

# Godínez Cruz v. Honduras

## ABSTRACT<sup>1</sup>

*This is one of the first cases decided by the Court. As the Velásquez Rodríguez case, it deals with the disappearance of a political militant in Honduras in the early 1980s. The case is notable in that it is one of the first where the Court discussed obligations States have under Article 1(1) of the Convention, and how States should compensate victims.*

## I. FACTS

### A. Chronology of Events

**July 22, 1982:** Saúl Godínez Cruz is schoolteacher and a leader of a teachers' union.<sup>2</sup> He frequently participates in strikes and is currently planning a new strike.<sup>3</sup> Mr. Godínez Cruz leaves his house by motorcycle around 6:20 a.m. to attend his job at Julia Zelaya Pre-Vocational Institute in Monjarás de Choluteca.<sup>4</sup> A man in a military uniform and two others dressed in civilian clothes arrest Mr. Godínez Cruz and place him and his motorcycle in a car without a license plate.<sup>5</sup> This is the last time anyone saw Mr. Godínez Cruz.

**August 17, 1982:** Mr. Godínez Cruz's mother, Alejandra Cruz, presents a writ of habeas corpus on behalf of Mr. Godínez Cruz against the National Bureau of Investigation (*Dirección Nacional de Investigaciones*, "DNI").<sup>6</sup>

**August 30, 1982:** Alejandrina Cruz presents another habeas corpus

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

2. *Id.* ¶ 154(b)(i).

3. *Id.*

4. Godínez Cruz v. Honduras, Preliminary Objections, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 3, ¶ 15 (June 26, 1987).

5. *Id.*

6. Godínez Cruz v. Honduras, Merits, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 5, ¶¶ 77(a)(i), 30(e) (Jan. 20, 1989).

against the DNI of Choluteca.<sup>7</sup>

**September 6, 1982:** The writ of habeas corpus against the DNI of Choluteca is dismissed.<sup>8</sup>

**October 9, 1982:** Mr. Godínez Cruz's wife, Enmidida Escoto de Godínez, brings a criminal complaint in the First Court of Choluteca, but the record does not show a final resolution of this complaint.<sup>9</sup>

**November 10, 1982:** The writ of habeas corpus against the DNI is denied.<sup>10</sup>

**July 4, 1983:** Various relatives of disappeared persons present a writ of habeas corpus on behalf of Mr. Godínez Cruz and other disappeared persons.<sup>11</sup>

**September 11, 1984:** The writ habeas of corpus presented by the relatives of disappeared persons is denied.<sup>12</sup>

#### *B. Other Relevant Facts*

From 1981 to 1984, around 150 people disappear in Honduras.<sup>13</sup> These disappearances all follow the same pattern: initially the targeted person is placed under surveillance, subsequently, armed men wearing civilian clothes forcefully kidnap the targeted person.<sup>14</sup> The kidnappings almost always occur during the day in a public place.<sup>15</sup> The kidnappers use cars with no official identification, tinted windows, and either have false license plates or no license plates at all.<sup>16</sup> The kidnappers often blindfold the victims and take them to secret unofficial detention centers where the victims are subject to interrogation, humiliating treatment, and torture.<sup>17</sup> Some of these victims are murdered and buried in

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7. *Id.* ¶ 77(a)(ii).

8. *Id.*

9. *Id.* ¶ 77(b).

10. *Id.* ¶ 77(a)(i).

11. *Id.* ¶ 77(a)(iii).

12. *Id.*

13. *Id.* ¶ 153(a).

14. *Id.* ¶ 153(b).

15. *Id.*

16. *Id.*

17. *Id.* ¶ 153(d)(iii).

undisclosed locations.<sup>18</sup> It is public knowledge that the kidnappings are conducted by military personnel or by police officers.<sup>19</sup> The victims are usually people that the officials consider dangerous to State security.<sup>20</sup>

As a union leader, Mr. Godínez Cruz often engaged in activities that were considered dangerous to the State by the people who conducted disappearances.<sup>21</sup> There are indications that Mr. Godínez Cruz was subject to threats prior to his disappearance and that he was kidnapped in the same manner as other forced disappearances.<sup>22</sup>

