

# Gomes Lund et al. (“Guerrilha do Araguaia”) v. Brazil

## ABSTRACT<sup>1</sup>

*This case is about the forced disappearance of dozens of communist guerrillas in the Brazilian State of Paraná during Brazil’s military dictatorship of the 1970s. The case gave the Court the chance to address several issues, including enforced disappearances as continuing violations of human rights, validity of amnesty laws, and the right to truth, historical record and recovery of bodies for burial.*

## I. FACTS

### A. Chronology of Events

**1964:** The military takes over the government in the State.<sup>2</sup>

**1966:** The Communist Party of Brazil creates the *Araguaia Guerrilla Movement*, in the Araguaia region in the south of the State of Pará, and gathers local support from students and workers for a revolution to overthrow the government.<sup>3</sup>

**1972-1975:** The military launches a campaign to get rid of the guerilla movement.<sup>4</sup> Over sixty guerrilla members disappear.<sup>5</sup> Twenty-two of these, including Ms. Julia Gomes Lund, are killed during this time.<sup>6</sup> Moreover, the State executes Ms. Maria Lucia Petit da Silva, whose remains were later found.<sup>7</sup> However, the State does not recognize these

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

2. See Gomes Lund et al. (“Guerrilha do Araguaia”) v. Brazil, Admissibility Report, Report No. 33/01, Inter-Am. Comm’n H.R., ¶ 21 (Mar. 6, 2001).

3. *Id.*

4. *Id.*

5. *Id.* ¶ 22.

6. *Id.* ¶ 1.

7. Gomes Lund et al. (“Guerrilha do Araguaia”) v. Brazil, Application to the Court, Inter-Am. Comm’n H.R., Case No 11.552, ¶ 2 (Mar. 26, 2009) (Available only in Spanish and Portu-

deaths.<sup>8</sup>

**1979:** The State enacts Amnesty Act, Law No. 6.683/79,<sup>9</sup> which erases all “individual criminal responsibility.”<sup>10</sup> Its objective was to excuse citizens who acted on order of the military government, but it also pardoned those involved in ““related crimes,”” including State officials who committed torture and murder.<sup>11</sup>

**Beginning 1982:** Democracy returns to Brazil.<sup>12</sup>

**Beginning February 19, 1982:** The families of those presumed dead start legal action before the Federal Court of Rio de Janeiro,<sup>13</sup> requesting the State to reveal the location of their relatives so they can properly bury them and register death certificates.<sup>14</sup> The families mention they know about a January 5, 1975 armed forces report containing the information they need.<sup>15</sup> The Federal Court asks the Executive to turn over documents and begins summoning witnesses.<sup>16</sup>

**September 24, 1982:** The State makes five preliminary objections to the Ordinary Action, which the appointed judge, Judge Volkmer de Castilho, rejects.<sup>17</sup> The State alleges that the conflict and disappearances never happened and the requested documents do not exist.<sup>18</sup> The State further alleges that if the requested documents did exist, they would not have to be produced because of their confidential nature.<sup>19</sup>

**September 24, 1982 through 1985:** The judge questions witnesses and continues to ask the government for documents.<sup>20</sup>

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8. Gomes Lund et al. (“Guerrilha do Araguaia”) v. Brazil, Admissibility Report, ¶ 22.

9. Gomes Lund et al. (“Guerrilha do Araguaia”) v. Brazil, Application to the Court, ¶ 32.

10. Gomes Lund et al. (“Guerrilha do Araguaia”) v. Brazil, Admissibility Report, ¶¶ 33–34.

11. Gomes Lund et al. (“Guerrilha do Araguaia”) v. Brazil, Application to the Court, ¶¶ 110–12.

12. Gomes Lund et al. (“Guerrilha do Araguaia”) v. Brazil, Admissibility Report, ¶ 23.

13. Gomes Lund et al. (“Guerrilha do Araguaia”) v. Brazil, Preliminary Objections, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 219, ¶ 188 (Nov. 24, 2010).

14. *Id.*

15. Gomes Lund et al. (“Guerrilha do Araguaia”) v. Brazil, Admissibility Report, ¶ 42.

16. *Id.* ¶ 23.

17. *Id.* ¶ 43.

18. *Id.*

19. *Id.*

20. *Id.*

**March 27, 1989:** Judge Leal de Araújo replaces Judge Volkmer de Castilho<sup>21</sup> and dismisses the case before even addressing the merits, stating that it is not possible for the government to follow the Court's previous request and that the requested documents do not need to be turned over because of the Amnesty Act.<sup>22</sup> Furthermore, the judge states that since the Amnesty Act has a specific remedy, no general remedy may be granted.<sup>23</sup>

**April 18, 1989:** The petitioners appeal, explaining they desire more than the Amnesty Act remedy, since they want to know the specific circumstances of the disappearances.<sup>24</sup> They also allege that it is too early to conclude that fulfilling the document request is impossible.<sup>25</sup>

**September 11, 1991:** The State's Office of the Public Prosecutor declares support for the plaintiffs' appeal, claiming the "right to information" is fundamental in the State constitution, and the right to bury relatives is a respected legal principle.<sup>26</sup>

**September 25, 1992:** The State ratifies the American Convention on Human Rights.<sup>27</sup>

**August 17, 1993:** The Federal Court of Appeals reverses its previous decision dismissing the case and returns the case to the lower court judge for a finding on facts and merits<sup>28</sup> because of the "right to look after one's dead in accordance with one's religious beliefs," and because it is possible for the lower court to analyze the documents without any information leaking to the public.<sup>29</sup>

**March 24, 1994:** The government requests clarification of the Federal Court of Appeals.<sup>30</sup>

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21. *Id.* ¶ 44.

22. *Id.* ¶¶ 23, 44.

23. *Id.* ¶ 44.

24. *Id.* ¶ 45.

25. *Id.*

26. *Id.* ¶ 46.

27. *Id.* ¶ 38.

28. *Id.* ¶ 24.

29. *Id.* ¶ 47.

30. *Id.* ¶ 24.

