

“Las Dos Erres” Massacre v. Guatemala

ABSTRACT¹

Between December 6 and 8, 1982, there was a massive massacre in Las Dos Erres, a small village in the municipality of La Libertad, in the Petén department of Guatemala. The massacre, carried out by Guatemalan soldiers during the de facto presidency of General José Efraín Ríos Montt as part of a counterinsurgency force named kaibiles, resulted in the deaths of 251 people, including men, women, and children. The alleged indiscriminate and permissive use of judicial resources, the unjustified delay by the judicial authorities, and the lack of an exhaustive investigation, prosecution, and punishment of those responsible was still pending at the time this case came before the Court. The Court found that the State violated the American Convention on Human Rights, the American Convention on the Prevention, Punishment and Eradication of Violence Against Women and the American Convention to Prevent and Punish Torture.

I. FACTS

A. Chronology of Events

July 1, 1978 – March 23, 1982: General Fernando Romeo Lucas Garcia of the Institutional Democratic Party is elected as the 25th President of Guatemala in an election widely denounced as fraudulent.²

March 23, 1982: General José Efraín Ríos Montt deposes General Lucas García through a military coup.³

June 8, 1982: Ríos Montt assumes the roles of President of the Republic and Minister of National Defense.⁴

1. Leona Lam, Author; Grace Kim and Sascha Meisel, Editors; Sarah Frost, Chief Articles Editor; Cesare Romano, Faculty Advisor.

2. *Guatemala (1903-Present)*, UNIV. OF CENTRAL ARKANSAS, <http://uca.edu/politicalscience/dadm-project/western-hemisphere-region/guatemala-1903-present/> (last visited Oct. 6, 2012).

3. “Las Dos Erres” Massacre v. Guatemala, Petition to the Court, Inter-Am. Comm’n H.R., Case No. 11.681, ¶¶ 76-77 (July 30, 2008).

4. *Id.* ¶ 77.

April 1982: Under Ríos Montt's command, the military junta⁵ issues the National Plan for Security and Development ("National Plan").⁶ The National Plan outlines national objectives and identifies main regions of conflict.⁷

The military junta then forms a campaign plan, called "Victory 82," to respond to counterinsurgency forces in the conflict regions.⁸ The campaign plan orders the annihilation of "subversives."⁹ Subversives are generally thought to be members of the Mayan population, non-indigenous peasants, students, community leaders, and members of religious congregations.¹⁰

Throughout the year, the presence of a guerilla group called the Rebellious Armed Forces (*Fuerzas Armadas Rebeldes*, "FAR") increases in the region around the village of Las Dos Erres.¹¹

September 1982: Guatemala forces confront the FAR in the town of Las Cruces, which neighbors Las Dos Erres.¹² In response, the military commissioner organizes Civil Defense Patrols (*Patrullas de Autodefensa Civil*, "PAC") in Las Dos Erres, the purpose of which was to patrol the regions of Las Cruces and Las Dos Erres.¹³ The inhabitants of Las Dos Erres indicate that they will only assist the PAC that patrols their own community and not that of Las Cruces.¹⁴

As a result, the commissioner of Las Cruces speculates that the inhabitants of Las Dos Erres are members of the guerilla group.¹⁵ A rumor that the Guatemalan army plans to bomb the Las Dos Erres community spreads.¹⁶

October 1982: The FAR ambushes an army convoy near Las Cruces, killing twenty-one Guatemalan soldiers and taking nineteen of their

5. *Id.* (Describing the military junta as the highest-level of authority of the Guatemalan Army).

6. *Id.* ¶ 81.

7. *Id.* Among the regions of conflict identified are the departments of El Quiché, Huehuetenango, and Chimaltenango.

8. *Id.* ¶ 81.

9. *Id.* ¶ 82.

10. *Id.*

11. "Las Dos Erres" Massacre v. Guatemala, Preliminary Objections, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 211, ¶ 75 (Nov. 24, 2009).

12. *Id.*

13. *Id.*

14. *Id.*

15. *Id.* ¶ 76.

16. *Id.*

rifles.¹⁷

December 4, 1982: Believing that the Las Dos Erres community carried out the October ambush, the Guatemalan army deploys seventeen members of a special counterinsurgency force, known as “kaibiles,”¹⁸ to the airbase in Santa Elena, Petén.¹⁹ The squad joins a group of forty more kaibiles already in the area and they are assigned a guide to take them to the Las Dos Erres community.²⁰

December 6, 1982: Kaibiles squad superiors instruct the kaibiles to dress as guerrilleros to confuse the Las Dos Erres population.²¹ At around 9 p.m. that night, the kaibiles leave the military base in civil trucks.²² At midnight, they descend from the trucks and walk the rest of the way to Las Dos Erres.²³