## II. PROCEDURAL HISTORY

### A. Before the Commission

**October 9, 1981:** Mr. Godínez Cruz's representative submits a petition to the Commission.<sup>23</sup>

**October 4, 1983:** The Commission adopts Resolution No. 32/83.<sup>24</sup> In the Resolution, the Commission orders the State to open an investigation to determine who is responsible for the detention and disappearance of Mr. Godínez Cruz, to punish those it finds responsible, and to report to the Commission the steps it takes to implement these orders.<sup>25</sup>

**December 1, 1983:** The State requests that the Commission reconsider Resolution No. 32/83 because the writ of habeas corpus brought by Ms. Cruz on behalf of Mr. Godínez Cruz on August 17, 1982 was denied for not being submitted in a timely manner, and the writ brought by Mr. Godínez Cruz's relatives on July 4, 1983 was still pending.<sup>26</sup>

**May 29, 1984:** The Commission notifies the State that it will reconsider Resolution No. 32/83 and will continue studying Mr. Godínez Cruz's

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18. *Id.*

19. *Id.* ¶ 153(c).

20. *Id.* ¶ 153(d)(i).

21. *Id.*

22. *Id.* ¶¶ 154(b)(ii)-(iii).

23. Godínez Cruz v. Honduras, Preliminary Objections, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 3, ¶ 1 (June 26, 1987).

24. *Id.* ¶ 22.

25. *Id.* ¶ 20(3).

26. Godínez Cruz v. Honduras, Merits, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 5, ¶ 5 (Jan. 20, 1989).

case.<sup>27</sup>

**March 1, 1985:** The State asks the Commission to postpone a final decision on the case because it has created an Investigatory Commission to look into Mr. Godínez Cruz's case.<sup>28</sup>

**March 11, 1985:** The Commission agrees to postpone a final decision on the case for thirty days.<sup>29</sup>

**October 17, 1985:** The State presents the Commission with the Investigatory Commission's report.<sup>30</sup>

**April 7, 1986:** The State notifies the Commission that the investigation has not produced any new information regarding Mr. Godínez Cruz's case and that it is impossible to determine who was responsible for Mr. Godínez Cruz's disappearance.<sup>31</sup>

**April 18, 1986:** The Commission adopts Resolution No. 24/86 in which it decides that the State's request for reconsideration of Resolution No. 32/83 is unfounded as no new information has been provided by the State and confirms Resolution No. 32/83.<sup>32</sup>

#### *B. Before the Court*

**April 24, 1986:** The Commission submits the case to the Court after the State failed to adopt its recommendations.<sup>33</sup>

#### 1. Violations Alleged by Commission<sup>34</sup>

Article 4 (Right to Life)

Article 5 (Right to Humane Treatment)

Article 7 (Right to Personal Liberty)

*all in relation to:*

Article 1(1) (Obligation to Respect Rights) and

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27. *Id.* ¶ 8.

28. *Id.* ¶ 9.

29. *Id.*

30. *Id.* ¶ 10.

31. *Id.* ¶ 11.

32. *Id.* ¶ 12.

33. *Id.* ¶ 1.

34. *Id.* ¶¶ 2, 168.

Article 2 (Obligation to Give Domestic Legal Effect to Rights) of the American Convention.<sup>35</sup>

**July 23, 1986:** Judge Jorge R. Hernández Alcerro informs the President of the Court that he has to recuse himself from hearing the case.<sup>36</sup>

**August 21, 1986:** The State appoints Rigoberto Espinal Irías as judge *ad hoc*.<sup>37</sup>

The following organizations submit amicus curiae briefs to the Court: Amnesty International, the Central American Association of Families of Detained and Disappeared Persons (*Asociación Centroamericana de Familiares de Detenidos-Desaparecidos*), the Association of the Bar of the City of New York, the Lawyer Committee for Human Rights, and the Minnesota Lawyers International Human Rights Committee.<sup>38</sup>

**October 31, 1986:** The State objects to the admissibility of the Commission's application.<sup>39</sup> The State asserts six preliminary objections including: the lack of a formal declaration of admissibility by the Commission, failure to attempt a friendly settlement, failure to carry out an on-site investigation, lack of a prior hearing, improper application of Articles 50 and 51 of the Convention, and non-exhaustion of domestic legal remedies.<sup>40</sup>

**June 26, 1987:** The Court issues a unanimous judgment on the preliminary objections raised by the State.<sup>41</sup> The Court rejects all of the State's preliminary objections except for the preliminary objection relating to exhaustion of domestic remedies.<sup>42</sup> Nonetheless, the Court decides to proceed with hearing the case but to postpone its decision on reparations and costs.<sup>43</sup> Regarding the preliminary objection that the Commission failed to formally declare that the case is admissible, the

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35. *Id.*

36. *Id.* ¶ 15.