**August 7, 1995:** The Brazil section of the Center for Justice and the International Law and Human Rights Watch/Americas presents a petition to the Inter-American Commission on Human Rights.<sup>31</sup>

**December 4, 1995:** The State enacts Law No. 9140,<sup>32</sup> in which it takes responsibility for the September 1961 through August 1979 disappearances, creates a procedure to indemnify families,<sup>33</sup> and establishes a commission to look for the bodies.<sup>34</sup> However, it does not turn over the requested information and “denies [having] complete military reports” revealing burial sites.<sup>35</sup>

**March 12, 1996:** The Federal Court of Appeals unanimously denies the government’s request for clarification.<sup>36</sup> The Government then files a “special appeal” regarding jurisprudence differences between regions.<sup>37</sup>

**November 20, 1996:** The Higher Court of Justice decides the appeal is inadmissible.<sup>38</sup>

**December 19, 1996:** The Government files another appeal.<sup>39</sup>

**March 6, 2001:** The Commission issues Report on Admissibility No. 33/01.<sup>40</sup>

**June 30, 2003:** The First Federal Court analyzes the merits of the Ordinary Action case and orders the information regarding the relevant military operations to be declassified and for the government to provide the locations of the buried disappeared individuals.<sup>41</sup>

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31. *Id.* ¶ 1.

32. *Id.* ¶ 25.

33. *Id.* ¶¶ 6, 8.

34. *Id.* ¶ 25.

35. *Id.* ¶ 32.

36. *See id.* ¶ 24.

37. *Id.* ¶ 24.

38. *Id.* ¶ 47.

39. *Id.*

40. Gomes Lund et al. (“Guerrilha do Araguaia”) v. Brazil, Admissibility Report.

41. Gomes Lund et al. (“Guerrilha do Araguaia”) v. Brazil, Preliminary Objections, Merits, Reparations, and Costs, ¶ 191, n.267.

**August 27, 2003:** The Government appeals.<sup>42</sup>

**December 14, 2004:** The Federal Court rejects the appeal.<sup>43</sup>

**July 8, 2005:** The State files “Special Remedy and an Extraordinary Remedy,” and the special remedy, alone, is partially admitted by the Supreme Court of Justice.<sup>44</sup>

**October 9, 2007:** The Federal Court finalizes the Ordinary Action decision.<sup>45</sup>

**October 2008:** The Order of Attorneys for Brazil brings an action, asking the Federal Supreme Court to re-interpret the Amnesty Law so as not to contradict the Constitution.<sup>46</sup> It specifically requests that the Law not apply to crimes committed against the government’s opposition.<sup>47</sup>

**October 31, 2008:** The Commission issues Report on the Merits No. 91/08.<sup>48</sup>

**March 12, 2009:** The Federal Court orders the ‘Ordinary Action’ judgment to be put in effect.<sup>49</sup>

**April 29, 2009:** To give effect to the ‘Ordinary Action’ judgment,<sup>50</sup> the State Ministry of Defense issues Order 567/MD, which creates a work group to arrange for gathering the bodies.<sup>51</sup> Representatives from the State’s army and government, representatives from Pará’s government, and others chosen by the Ministry of Defense, make up the work group.<sup>52</sup> The State invites next of kin to observe the exhumation, but because of the work group’s military character, they choose not to ob-

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42. *Id.* ¶ 191, n.268.

43. *Id.* ¶ 191, n.269.

44. *Id.*

45. *Id.* ¶ 222.

46. *Id.* ¶ 43.

47. *Id.*

48. Gomes Lund et al. (“Guerrilha do Araguaia”) v. Brazil, Application to the Court, ¶ 32.

49. Gomes Lund et al. (“Guerrilha do Araguaia”) v. Brazil, Preliminary Objections, Merits, Reparations, and Costs, ¶¶ 191–92.

50. *Id.* ¶ 192.

51. Gomes Lund et al. (“Guerrilha do Araguaia”) v. Brazil, Provisional Measures, Order of the Court, Inter-Am. Ct. H.R. (ser. E), ¶ 2(a) (July 15, 2009).

52. *Id.* ¶ 2(b).

serve.<sup>53</sup>

**April 29, 2010:** In Non-compliance Action No. 153, the State's Federal Supreme Court holds that the action brought by the Order of Attorneys for Brazil is inadmissible because the Amnesty Law was necessary when enacted and was not "self-amnesty."<sup>54</sup>

### *B. Other Relevant Facts*

[None]

## II. PROCEDURAL HISTORY

### *A. Before the Commission*

**August 7, 1995:** The Brazil section of the Center for Justice and the International Law and Human Rights Watch/Americas files a petition with the Commission.<sup>55</sup> Later, the Rio de Janeiro section of *Grupo Tortura Nunca Mais* and the Committee of the Families of Those Who Died or Disappeared for Political Reasons (*Comissão de Familiares de Mortos e Desaparecidos Politicos de São Paulo*) join as co-petitioners.<sup>56</sup>

**May 20, 1996:** The petitioners inform the Commission of State Law No. 9140,<sup>57</sup> which provides for some reparations, and the petitioners provide newspapers that identify burial sites along with other classified information related to the operations.<sup>58</sup>

**January 10, 1997:** The petitioners request to add the 'Committee of the Families of Those Who Died or Disappeared for Political Reasons' of the Institute for the Study of State Violence (*Instituto de Estudos da Violência do Estado*) and Mrs. Angela Harkavy (whose brother, Pedro Alexandrino Oliveira, is among those who disappeared) as co-

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53. *Id.* ¶ 2(c).

54. Gomes Lund et al. ("Guerrilha do Araguaia") v. Brazil, Preliminary Objections, Merits, Reparations, and Costs, ¶ 44.

55. Gomes Lund et al. ("Guerrilha do Araguaia") v. Brazil, Admissibility Report, Report No. 33/01, ¶ 1.

56. *Id.*

57. *Id.* ¶ 6.