December 7, 1982: At dawn, the kaibiles begin removing Las Dos Erres residents from their homes.²⁴ They lock the men in the community’s school and the women and children in the evangelical church.²⁵ While confined, the people of Las Dos Erres are interrogated and beaten.²⁶

In the early afternoon, the massacre begins with an infant being thrown alive into a well.²⁷ The rest of the children are killed with blows to the head before also being thrown into the well.²⁸ Smaller children are held by the feet and smashed against walls or trees.²⁹

The kaibiles then take the men, blindfolded and hand-tied, out of the school to an unfinished well where they are shot.³⁰ The women and

17. *Id.*; see also, “Las Dos Erres” Massacre v. Guatemala, Petition to the Court, Inter-Am. Comm’n H.R., Case No. 11.681, ¶ 103 (July 30, 2008) (noting that FAR took 21 rifles instead of 19); and *CJA: Justice for The Dos Erres Massacre*, THE CENTER FOR JUSTICE & ACCOUNTABILITY, <http://www.cja.org/section.php?id=459> (last visited Oct. 6, 2012).

18. A kaibil is a member of a special counterinsurgency force. Kaibiles are considered to be the most violent members of the Guatemalan Army.

19. “Las Dos Erres” Massacre v. Guatemala, Preliminary Objections, Merits, Reparations, and Costs, ¶¶ 2 n. 6, 76.

20. *Id.*

21. *Id.* ¶ 77.

22. *Id.*

23. *Id.*

24. *Id.* ¶ 78.

25. *Id.*

26. *Id.*

27. “Las Dos Erres” Massacre v. Guatemala, Petition to the Court, Inter-Am. Comm’n H.R., Case No. 11.681, ¶ 116 (July 30, 2008).

28. *Id.* ¶ 117.

29. *Id.*

30. “Las Dos Erres” Massacre v. Guatemala, Preliminary Objections, Merits, Reparations

remaining children are brought to the same place for execution.³¹

Before execution, the kaibiles rape many girls, some as young as eleven year-old.³² Some of the women who are pregnant miscarry from being beaten.³³ Others are thrown to the ground and jumped on until their fetuses come out miscarried.³⁴

Upon reaching the well, the kaibiles force the victims on their knees, ask them if they belong to the guerrilla, then hit them on the head with mallets or iron rods, or shoot them before pushing the corpses into the well.³⁵

That evening, two girls arrive in Las Dos Erres and are savagely raped but not killed.³⁶

December 8, 1982: As the kaibiles depart, Las Dos Erres is left in ruins, with blood, umbilical cords and placentas scattered over the grounds.³⁷ While they are leaving, six families arrive in Las Dos Erres.³⁸ The kaibiles take the families to the mountain to shoot them and leave the bodies on the ground.³⁹

The kaibiles bring with them the two girls that they captured and raped the night before.⁴⁰ That night they rape the girls again and then slit their throats.⁴¹

The kaibiles assassinate all 251 inhabitants of Las Dos Erres with the exception of two boys: Salomé Armando Gómez Hernández, who escaped when the soldiers were taking him to the well, and Ramiro Antonio Osorio Cristales, a six year old child, who is taken and raised by a kaibile named Santos López Alonzo.⁴²

December 9, 1982: Las Cruces residents go to Las Dos Erres and find blood and body parts on the ground, household items cast everywhere,

and Costs, ¶ 79.

31. *Id.*

32. "Las Dos Erres" Massacre v. Guatemala, Petition to the Court, Inter-Am. Comm'n H.R., Case No. 11.681, ¶¶ 120-121 (July 30, 2008).

33. *Id.* ¶ 123.

34. *Id.*

35. *Id.* ¶ 124.

36. *Id.* ¶ 125.

37. *Id.* ¶ 130.

38. *Id.* ¶ 126.

39. *Id.* The reason the families are killed in this manner is because the wells are too full of bodies to hold any more people at this point.

40. *Id.* ¶ 127.

41. *Id.*

42. *Id.* ¶¶ 1, 128, 172, 310(5).

and animals on the loose.⁴³ The Commander of the military detachment at Las Cruces gives orders to remove all remaining useful objects from Las Dos Erres, and then to set the village on fire.⁴⁴ The goods are distributed among the soldiers or sold in Las Cruces.⁴⁵

December 10, 1982: All of the houses in Las Dos Erres are burned down.⁴⁶

December 11, 1982: Three days after leaving Las Dos Erres, the kaibiles slit their guide's throat and throw him into a fire.⁴⁷

December 27, 1982: The kaibiles return to the Santa Elena military base in army helicopters, concluding the Las Dos Erres massacre.⁴⁸

June 14, 1994: Ms. Aura Elena Farfán, president of the *Asociación de Familiares de Detenidos Desaparecidos de Guatemala* (Association of Relatives of the Detained and Disappeared of Guatemala, "FAMDEGUA"), files a criminal complaint before the Criminal Court of First Instance for Criminal Matters, Drug-Trafficking, and Environmental Crimes for the Department of Petén, for the murders that occurred in Las Dos Erres.⁴⁹

July 4, 1994: Exhumations of the bodies found in Las Dos Erres begin.⁵⁰

July 13, 1994: The exhumations are suspended due to heavy rains and the technical complexities of the excavation.⁵¹

May 8, 1995 – July 15, 1995: The exhumations continue at three separate sites: El Pozo,⁵² La Aguada,⁵³ and Los Salazares.⁵⁴

43. *Id.* ¶ 130.