37. *Id.*

38. *Id.* ¶ 40.

39. *Id.* ¶ 18.

40. Godínez Cruz v. Honduras, Preliminary Objections, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 3, ¶ 35 (June 26, 1987).

41. Godínez Cruz v. Honduras, Merits, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 5, ¶ 25 (Jan. 20, 1989).

42. *Id.* ¶ 25(1).

43. *Id.* ¶ 25(2).

Court finds that the Convention does not require an expressed declaration of admissibility when the Commission itself is involved in the case.<sup>44</sup> When the Commission requests information from the State and processes the petition, admissibility is determined as long as the Commission does not expressly declare the case inadmissible.<sup>45</sup>

As for the preliminary objection that the Commission failed to promote a friendly settlement, the Court finds that the Convention should be interpreted to require the Commission to attempt a friendly settlement only when the circumstances of the dispute makes a friendly settlement suitable or necessary.<sup>46</sup> It is up to the Commission's discretion to decide whether a friendly settlement is suitable or necessary.<sup>47</sup> In the case of a forced disappearance, where the State denies the forced disappearance, it is difficult to reach a friendly settlement that will respect the rights to life, to humane treatment, and to personal liberty.<sup>48</sup>

Regarding the preliminary objection that the Commission had not carried out an on-site investigation, the Court finds that that the language of the Convention, when read in context, indicates that the method of verifying the facts is discretionary and on-site investigations are not mandatory.<sup>49</sup>

Regarding the State's preliminary objection that the Commission did not hold a preliminary hearing to clarify the allegations, the Court finds that a preliminary hearing is required only when the Commission considers it necessary to complete the information needed in the petition or when the parties expressly request one.<sup>50</sup> Here, the Commission did not consider it necessary to hold a hearing, and neither the petitioners nor the State asked for a hearing.<sup>51</sup>

**January 11, 1988:** The Commission notifies the Court of the death of José Isaías Vilorio, a witness who had been summoned to testify before the Court on January 18, 1988.<sup>52</sup> He was killed on January 5, 1988 at 7:15 a.m. by a group of armed men who left the insignia of a Honduran

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44. *Godínez Cruz v. Honduras*, Preliminary Objections, ¶ 42.

45. *Id.*

46. *Id.* ¶ 47.

47. *Id.* ¶ 48.

48. *Id.* ¶ 49.

49. *Id.* ¶ 52.

50. *Id.* ¶ 56.

51. *Id.* ¶ 57.

52. *Godínez Cruz v. Honduras*, Merits, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 5, ¶ 42 (Jan. 20, 1989).

guerrilla group, the Cinchonero, on his body.<sup>53</sup>

**January 15, 1988:** The Court learns of the killing of two other witnesses in this case and in response adopts provisional measures.<sup>54</sup> The Court asks the State to take necessary measures to prevent further infringements of the rights of those individuals who have appeared or have been summoned to appear before the Court in this case in compliance with Article 1(1) (Obligation to Respect Rights) of the Convention.<sup>55</sup> The Court also requests that the State employ the necessary means to investigate these crimes in order to identify and punish those who are responsible for them.<sup>56</sup>

**January 18, 1988:** The Commission asks the Court to adopt the following complementary provisional measures: the State must notify the Court of the measures it adopts to protect the witnesses who testified in Court or any other persons who are involved in these proceedings; the State must report on the judicial investigation into the assassinations of the witnesses; the State must provide the Court with the public statements made regarding the assassinations and explain where the statements appeared; the State must inform the Court about the criminal investigations of threats against witnesses in the case; the State must notify the Court whether it has ordered police protection to ensure the safety of witnesses who have testified and the protection of the property of the Committee for the Defense of Human Rights in Honduras (“CODEH”); and lastly, the State must immediately send the Court a copy of the autopsies and ballistic tests conducted during the assassinations of the witnesses.<sup>57</sup>

**January 19, 1988:** The Court decides on the provisional measures requested by the Commission and unanimously declares that first the State must, within two weeks, notify the Court of the measures adopted to protect the witnesses who have testified or have been summoned to testify, the judicial investigations that were conducted or will be conducted on the threats against the witnesses, the investigation of assassinations and the punishment of the individuals responsible.<sup>58</sup>

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53. *Id.*

54. *Id.* ¶ 43(1).

