of completing an investigation in a timely manner.¹³²

The Court mandated that the State provide the victims and Mr. Sánchez Silvestre's wife with the medical treatment outlined in the settlement within six months of the issuance of the Judgment.¹³³ Emphasizing the importance of receiving mental health care in a timely manner, the Court ordered that the State provide psychiatric services to

126. *Id.*

127. *Id.*

128. *Id.*

129. *Id.* ¶ 95.

130. *Id.* ¶ 96.

131. *Id.* ¶ 71.

132. *Id.*

133. *Id.* ¶ 75.

the victims and Mr. Sánchez Silvestre's wife within ninety days of the issuance of the Court's Judgment, and that the mental health care be provided indefinitely.¹³⁴

With respect to the obligation to provide housing to the victims, the Court held that the State must do so within two years of the enactment of the Judgment.¹³⁵

In order for Mr. García Cruz and Mr. Sánchez Silvestre to receive their educational scholarships, they must begin or continue their education within three years of the Judgment.¹³⁶ Mr. Sánchez Silvestre's daughter however, is not constrained by this deadline in order to receive her educational scholarship.¹³⁷

The Court ordered the State to make its public apology, publish the Judgment, and publish the summary of the *amparo* judgment all within six months of the issuance of the Judgment.¹³⁸

The Court-mandated seminar regarding the State policy of procedural immediacy must take place within one year of the Judgment.¹³⁹

The State is required to report the progress and effects of the training programs it has implemented for State officials every six months, for two years following the notification of the Judgment.¹⁴⁰

All pecuniary and non-pecuniary damages, and all costs and expenses owed by the State must be paid to the beneficiaries within ninety days of the issuance of the Judgment.¹⁴¹ The Court stressed the importance of making a timely payment in order to help rehabilitate the victims from the tremendous suffering they had endured.¹⁴² The Court also stated that if the State fails to make any of the ordered payments within the ninety day time period, it will be charged an additional four percent for every year that the debt goes unpaid, and the amount owed will be adjusted according to inflation.¹⁴³

V. INTERPRETATION AND REVISION OF JUDGMENT

[None]

134. *Id.* ¶ 76.

135. *Id.* ¶ 79.

136. *Id.* ¶ 81.

137. *Id.* ¶¶ 81-82.

138. *Id.* ¶¶ 84, 86, 90.

139. *Id.* ¶ 88.

140. *Id.* ¶ 92.

141. *Id.* ¶ 96.

142. *Id.* ¶ 99.

143. *Id.* ¶ 96.

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

[García Cruz and Sánchez Silvestre v. Mexico, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. \(ser. C\) No. 273 \(Nov. 26, 2013\).](#)

3. Provisional Measures

[None]

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

[García Cruz and Sánchez Silvestre v. Mexico, Admissibility Report, Report No. 81/03, Inter-Am. Comm'n H.R., Case No. 12.288 \(Oct. 22, 2003\).](#)

3. Provisional Measures

[None]

4. Report on Merits

[García Cruz and Sánchez Silvestre, Report on Merits, Report No. 138/11, Inter-Am. Comm'n H.R., Case No. 12.288 \(Oct. 31, 2011\).](#)

5. Application to the Court

[None]

VIII. BIBLIOGRAPHY

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