58. *Id.*

petitioners.<sup>59</sup>

**March 6, 2001:** The Commission issues Report on Admissibility No. 33/01.<sup>60</sup> The State does not challenge the petitioners' factual allegations regarding the military conflict;<sup>61</sup> however, it claims the case is not admissible because petitioners have not exhausted available domestic remedies.<sup>62</sup> The State says the domestic judicial system is currently processing the case,<sup>63</sup> and the requested documents may be gathered through a domestic habeas data writ.<sup>64</sup> The State adds that it has made appropriate reparations, considering its lack of evidence, through Law No. 9140.<sup>65</sup> Finally, the State contends punishment of those criminally responsible is not possible because of the Amnesty Act.<sup>66</sup> The Commission rebuts that an eighteen-year delay with no final decision is unreasonable and that Article 46(2)(c) provides a waiver of the exhaustion requirement.<sup>67</sup> Finally, the Commission says the petition is admissible because it states facts indicating that the State violated the victims' rights guaranteed by the Convention.<sup>68</sup>

**October 31, 2008:** The Commission issues Report on the Merits No. 91/08.<sup>69</sup> The report determines that the State "arbitrarily detained, tortured, and made disappear" farmers and members of the Communist Party of Brazil, that the State failed to conduct an appropriate investigation, and that domestic measures have been ineffective and unjustifiably restrictive.<sup>70</sup> The Commission declares the State violated Articles 3 (Right to Juridical Personality), 4 (Right to Life), 5 (Right to Humane Treatment), 7 (Right to Personal Liberty), 8.1 (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal), 13 (Freedom of Thought and Expression) and 25 (Right to Judicial Protection) of the

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59. *Id.* ¶ 11.

60. Gomes Lund et al. ("Guerrilha do Araguaia") v. Brazil, Admissibility Report, ¶ 1.

61. *Id.* ¶ 30.

62. *Id.* ¶ 31.

63. *Id.*

64. *Id.*

65. *Id.* ¶ 32.

66. *Id.* ¶ 33.

67. *Id.* ¶ 50.

68. *Id.* ¶¶ 53–54.

69. Gomes Lund et al. ("Guerrilha do Araguaia") v. Brazil, Application to the Court, Inter-Am. Comm'n H.R., Case No 11.552, ¶ 32 (Mar. 26, 2009) (Available only in Spanish and Portuguese).

70. *Id.*

American Convention, in connection with Articles 1(1) (Obligation of Non-Discrimination) and 2 (Obligation to Give Domestic Legal Effect to Rights) of the Convention.<sup>71</sup> The Commission recommends the State: take steps to make sure the Amnesty Law does not get in the way of prosecuting, through domestic courts, those responsible for the disappearances; carry out any necessary changes to make military documents public; increase attempts to locate bodies; make additional reparations to families, including physical and psychological treatment and hosting symbolic events to guarantee crimes will not be repeated and to acknowledge responsibility; enact human rights education programs for State military; and create a crime for forced disappearances under domestic law.<sup>72</sup>

### *B. Before the Court*

**March 26, 2009:** The Commission submits the case to the Court after the State failed to adopt its recommendations.<sup>73</sup>

#### 1. Violations Alleged by Commission<sup>74</sup>

Article 3 (Right to Juridical Personality)

Article 4 (Right to Life)

Article 5 (Right to Humane Treatment)

Article 7 (Right to Personal Liberty)

Article 8 (Right to a Fair Trial)

Article 13 (Freedom of Thought and Expression)

Article 25 (Right to Judicial Protection)

*all in relation to:*

Articles 1(1) (Obligation of Non-Discrimination) and

Article 2 (Obligation to Give Domestic Legal Effect to Rights) of the American Convention.

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71. *Id.*

72. *Id.* ¶¶ 33(1)–(7).

73. Gomes Lund et al. (“Guerrilha do Araguaia”) v. Brazil, Application to the Court.

74. Gomes Lund et al. (“Guerrilha do Araguaia”) v. Brazil, Preliminary Objections, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 219, ¶¶ 2–3 (Nov. 24, 2010).



## 2. Violations Alleged by Representatives of the Victims<sup>75</sup>

### Same Violations Alleged by Commission.

**June 24, 2009:** The State appoints Roberto de Figueiredo Caldas as judge *ad hoc*.<sup>76</sup>

**July 15, 2009:** The President of the Court issues an order denying a request for provisional measures submitted by the representatives of the victims to suspend Order 567/MD, which authorized the work group to exhume the disappeared bodies, due to the allegedly purely military character of the work group.<sup>77</sup>

**October 31, 2009:** The State submits its preliminary objections, claiming that the Court does not have jurisdiction in *ratione temporis*<sup>78</sup> to analyze the facts, that domestic remedies have not been exhausted, and that there is no legal interest.<sup>79</sup>

**May 20 and 21, 2010:** The State submits an additional preliminary objection during the public hearing, claiming the Court does not have jurisdiction to review State Supreme Court decisions under domestic law and that, furthermore, the Court cannot review issues occurring before April 29, 2010, since domestic remedies had not been exhausted until that date.<sup>80</sup>

**June 4 through 10, 2010:** Eight amicus curiae briefs are submitted.<sup>81</sup>

75. *Grupo Tortura Nunca Más de Rio de Janeiro*, Commission of the Next of Kin of Politically Deceased and Disappeared Persons of the Institute of Studies on State Violence (*Comisión de Familiares de Muertos y Desaparecidos Políticos del Instituto de Estudios de la Violencia del Estado*), and the Center for Justice and International Law served as representatives of the disappeared persons and their next of kin. *Id.* ¶¶ 1, 3.

76. *Id.* n.5.

77. *Id.* ¶ 263, n.380; Gomes Lund et al. (“Guerrilha do Araguaia”) v. Brazil, Provisional Measures, Order of the Court, Inter-Am. Ct. H.R. (ser. E) “Having Seen” ¶ 1, “Considering” ¶ 14 (July 15, 2009).

78. Gomes Lund et al. (“Guerrilha do Araguaia”) v. Brazil, Preliminary Objections, Merits, Reparations, and Costs, ¶¶ 4, 10. Jurisdiction in *ratione temporis* determines when the court first has jurisdiction over a case. Typically, this is the entry into force of a treaty or a party’s accession to a treaty. *Id.* ¶¶ 14, 16.

79. Gomes Lund et al. (“Guerrilha do Araguaia”) v. Brazil, Preliminary Objections, Merits, Reparations, and Costs, ¶¶ 4, 10.

80. *Id.* ¶¶ 7, 10, 44.