55. *Id.*

56. *Id.* ¶ 43(2).

57. *Id.* ¶¶ 45, 52.

58. *Id.* ¶ 47(1).

Second, the State must adopt measures to clarify that the appearance of an individual before the Commission or the Court is a right guaranteed to people and is recognized by the State.<sup>59</sup>

**February 3, 1988:** The State submits to the Court a copy of the autopsy report for the assassinated witnesses, a copy of the statement made by forensic specialist Dr. Rolando Táborá regarding the deaths of the witnesses, and a copy of the inquiries into threats against the future witnesses that were conducted by the First Criminal Court of Tegucigalpa, Central District.<sup>60</sup> The State also submitted documents that indicated that it had initiated a judicial inquiry into the assassinations of the witnesses.<sup>61</sup>

### III. MERITS

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

Rafael Nieto Navia, President  
Rodolfo E. Piza Escalante, Judge  
Thomas Buergenthal, Judge  
Pedro A. Nikken, Judge  
Héctor Fix-Zamudio, Judge and  
Rigoberto Espinal Irías, Judge *ad hoc*

Charles Moyer, Secretary  
Manuel Ventura, Deputy Secretary

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

**January 20, 1989:** The Court issues its Judgment on Merits.<sup>62</sup>

The Court unanimously found that the State had violated:

Article 4 (Right to Life) in relation to Article 1(1) of the Convention, to the detriment of Mr. Godínez Cruz,<sup>63</sup> because:

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59. *Id.* ¶ 47(2).

60. *Id.* ¶¶ 48(1)-(4).

61. *Id.* ¶ 48.

62. Godínez Cruz v. Honduras, Merits, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 5 (Jan. 20, 1989).

63. *Id.* "Therefore, the Court" ¶ 4.



*Article 4 (Right to Life) guarantees every individual's right to have his life respected.<sup>64</sup> Forced disappearances often involve the secret execution of the detained person without trial and the concealment of the body to destroy any evidence of the crime.<sup>65</sup> The act of forced disappearances violates the most basic principles of the Inter-American system and demonstrates that the State does not guarantee the rights recognized to its citizens by the Convention.<sup>66</sup> Furthermore, the act of forced disappearances itself is not compatible with the human rights guarantees of the Convention because it lowers the standard by which security forces are governed and allows them to violate human rights more easily.<sup>67</sup> Mr. Godínez Cruz's disappearance and the lack of knowledge of his whereabouts for six and half years create the assumption that he was killed.<sup>68</sup> This presumption in combination with the State's failure to investigate into Mr. Godínez Cruz's disappearance is a violation of Article 4 (Right to Life).<sup>69</sup>*

Article 5 (Right to Humane Treatment) in relation to Article 1(1) of the Convention, to the detriment of Mr. Godínez Cruz,<sup>70</sup> because:

*Article 5 (Right to Humane Treatment) provides that every individual has the right to have his physical, mental and moral integrity respected.<sup>71</sup> Furthermore, no person should be subjected to torture, inhuman, or degrading treatment.<sup>72</sup> Prolonged isolation and deprivation of communication are considered inhuman treatment that is harmful to the moral and psychological integrity of a person.<sup>73</sup> Additionally, although it has not been shown that Mr. Godínez Cruz was physically tortured, investigations into other incidents of disappearances and testimony of victims of forced disappearances who have regained their liberty show that people who are forcefully disappeared are subject to inhumane and degrading treatment.<sup>74</sup> Thus,*

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64. *Id.* ¶ 165(1).

65. *Id.* ¶ 165.

66. *Id.* ¶ 166.

67. *Id.* ¶ 167.

68. *Id.* ¶ 198.

69. *Id.* ¶¶ 165, 198.

70. *Id.* "Therefore, the Court" ¶ 3.

71. *Id.* ¶ 164(1).

72. *Id.* ¶ 164(2).

73. *Id.* ¶ 164.

74. *Id.* ¶¶ 164, 197.

*the State violated Article 5 (Right to Humane Treatment) when they disappeared Mr. Godínez Cruz.*<sup>75</sup>

Article 7 (Right to Personal Liberty) in relation to Article 1(1) of the Convention, to the detriment of Mr. Godínez Cruz,<sup>76</sup> because:

*Every person's right to personal liberty and security is enshrined in Article 7 (Right to Personal Liberty).<sup>77</sup> Furthermore, people should not be subject to arbitrary arrest and anyone who is detained must be informed of the reason for their detainment and should be brought before a judge within a reasonable time.<sup>78</sup> The kidnapping of a person is an arbitrary deprivation of their liberty and a violation of their right to be brought before a judge without delay to review the legality of the arrest.<sup>79</sup> Mr. Godínez Cruz's disappearance made him a victim of an arbitrary detention, which deprived him of his physical liberty without just cause or the determination of lawfulness of his detention.<sup>80</sup> Therefore, the State violated Mr. Godínez Cruz's right to personal liberty recognized by Article 7 (Right to Personal Liberty) of the Convention.<sup>81</sup>*

Article 1(1) (Obligation to Respect Rights) of the Convention, to the detriment of Mr. Godínez Cruz,<sup>82</sup> because:

*The Court applied Article 1(1) (Obligation to Respect Rights) of the Convention in this case despite the fact that the Commission did not allege such a violation.<sup>83</sup> As Article 1(1) (Obligation to Respect Rights) contains the general basis of the protection of the rights that are recognized under the Convention, the Court must apply this provision even when the parties do not invoke them.<sup>84</sup> Article 1(1) (Obligation to Respect Rights) requires that the States respect the rights guaranteed in the Convention and is therefore essential to determining whether a*

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75. *Id.*

76. *Id.* "Therefore, the Court" ¶ 2.

77. *Id.* ¶ 163(1).

78. *Id.* ¶¶ 163(3)-(4).

79. *Id.* ¶ 163.

80. *Id.* ¶ 196.

81. *Id.* ¶¶ 163, 196.

82. *See id.* ¶ 190.

83. *Id.* ¶ 172.

84. *Id.*

violation of the Convention has occurred.<sup>85</sup> Any violation of rights guaranteed under the convention by any state organ, official or entity is imputed to the State.<sup>86</sup> Even if the State has not directly committed an illegal act that violates human rights, the State can be responsible due to its international obligations under the Convention for lack of due diligence to prevent the violation of the rights granted under the Convention.<sup>87</sup> Furthermore, the State is obligated to investigate every instance involving a violation of the rights guaranteed by the Convention.<sup>88</sup> If the State allows such violations of the rights protected by the Convention go unpunished and the victim's rights are not restored, the State has failed to comply with its duties under the Convention.<sup>89</sup>

In the instant case, it has been proven that none of the writs of habeas corpus that were brought before different tribunals were processed.<sup>90</sup> None of the judges in this case had access to any place that Mr. Godínez Cruz might have been detained.<sup>91</sup> Furthermore, the requested criminal investigation was not pursued.<sup>92</sup> The Executive Branch also did not carry out a serious investigation into Mr. Godínez Cruz's disappearance.<sup>93</sup> In addition, the Commission's request for information from the State was repeatedly ignored to the point that the Commission was forced to presume that the allegations against the State were true.<sup>94</sup> Therefore, the State failed to use adequate mechanism to investigate the disappearance of Mr. Godínez Cruz or to compensate for damages caused or punish those responsible.<sup>95</sup>

Overall, the Court found that there is enough proof to conclude that Mr. Godínez Cruz's disappearance was carried out by individuals with State authority.<sup>96</sup> Thus, the State is responsible for the involuntary disappearance of Mr. Godínez Cruz.<sup>97</sup> As a result, the State violated Article 1(1) (Obligation to Respect Rights) of the Convention for not ensuring the rights guaranteed under Articles 4 (Right to Life), 5 (Right

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85. *Id.* ¶ 173.

86. *Id.* ¶¶ 178-181.

87. *Id.* ¶¶ 182-183.

88. *Id.* ¶¶ 187.

89. *Id.*

90. *Id.* ¶ 189.

91. *Id.*

92. *Id.*

93. *Id.* ¶ 190.

94. *Id.*

95. *Id.*

96. *Id.* ¶ 192.