81. *Id.* ¶ 8. Eight organizations submitted amicus curiae briefs: (1) Open Society Justice Ini-

## 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  
Eduardo Vio Grossi, Judge  
Roberto de Figueiredo Caldas, Judge *Ad Hoc*

Pablo Saavedra Alessandri, Secretary  
Emilia Segares Rodríguez, Deputy Secretary

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tiative, Commonwealth Human Rights Initiative, Open Democracy Advice Centre and South African History Initiative (regarding “right to truth and access to information”); (2) Human Rights Investigation Group in the Amazon (*Grupo de Investigación de Derechos Humanos en la Amazonía*) (regarding Amnesty Law); (3) Order of Attorneys of Brazil, Rio de Janeiro section (regarding the effects of the Federal Supreme Court’s April 29, 2010 ruling); (4) Group of Teaching, Investigation, and Extension “Democracy and Transitional Justice” (*Grupo de Ensino, Pesquisa e Extensão “Democracia e Justiça de Transição”*) of the *Universidade Federal de Uberlândia* (regarding Amnesty Law and the “right to memory and the truth”); (5) José Carlos Moreira da Silva Filho, Rodrigo Lentz, Gabriela Mezzanotti, Fernando Frizzo Bragato, Jânina Maria Lopes Saldanha, Luciana Araújo de Paula, Gustavo Oliveira Vieira, Ana Carolina Sheffrin, Leonardo Subtil, Castor Bartolome Ruiz, André Luiz Olivier da Silva, Sheila Stolz da Silveira, Cecília Pires, Sólon Eduardo Annes Viola, Pontifícia Universidade Católica de Rio Grande do Sul Investigation Group “Right to Memory and the Truth and Transitional Justice,” the Investigation and Extension Nucleus of the Federal University of Rio Grande, the National Movement of Education in Human Rights and Access, Citizenship and Human Rights, the Investigation Group “Delmas-Marty: Internationalization of the Right to and Emergency of a World Right” (*Grupo de Pesquisa “Delmas-Marty: Internacionalização do Direito e Emergência de um Direito Mundial”*), the Research Group “Ethical Basis of Human Rights” (*Grupo de Pesquisa “Fundamentação Ética dos Direitos Humanos”*), the Chair Human Rights and Violence, Government, and Governance (*Direitos Humanos e Violência, Governo e Governança*; UNESCO/UNISINOS) and the Graduate Course in Law and the Human Rights Nucleus, all associated with the *Universidade do Vale do Rio dos Sinos* (regarding the “eventual consequences of th[e] proceeding in the transitional justice in Brazil”); (6) Global Justice Global (regarding Amnesty Law); (7) Nucleus Team of Human Rights (*Equipe do Núcleo de Direitos Humanos*) of the Legal department of the *Pontifícia Universidade Católica de Rio de Janeiro* (regarding the “right to access information in State control”); and (8) Association of Judges for Democracy (regarding Amnesty Law and the “right to memory and truth”).

*B. Decision on the Merits*

**November 24, 2010:** The Court issues its Judgment on Preliminary Objections, Merits, Reparations, and Costs.<sup>82</sup>

The Court found unanimously:

To partially admit the State's preliminary objection regarding the Court lacking jurisdiction in *ratione temporis*.<sup>83</sup>

*The Court reasoned that, since the State did not accept the Court's jurisdiction until December 10, 1998, the Court could not rule on any violations occurring before that date; however, because the State's acts are of a "continuous [and] permanent nature," the Court explained it retained jurisdiction to rule on the State's acts and omissions after that date.*<sup>84</sup>

To dismiss the State's remaining preliminary objections.<sup>85</sup>

*The Court reasoned that there was a valid legal interest,<sup>86</sup> that there was no evidence the Commission made an insufficient analysis as to exhaustion of remedies,<sup>87</sup> and that, in reviewing the State's domestic procedures, it would not analyze them for compatibility with State law, but rather for compatibility with the American Convention.*<sup>88</sup>

The Court found unanimously State had violated:

Articles 3 (Right to Juridical Personality), 4 (Right to Life), 5 (Right to Humane Treatment), and 7 (Right to Personal Liberty) in relation to Article 1(1) (Obligation of Non-Discrimination) of the Convention,<sup>89</sup> to the detriment of the sixty-two disappeared persons,<sup>90</sup> because:

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82. Gomes Lund et al. ("Guerrilha do Araguaia") v. Brazil, Preliminary Objections, Merits, Reparations, and Costs.

83. *Id.* "Operative Paragraphs" ¶ 1.

84. *Id.* ¶¶ 12, 16–19.

85. *Id.* "Operative Paragraphs" ¶ 2.

86. *Id.* ¶ 31.

87. *Id.* ¶ 42.

88. *Id.* ¶ 49.

89. *Id.* ¶ 325(4), "Operative Paragraphs" ¶ 4.

90. *Id.* ¶¶ 119, 120, 125. The sixty-two disappeared persons are Adriano Fonseca Fernandes Filho, André Graboys, Antônio Alfredo de Lima (or Antônio Alfredo Campos), Antônio Carlos

*The Court found the State responsible for the enforced disappearances.*<sup>91</sup>

*The Court characterized the nature of enforced disappearances as multi-offensive violations that directly threaten the State's obligation to ensure the rights to personal liberty, personal integrity, life, and juridical personality.*<sup>92</sup> *If there is reasonable cause to suspect an enforced disappearance, the State must initiate a prompt, impartial investigation into the crime.*<sup>93</sup> *The Court stated that enforced disappearances are of a "continuous or permanent nature," such that all facts could be considered by the Court regardless of dates.*<sup>94</sup>

*Here, the Court found that the State had maintained surreptitious detention centers, failed to keep a record of the inmates, and failed to inform next of kin of the location of their relatives.*<sup>95</sup> *Furthermore, the State had not met its obligation to investigate the enforced disappearances and to implement proper domestic framework, such as codifying enforced disappearance as a crime, ensuring no impediments affected the investiga-*