97. *Id.* ¶ 195.

to *Humane Treatment*), and 7 (*Right to Personal Liberty*) of the *Convention*.<sup>98</sup>

*C. Dissenting and Concurring Opinions*

[None]

IV. REPARATIONS

The Court ruled that the State had the following obligations:

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

[None]

*B. Compensation*

The Court awarded the following amounts:

1. Pecuniary Damages

The State must make a compensatory payment of approximately \$200,000 Honduran lempiras (\$93,636.66 USD) to Mr. Godínez Cruz's wife and daughter for the loss of Mr. Godínez Cruz's earnings.<sup>99</sup>

2. Non-Pecuniary Damages

The State must make a compensatory payment of approximately \$125,000 (\$58,522.91 USD) Honduran lempiras to Mr. Godínez Cruz's wife and daughter for moral damages such as the harmful psychological impact of Mr. Godínez Cruz's disappearance.<sup>100</sup>

3. Costs and Expenses

The Court rejected an award for costs because there was no request

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98. *Id.* ¶¶ 195-198.

99. *Godínez Cruz v. Honduras, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 8, ¶ 47 (July 21, 1989)*. USD calculated using the exchange rate from July 21, 1989 between United States dollars and Honduran lempiras.

100. *Id.* ¶¶ 49, 50.

to this end.<sup>101</sup>

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

\$325,000 Honduran lempiras (approximately \$152,159.57 USD)

*C. Deadlines*

The State must pay the pecuniary and non-pecuniary damages within ninety days from the date of the notification of the judgment without any tax deductions.<sup>102</sup> The State may make the payments in six equal monthly installments with the first payment to be made within ninety days of the judgment.<sup>103</sup> One-fourth of the \$325,000 lempiras must be paid directly to Mr. Godínez Cruz's wife, and three-fourths must be given to Mr. Godínez Cruz's daughter.<sup>104</sup> The funds for his daughter are to be put in a trust fund at "the Central Bank of Honduras under the most favorable conditions permitted by Honduran banking practice."<sup>105</sup> Mr. Godínez Cruz's daughter must receive monthly payments from this trust fund and must receive the total amount when she reaches the age of twenty-five.<sup>106</sup>

V. INTERPRETATION AND REVISION OF JUDGMENT

**September 29, 1989:** The Commission submitted a brief asking the Court to interpret the Reparations and Costs Judgment and order the State to take measures to protect the purchasing power of the money that is to be deposited into a trust for Mr. Godínez Cruz's daughter.<sup>107</sup>

**November 16, 1989:** The State objected that the Commission's request was inadmissible on grounds that the Court's decision on reparations and costs are sufficiently clear, and there is no need for interpretation.<sup>108</sup>

**July 6, 1990:** The Commission requested "an amplification," or

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101. *Id.* ¶¶ 39, 40.

102. *Id.* ¶ 52.

103. *Id.*

104. *Id.* ¶ 53.

105. *Id.*

106. *Id.*

107. Godínez Cruz v. Honduras, Interpretation of the Judgment of Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 10, ¶¶ 3, 18-19 (Aug. 17, 1990).

108. *Id.* ¶ 5.

expansion, of the petition for clarification of the decision on reparations and costs based on the new fact that the State had delayed eight months in paying the money owed to Mr. Godínez Cruz's family, which was not known at the time of September 29, 1989 brief.<sup>109</sup> In order to compensate for the delay in paying the damages, the Commission requested the Court to order the State to pay interest for its delay and to adjust the purchasing power of the unit of currency to what it should have been at the time the payment was due.<sup>110</sup>

**August 17, 1990:** The Court issued an Interpretation of the Judgment on Reparations and Costs.<sup>111</sup>

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

Héctor Fix-Zamudio, President  
Rodolfo E. Piza E., Judge  
Pedro Nikken, Judge  
Rafael Nieto-Navia, Judge  
Rigoberto Espinal-Irías, Judge *ad hoc*

Manuel E. Ventura-Robles, Secretary

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

The Court unanimously declared the Request for Interpretation of the Judgment on Reparations and Costs admissible.<sup>112</sup> The Court reasoned that pursuant to Article 67 of the Convention, whenever there is a disagreement as to the meaning or scope of the Court's judgment, the Court shall interpret the judgment if any of the parties request it within ninety days of the notification of the judgment.<sup>113</sup>

The Court unanimously found that the part of its Judgment on Reparation and Costs that stated that the money owed to Mr. Godínez Cruz's daughter be placed in a trust with the "Central Bank of Honduras under the most favorable conditions permitted by Honduran banking practice" must be interpreted as requiring the trustee to maintain the

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109. *Id.* ¶¶ 6, 34.

110. *Id.* ¶ 34.