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Monteiro Teixeira, Antônio de Pádua Costa, Antônio Ferreira Pinto, Antônio Guilherme Ribeiro Ribas, Antônio Teodoro de Castro, Arildo Airton Valadão, Áurea Elisa Pereira Valadão, Bérqson Gurjão Farias, Cilon Cunha Brum, Ciro Flávio Salazar de Oliveira, Custódio Saraiva Neto, Daniel Ribeiro Callado, Dermeval da Silva Pereira, Dinaelza Santana Coqueiro, Dinalva Oliveira Teixeira, Divino Ferreira de Souza, Elmo Corrêa, Francisco Manoel Chaves, Gilberto Olímpio Maria, Guilherme Gomes Lund, Helenira Resende de Souza Nazareth, Hélio Luiz Navarro de Magalhães, Idalísio Soares Aranha Filho, Jaime Petit da Silva, Jana Moroni Barroso, João Carlos Haas Sobrinho, João Gualberto Calatrone, José Huberto Bronca, José Lima Piauhy Dourado, José Maurílio Patrício, José Toledo de Oliveira, Kléber Lemos da Silva, Líbero Giancarlo Castiglia, Lourival de Moura Paulino, Lúcia Maria de Souza, Lúcio Petit da Silva, Luiz René Silveira e Silva, Luiz Vieira de Almeida, Luiza Augusta Garlippe, Manoel José Nurchis, Marcos José de Lima, Maria Célia Corrêa, Maurício Grabois, Miguel Pereira dos Santos, Nelson Lima Piauhy Dourado, Orlando Momente, Osvaldo Orlando da Costa, Paulo Mendes Rodrigues, Paulo Roberto Pereira Marques, Pedro Alexandrino de Oliveira Filho, Pedro Matias de Oliveira ("Pedro Carretel"), Rodolfo de Carvalho Troiano, Rosalindo Souza, Suely Yumiko Kanayama, Telma Regina Cordeiro Corrêa, Tobias Pereira Júnior, Uirassú de Assis Batista, Vandick Reidner Pereira Coqueiro, and Walkíria Afonso Costa, also allowing twenty-four months to receive information regarding the following eight individuals of the Araguaia region, whom the State has not yet recognized as disappeared: "Batista," "Gabriel," "Joaquinzão," José de Oliveira, Josias Gonçalves de Sousa, Juarez Rodriguez Coelho, Sabino Alves da Silva, and "Sandoval."

91. *Id.* ¶ 125.

92. *Id.* a¶¶ 105–110.

93. *Id.* ¶¶ 108–109.

94. *Id.* ¶¶ 110–11.

95. *Id.* ¶¶ 106–107.

tion and implementing punishment.<sup>96</sup> Thirty-eight years after the disappearances, only the remains of two bodies had been identified, and State still had not provided information regarding the location of the remaining sixty victims.<sup>97</sup> Thus, the State violated Articles 3 (Right to Juridical Personality), 4 (Right to Life), 5 (Right to Humane Treatment), and 7 (Right to Personal Liberty).<sup>98</sup>

Article 2 (Obligation to Give Domestic Legal Effect to Rights), in relation to Articles 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal), 25 (Right to Judicial Protection), and 1(1) (Obligation of Non-Discrimination) of the Convention, and 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 Articles 1(1) (Obligation of Non-Discrimination) and 2 (Obligation to Give Domestic Legal Effect to Rights) of the Convention,<sup>99</sup> to the detriment of the disappeared persons and executed person Maria Lúcia Petit da Silva, as well as the seventy next of kin,<sup>100</sup> also allowing six months for the next of kin or representatives of thirty-eight family members who passed away on unknown dates to inform the Court whether their deaths were after December 10,

96. *Id.* ¶¶ 108–109.

97. *Id.* ¶ 121.

98. *Id.* ¶ 125.

99. *Id.* “Operative Paragraphs” ¶ 5.

100. *Id.* ¶¶ 127, 181, 185. Seventy Next of Kin: Zélia Eustáquio Fonseca, Alzira Costa Reis, Victória Lavínia Grabois Olímpio, Criméia Alice Schmidt de Almeida, João Carlos Schmidt de Almeida, Luiza Monteiro Teixeira, João Lino da Costa, Benedita Pinto Castro, Odila Mendes Pereira, José Pereira, Luiza Gurjão Farias, Junília Soares Santana, Antonio Pereira de Santana, Elza da Conceição Oliveira (or Elza Conceição Bastos), Viriato Augusto Oliveira, Maria Gomes dos Santos, Rosa Cabello Maria (or Rosa Olímpio Cabello), Igor Grabois Olímpio, Julia Gomes Lund, Carmem Navarro, Gerson Menezes Magalhães, Aminthas Aranha (or Aminthas Rodrigues Pereira), Julieta Petit da Silva, Ilma Hass, Osoria Calatrone, Clotildio Calatrone, Isaura de Souza Patricio, Joaquim Patricio, Elena Gibertini Castiglia, Jardilina Santos Moura, Joaquim Moura Paulino, José Vieira de Almeida, Acary V. de S. Garlippe, Dora Grabois, Agostim Grabois, Rosana Moura Momente, Maria Leonor Pereira Marques, Otilia Mendes Rodrigues, Francisco Alves Rodrigues, Celeste Durval Cordeiro, Luiz Durval Cordeiro, Aidinalva Dantas Batista, Elza Pereira Coqueiro, Odete Afonso Costa, Angela Harkavy, José Dalmo Ribeiro Ribas, Maria Eliana de Castro Pinheiro, Roberto Valadão, Diva Soares Santana, Getúlio Soares Santana, Dilma Santana Miranda, Dinorá Santana Rodrigues, Dirceneide Soares Santana, Terezinha Souza Amorim, Aldo Creder Corrêa, Helenalda Resende de Souza Nazareth, Helenice Resende de Souza Nazareth, Helenilda Resende de Souza Nazareth, Helenoira Resende de Souza Nazareth, Wladmir Neves da Rocha Castiglia, Laura Petit da Silva, Clovis Petit de Oliveira, Lorena Moroni Barroso, Breno Moroni Girão, Ciro Moroni Girão, Sônia Maria Haas, Elizabeth Silveira e Silva, Luiz Carlos Silveira e Silva, Luiz Paulo Silveira e Silva, Maristella Nurchis, and Valeria Costa Couto.

1998, the date from which the Court has jurisdiction,<sup>101</sup> because:

*The State had failed to amend its domestic law so as to comply with the Convention.*<sup>102</sup> *It had not met its obligation to adopt a “positive measure” into its law to inspect violations of human rights ex officio.*<sup>103</sup> *Furthermore, the State’s Amnesty Law further violated the Convention*<sup>104</sup> *because it had prevented the next of kin from a judicial hearing and resulted in the “failure to investigate, persecute, capture, prosecute, and punish those responsible,” during the period of September 2, 1961 to August 15, 1979.*<sup>105</sup> *Thus, the State failed to follow its Article 2 (Obligation to Give Domestic Effect to Rights) obligation to guarantee the victims and their next of kin’s rights to judicial guarantees and judicial protection under Articles 8(1) (Right to a Hearing Within Reasonable Time Before a Competent and Independent Tribunal), 25 (Right to Judicial Protection), and 25(1) (Right of Recourse Before a Competent Court).*<sup>106</sup>

Article 13 (Freedom of Thought and Expression), in relation to Articles 1(1) (Obligation of Non-Discrimination), 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal), and 25 (Right to Judicial Protection) of the Convention, and Article 8(1) Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal, in relation to Articles 1(1) (Obligation of Non-Discrimination) and 13(1) (Right to Seek, Receive, and Impart Information and Ideas) of the Convention,<sup>107</sup> to the detriment of certain next of kin,<sup>108</sup> also allowing six months for the next of kin or legal representatives of four of the above thirty-eight family members who passed away on unknown dates to inform the Court whether their deaths were after December 10, 1998,<sup>109</sup> because:

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101. *Id.*

102. *Id.* “Operative Paragraphs” ¶ 5.