111. Godínez Cruz v. Honduras, Interpretation of the Judgment of Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 10 (Aug. 17, 1990).

112. *Id.* ¶ 14.

113. *Id.*

purchasing power of the sum of money in the trust.<sup>114</sup> The Court reasoned that in its Judgment on Reparations and Costs, the Court had purposefully stated that the money owed to Mr. Godínez Cruz's daughter must be placed in a trust because unlike regular bank accounts, a trust is designed to maintain and increase the real value of its assets.<sup>115</sup>

The Court unanimously declared the Commission's request for amplification of the petition for clarification of the judgment inadmissible.<sup>116</sup> Article 67 of the Convention empowers the Court to interpret its judgment in case of a disagreement as to the meaning or scope of the judgment.<sup>117</sup> However, the Commission's request for amplification of the petition does not involve any disagreement as to the meaning or scope of the Court's judgment.<sup>118</sup> Nevertheless, since the Court took on the responsibility of supervising the payment of damages, the case would not be deemed closed until the damages have been fully paid.<sup>119</sup> Thus, the Court still has jurisdiction over the case and can decide on the consequence of the State's delay in paying the damages.<sup>120</sup> As such, the Court decided that the State must pay interest on the amount due to compensate Mr. Godínez Cruz's family for the delay.<sup>121</sup> The Court reasoned that rights of Mr. Godínez Cruz's family to the compensation should not be diminished because of the State's failure to pay the damages on time.<sup>122</sup> Furthermore, the trustee has the obligation to preserve the purchasing power of the money owed to what it should have been when the payment was due.<sup>123</sup>

### *C. Dissenting and Concurring Opinions*

#### 1. Dissenting Opinion of Judge Piza-Escalante

Judge Piza-Escalante dissented to the Court's Interpretation of Judgment on Reparations and Costs.<sup>124</sup> He argued that the application of

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114. *Id.* ¶¶ 30, 31.

115. *Id.* ¶ 32.

116. *Id.* ¶ 36.

117. *Id.*

118. *Id.*

119. *Id.* ¶ 37.

120. *Id.*

121. *Id.* ¶ 40.

122. *Id.* ¶ 38.

123. *Id.* ¶ 41.

124. *Godínez Cruz v. Honduras*, Interpretation of the Judgment of Reparations and Costs, Separate Opinion of Judge Piza-Escalante, Inter-Am. Ct. H.R. (ser. C) No. 10, ¶ 1 (Aug. 17, 1990).

Article 67 of the Convention, which governs requests for interpretation of judgments, was not proper because Article 67 only applies to the Merits decision.<sup>125</sup> The Judgment on Reparations and Costs of July 21, 1989 is not a definitive judgment.<sup>126</sup> According to Judge Piza-Escalante, the Court reserved the enforcement of the payment in its decision, and is therefore able to continue enforcing the decision, as long as the case remains open.<sup>127</sup>

## VI. COMPLIANCE AND FOLLOW-UP<sup>128</sup>

[None]

## VII. LIST OF DOCUMENTS

### A. *Inter-American Court*

#### 1. Preliminary Objections

[Godínez Cruz v. Honduras, Preliminary Objections, Judgment, Inter-Am. Ct. H.R. \(ser. C\) No. 3 \(June 26, 1987\).](#)

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

[Godínez Cruz v. Honduras, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. \(ser. C\) No. 5 \(July 21, 1989\).](#)

[Godínez Cruz v. Honduras, Merits, Judgment, Inter-Am. Ct. H.R. \(ser. C\) No. 5 \(Jan. 20, 1989\).](#)

#### 3. Provisional Measures

[Not Available]

#### 4. Compliance Monitoring

[None]

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125. *Id.* ¶ 1.

126. *Id.* ¶ 3.

127. *Id.* ¶ 4.

128. At the time of publication, the Court has not published Monitoring Compliance documents.



## 5. Review and Interpretation of Judgment

[Godínez Cruz v. Honduras, Interpretation of the Judgment of Reparations and Costs, Judgment, Inter-Am. Ct. H.R. \(ser. C\) No. 10 \(Aug. 17, 1990\).](#)

*B. Inter-American Commission*

## 1. Petition to the Commission

[Not Available]

## 2. Report on Admissibility

[Not Available]

## 3. Provisional Measures

[None]

## 4. Report on Merits

[Not Available]

## 5. Application to the Court

[Not Available]

## VIII. BIBLIOGRAPHY

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