103. *Id.* ¶ 138.

104. *Id.* “Operative Paragraphs” ¶ 5.

105. *Id.* ¶¶ 134–35, 172.

106. *Id.* ¶ 180.

107. *Id.* “Operative Paragraphs” ¶ 6.

108. *Id.* ¶¶ 212–13. Certain Next of Kin: Julia Gomes Lund, Maria Leonor Pereira Marques, Antonio Pereira de Santana, Elza Pereira Coqueiro, Alzira Costa Reis, Victória Lavínia Graboís Olímpio, Roberto Valadão, Julieta Petit da Silva, Aminthas Aranha (or Aminthas Rodrigues Pereira), Zélia Eustáquio Fonseca, Acary Vieira de Souza Garlippe, Luiza Monteiro Teixeira, and Elza da Conceição de Oliveira (or Elza Conceição Bastos).

109. *Id.*

*The State failed to provide the next of kin with information regarding what happened to their loved ones.<sup>110</sup> The Court explained that the right to freedom of thought and expression includes the right to “seek, receive, and impart information,”<sup>111</sup> such that each person has the right to request information from the State.<sup>112</sup> Information should have been provided to next of kin when they filed Ordinary Action No. 82.00.24682-5, and the State cannot merely claim the documents do not exist; instead, it has an obligation to set forth the reason for the denial of information, showing it did everything in its power to obtain the documents.<sup>113</sup> Thus, the State violated the Article 13 (Freedom of Thought and Expression) right to seek and obtain information in relation to the State’s obligation to ensure a prompt, reasonable trial and juridical protection under Articles 8(1) (Right to a Hearing Within Reasonable Time Before a Competent and Independent Tribunal) and 25 (Right to Judicial Protection).<sup>114</sup>*

*Further, the Court concluded that the duration of the Ordinary Action violated the next of kin’s rights.<sup>115</sup> Delays “cannot be justified due to the complexity of the manner.”<sup>116</sup> Thus, the Ordinary Action exceeded a reasonable time allowable, violating the victim’s next of kin’s rights to a prompt trial and access to information.<sup>117</sup>*

Article 5(1) (Right to Physical, Mental, and Moral Integrity) in relation to Article 1(1) (Obligation of Non-Discrimination) of the Convention, to the detriment of the seventy next of kin, also allowing the same period of six months for the thirty-eight next of kin whose dates of death are unknown,<sup>118</sup> because:

*The impact the enforced disappearances had on the victims’ immediate nuclear family was significant; loved ones could not ascertain the circumstances of the victims’ deaths, locate their whereabouts, or bury*

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110. *Id.* ¶¶ 200, 211.

111. *Id.* ¶ 196.

112. *Id.* ¶ 197.

113. *Id.* ¶ 211.

114. *Id.* ¶ 212.

115. *Id.* ¶ 225.

116. *Id.* ¶ 220.

117. *Id.* ¶ 225.

118. *Id.* ¶¶ 243–44, “Operative Paragraphs” ¶ 7.

*their bodily remains, causing increased anguish and psychological effects on the next of kin.*<sup>119</sup> *The uncertainty and lack of information led to feelings of insecurity, frustration, and helplessness.*<sup>120</sup> *Accordingly, the State's refusal to supply information was inhumane*<sup>121</sup> *and violated the State's "obligation to guarantee the right to personal integrity of the next of kin" under Article 5(1) (Right to Physical, Mental, and Moral Integrity).*<sup>122</sup>

### C. Dissenting and Concurring Opinions

#### 1. Concurring Opinion of Judge *Ad Hoc* Roberto de Figueiredo Caldas

In a separate opinion, Judge *Ad Hoc* Roberto de Figueiredo Caldas concurred with the Judgment, writing separately to express his unique view as a national of the State.<sup>123</sup> He explained that by recognizing the jurisdiction of the Court, the State and its highest courts must allow the Court to have the final say in the area of human rights.<sup>124</sup> Furthermore, the State's Constitution is to be read so as to comply with the Convention and the Court's jurisprudence.<sup>125</sup> The crime of enforced disappearance is a crime against humanity, and, accordingly, the Court's judgment cannot be prevented by the passage of time.<sup>126</sup> Finally, although the State has not ratified the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity, the State is bound to comply because it has become international legal custom.<sup>127</sup>

## IV. REPARATIONS

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

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119. *Id.* ¶¶ 239, 241.

120. *Id.* ¶ 242.

121. *Id.* ¶ 240.

122. *Id.* ¶ 242.

123. Gomes Lund et al. ("Guerrilha do Araguaia") v. Brazil, Preliminary Objections, Merits, Reparations, and Costs, Concurring Opinion of Judge Roberto de Figueiredo Caldas, Inter-Am. Ct. H.R. (ser. C) No. 219, ¶ 1 (Nov. 24, 2010).

124. *Id.* ¶ 4.

125. *Id.* ¶ 6.

126. *Id.* ¶ 23.

127. *Id.* ¶ 27.



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

1. Judgment as a Form of Reparation

The Court explained that the Judgment constituted a *per se* form of reparation.<sup>128</sup>

2. Conduct Criminal Investigation

The Court ordered the State to conduct a criminal investigation to uncover the facts, identify those responsible, and implement punishment.<sup>129</sup> The State must be careful not to make mistakes when searching for and compiling evidence.<sup>130</sup> It must not apply its Amnesty Law or any law that would allow for responsibility not to be enforced.<sup>131</sup> The State must make sure the investigations are conducted *ex officio* and that the investigators have all the resources they need, including complete access to information.<sup>132</sup> Additionally, it must ensure anyone who participates has safety guarantees and must be careful not to obstruct the investigation.<sup>133</sup> The State should ensure the investigation is carried out in an ordinary, not military, jurisdiction.<sup>134</sup> Finally, the State should make sure the victims' next of kin are allowed to participate in the process and that all results are disclosed to the people of Brazil.<sup>135</sup>

3. Locate the Disappeared

The State must take all necessary measures to locate the disappeared and return bodily remains to their respective next of kin.<sup>136</sup> The Court explained that bodily remains should be delivered at no cost to the next of kin and that funeral expenses should be covered.<sup>137</sup> Throughout the process, the State's Federal Public Prosecutor's Office should

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128. Gomes Lund et al. (“Guerrilha do Araguaia”) v. Brazil, Preliminary Objections, Merits, Reparations, and Costs, “Operative Paragraphs” ¶ 8.

129. *Id.* “Operative Paragraphs” ¶ 9.

130. *Id.* ¶ 256.

131. *Id.*

132. *Id.*

133. *Id.*

134. *Id.* ¶¶ 256–57.

135. *Id.* ¶ 257.

136. *Id.* “Operative Paragraphs” ¶ 10.

137. *Id.* ¶¶ 261–62.

work with the working group, which was established for this purpose.<sup>138</sup> Additionally, since the search is still under the supervision of the State judge who presided over the Ordinary Action, the search and return of remains should be conducted in the most thorough way possible.<sup>139</sup>

#### 4. Medical and Psychological Treatment

The State must provide the victims with medical and psychological treatment.<sup>140</sup> The State is to provide these services at no cost to the victims, through State public health institutions and providers who specialize in working with violence victims.<sup>141</sup> In the event these resources are inadequate, the State must provide private facilities and should ensure the services are provided at convenient locations for next of kin.<sup>142</sup> Should Mrs. Elena Gibertini Castiglia, who lives in Italy, request treatment, she should be compensated \$7,500 instead of receiving treatment.<sup>143</sup>

#### 5. Publish the Judgment

The State must publish the Judgment<sup>144</sup> in the Official Gazette, publish the official summary in a newspaper with widespread national circulation in book form, and on both a State website, made available for one year, and on another appropriate website in a downloadable electronic form.<sup>145</sup>

#### 6. Publicly Acknowledge Responsibility

The State must conduct a public act of acknowledgment of its responsibility<sup>146</sup> and specific violations.<sup>147</sup> The Court explained the State must do this during a ceremony held in public with both State authorities and victims in attendance.<sup>148</sup> It must agree with the victims on the

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138. *Id.* ¶ 262.

139. *Id.* ¶ 263.

140. *Id.* “Operative Paragraphs” ¶ 11.

141. *Id.* ¶¶ 267–68.

142. *Id.* ¶ 268.

143. *Id.* ¶ 269.

144. *Id.* “Operative Paragraphs” ¶ 12.

145. *Id.* ¶ 273.

146. *Id.* “Operative Paragraphs” ¶ 13.

147. *Id.* ¶ 277.

148. *Id.*

terms of compliance and details for the event.<sup>149</sup> The act should also receive media coverage.<sup>150</sup>

### 7. Implement Human Rights Training

The Court ordered the State to continue to develop human rights training programs and to start a permanent human rights class for all levels of its military.<sup>151</sup> The course must educate the military on the Judgment, the Court's jurisprudence on enforced disappearances, other human rights violations, the criminal military jurisdiction, and the State's international human rights obligations based upon the treaties it has entered into.<sup>152</sup>

### 8. Adopt New Domestic Law

The Court ordered the State to take necessary steps to adopt into its domestic law and codify the crime of forced disappearances so as to comply with the Convention, including implementing procedural measures to ensure prosecution and punishment.<sup>153</sup> Additionally, the State must ratify the Inter-American Convention on the Prevention and Punishment of Forced Disappearance of Persons.<sup>154</sup>

### 9. Develop Search Initiatives and Disseminate Information

The Court ordered the State to continue to develop search initiatives, publicly disseminate all information on the *Guerrilha do Araguaia*, and distribute any information related to human rights abuses that occurred during the military regime.<sup>155</sup> Furthermore, the Court urged the State to develop an independent "National Truth Commission" for this purpose.<sup>156</sup>

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149. *Id.*

150. *Id.*

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

152. *Id.* ¶ 283.

153. *Id.* "Operative Paragraphs" ¶ 15.

154. *Id.* ¶ 287.

155. *Id.* "Operative Paragraphs" ¶ 16.

156. *Id.* ¶ 297.

## 10. Identify Remaining Victims

The Court ordered the State to put a summons in a nationally circulated newspaper where the human rights violations occurred, so that the next of kin of the eight peasants not yet recognized by the State could provide evidence to be considered victims under Law No. 9.140/95 and the Judgment.<sup>157</sup> Additionally, the State must allow the next of kin of four individuals, Francisco Manoel Chaves, Pedro Matias de Oliveira (“Pedro Carretel”), Hélio Luiz Navarro de Magalhães, and Pedro Alexandrino de Oliveira Filho, who have not yet received reparations, to petition for compensation under Law No. 9140/95.<sup>158</sup> Finally, the Court ordered the State to allow, in the cases where the dates of death are unknown, the victims’ next of kin or their legal representatives to provide documentation showing their deaths occurred after December 10, 1998.<sup>159</sup>

### *B. Compensation*

The Court awarded the following amounts:

#### 1. Pecuniary Damages

The Court awarded \$3,000 to each of the next of kin.<sup>160</sup>

#### 2. Non-Pecuniary Damages

The Court awarded \$45,000 to the forty-four direct relatives and \$15,000 to the twenty-seven non-direct relatives of the victims.<sup>161</sup>

#### 3. Costs and Expenses

The Court awarded \$5,000 to *Grupo Tortura Nunca Mais*, \$5,000 to the Commission of the Next of Kin of Politically Deceased and Disappeared Persons of the Institute of Studies on State Violence of São Paulo, and \$35,000 to the Center for Justice and the International Law

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157. *Id.* ¶ 119, “Operative Paragraphs” ¶ 18.

158. *Id.* ¶ 303, “Operative Paragraphs” ¶ 19.

159. *Id.* “Operative Paragraphs” ¶ 20.

160. *Id.* ¶ 304.

161. *Id.* ¶ 311.

and to Human Rights Watch/Americas.<sup>162</sup>

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

\$ 2,678,000

*C. Deadlines*

The State must complete its criminal investigation and impose punishment within a reasonable period of time, taking into account the complexity of the case.<sup>163</sup>

The State must locate the bodily remains within the briefest period possible, and, where it already has remains, it must return them to their next of kin as soon as possible.<sup>164</sup>

The State must provide medical and psychological care immediately.<sup>165</sup> Victims or their legal representatives have six months to request psychological or psychiatric treatment.<sup>166</sup>

The State must publish the Judgment in newspapers and online within six months of notification of the Judgment.<sup>167</sup>

The State must complete the public act of acknowledgment of responsibility within one year.<sup>168</sup>

The State must implement a permanent course on human rights within a reasonable period of time.<sup>169</sup>

The State must promptly adopt into its domestic law the crime of forced disappearances and ratify the Inter-American Convention on the Prevention and Punishment of Forced Disappearance of Persons within a reasonable period of time.<sup>170</sup>

The State must allow the next of kin of the eight unrecognized peasants twenty-four months to provide evidence to be considered victims.<sup>171</sup> The State must allow six months for the next of kin of those who have not yet received reparations to present their requests, as well as six

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162. *Id.* ¶ 318.

163. *Id.* ¶ 256.

164. *Id.* ¶ 262.

165. *Id.* ¶ 267.

166. *Id.* ¶ 268.

167. *Id.* ¶ 273.

168. *Id.* ¶ 277.

169. *Id.* ¶ 283.

170. *Id.* ¶ 287.

171. *Id.* “Operative Paragraphs” ¶ 18.

months for legal representatives of those whose dates of death are unknown to provide documentation showing the deaths occurred after December 10, 1998.<sup>172</sup>

The State must pay all amounts within one year.<sup>173</sup>

The State has one year to brief the Court on measures taken to comply with the Judgment.<sup>174</sup>

## V. INTERPRETATION AND REVISION OF JUDGMENT

[None]

## VI. COMPLIANCE AND FOLLOW-UP

**October 17, 2014:** The Court issues its order on Monitoring Compliance with Judgment.<sup>175</sup> The Court found that the State had fully complied with its obligation to publish the Judgment in newspapers and online.<sup>176</sup> The Court also found the State had fully complied with its obligation to allow six months for the next of kin of the four individuals who had not yet requested compensation under Law No. 9140/95 to do so and for legal representatives of those whose dates of death are unknown to provide documentation to show the deaths occurred after December 10, 1998.<sup>177</sup> Additionally the Court found the State had fully complied with the Court's order to establish a National Truth Commission.<sup>178</sup>

The Court found that the State partially complied with its obligation to develop search initiatives and disseminate information to the next of kin.<sup>179</sup> The Court also found that the State had partially complied with its obligation to compensate the victims and reimburse costs and expenses.<sup>180</sup> Additionally, the Court found that the State had partially complied with the Court's orders to publish a summons in a nationally circulated newspaper to identify the next of kin of eight peasants not yet considered victims.<sup>181</sup> Accordingly, the Court will continue to monitor

172. *Id.* "Operative Paragraphs" ¶¶ 19–20.

173. *Id.* ¶ 319.

174. *Id.* "Operative Paragraphs" ¶ 21.

175. *Gomes Lund et al. ("Guerrilha do Araguaia") v. Brazil, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. (Oct. 17, 2014)* (Available only in Spanish).

176. *Id.* "Resolves" ¶¶ 1–3.

177. *Id.*

178. *Id.*

179. *Id.* "Resolves" ¶ 4.

180. *Id.*

181. *Id.*

the State's remaining obligations for compliance, and ordered the State to take all necessary steps and to report to the Court on its efforts by March 20, 2015.<sup>182</sup>

## VII. LIST OF DOCUMENTS

### *A. Inter-American Court*

#### 1. Preliminary Objections

[Gomes Lund et al. \(“Guerrilha do Araguaia”\) v. Brazil, Preliminary Objections, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. \(ser. C\) No. 219 \(Nov. 24, 2010\).](#)

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

[Gomes Lund et al. \(“Guerrilha do Araguaia”\) v. Brazil, Preliminary Objections, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. \(ser. C\) No. 219 \(Nov. 24, 2010\).](#)

[Gomes Lund et al. \(“Guerrilha do Araguaia”\) v. Brazil, Preliminary Objections, Merits, Reparations, and Costs, Concurring Opinion of Judge Roberto de Figueiredo Caldas, Inter-Am. Ct. H.R. \(ser. C\) No. 219 \(Nov. 24, 2010\).](#)

#### 3. Provisional Measures

[Gomes Lund et al. \(“Guerrilha do Araguaia”\) v. Brazil, Provisional Measures, Order of the President of the Court, Inter-Am. Ct. H.R. \(ser. E\) \(Mar. 30, 2010\) \(Available only in Portuguese\).](#)

[Gomes Lund et al. \(“Guerrilha do Araguaia”\) v. Brazil, Provisional Measures, Order of the Court, Inter-Am. Ct. H.R. \(ser. E\) \(July 15, 2009\).](#)

#### 4. Compliance Monitoring

[Gomes Lund et al. \(“Guerrilha do Araguaia”\) v. Brazil, Monitoring](#)

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182. *Id.* “Resolves” ¶¶ 6–8.

[Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. \(Oct. 17, 2014\) \(Available only in Spanish\).](#)

5. Review and Interpretation of Judgment

[None]

*B. Inter-American Commission*

1. Petition to the Commission

[Not Available]

2. Report on Admissibility

[Gomes Lund et al. \("Guerrilha do Araguaia"\) v. Brazil, Admissibility Report, Report No. 33/01, Inter-Am. Comm'n H.R., Case No. 11.552 \(Mar. 6, 2001\).](#)

3. Provisional Measures

[None]

4. Report on Merits

Gomes Lund et al. ("Guerrilha do Araguaia") v. Brazil, Report on Merits, Report No. 91/08, Inter-Am. Comm'n H.R., Case No. 11.552 (Oct. 31, 2008)

5. Application to the Court

[Gomes Lund et al. \("Guerrilha do Araguaia"\) v. Brazil, Application to the Court, Inter-Am. Comm'n H.R., Case No 11.552 \(Mar. 26, 2009\) \(Available only in Spanish and Portuguese\).](#)

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Ruti Teitel, *Transitional Justice and Judicial Activism – A Right to Accountability?*, 48 CORNELL INT'L L.J. 385 (2015).