44. *Id.* ¶ 131.

45. *Id.*

46. *Id.*

47. *Id.* ¶ 129.

48. *Id.* ¶¶ 135-136.

49. *Id.* ¶ 137.

50. "Las Dos Erres" Massacre v. Guatemala, Preliminary Objections, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 211, ¶ 86 (Nov. 24, 2009).

51. "Las Dos Erres" Massacre v. Guatemala, Petition to the Court, ¶ 139.

52. The term "el pozo" means "the well."

53. The term "la aguada" means "the watering hole."

54. *Id.* ¶ 142.

July 29, 1995: A judicial proceeding takes place in which 162 sets of the skeletons found in El Pozo are exhibited.⁵⁵ Of these, sixty-seven belong to children under the age of twelve.⁵⁶

July 30, 1995: The Justice of the Peace orders the Civil Registry of La Libertad, Petén to proceed to register the deaths of the 162 skeletons exhumed at El Pozo of Las Dos Erres.⁵⁷

September 28, 1995: The final report prepared on the excavations performed in the area is delivered to judicial authorities.⁵⁸

B. Other Relevant Facts

The community of Las Dos Erres in La Libertad, Petén, is founded in 1978 by Federico Aquino Ruano and Marcos Reyes.⁵⁹ With a significant migration of peasant farmers searching for land,⁶⁰ Las Dos Erres grows to a population of approximately 300 to 350 people within four years.⁶¹

From 1962 to 1996, Guatemala endures an internal armed conflict that results in over 200,000 deaths from arbitrary executions and forced disappearances.⁶² According to a report from the Commission on Historical Clarification (“CEH”), ninety-one percent of these occur from 1978 to 1983 under the dictatorships of General Lucas García and Ríos Montt.⁶³ It is at the peak of this violent period that the Las Dos Erres massacre takes place.⁶⁴

II. PROCEDURAL HISTORY

A. Before the Commission

55. *Id.* ¶ 143.

56. *Victims of 1982 Army Massacre at Las Dos Erres Exhumed*, U.N. REFUGEE AGENCY & AMNESTY INTERNATIONAL (Nov. 1, 1995), <http://www.unhcr.org/refworld/docid/3ae6a9844.html> (last visited Oct. 6, 2012).

57. “Las Dos Erres” Massacre v. Guatemala, Petition to the Court, ¶ 144.

58. *Id.* ¶ 145.

59. *Id.* ¶ 97.

60. *Id.* (Describing how the name of the community stands for “the two R’s,” reflecting the initial of each founder’s name).

61. “Las Dos Erres” Massacre v. Guatemala, Petition to the Court, ¶ 97.

62. “Las Dos Erres” Massacre v. Guatemala, Petition to the Court, ¶ 67.

63. *Id.* ¶ 70.

64. *Id.* ¶ 67.

December 22, 1994: The Human Rights Office of the Archdiocese of Guatemala (“ODHAG”) presents an initial complaint regarding the Las Dos Erres massacre to the Inter-American Commission of Human Rights.⁶⁵

September 13, 1996: ODHAG and the Center for Justice and International Law (“CEJIL”) present another petition on behalf of the representatives of the victims of the Las Dos Erres massacre to the Commission.⁶⁶

October 28, 1996: In a communication to the Commission, the State alleges that the petition cannot go forward because there were multiple Las Dos Erres petitions filed, and this was a duplicating of procedure.⁶⁷

May 29, 1997: The Commission informs the State of its decision to unite the case files for the separate petitions.⁶⁸

May 18, 1999: At the request of the representatives, the Commission incorporates FAMDEGUA as co-petitioner in the case.⁶⁹

July 16, 1999: Lidia García Pérez, wife of Santos López Alonzo, states that their son was an adopted child and that her husband told her he had taken him from Las Dos Erres.⁷⁰

October 7, 1999: The Criminal Court of First Instance of Petén orders the arrest of former kaibil, Santos López Alonzo, the adoptive father of Ramiro Antonio Osorio Cristales.⁷¹

1999: Mr. Ramiro Antonio Osorio Cristales is reunited with surviving members of his family, eighteen years after his abduction by the kaibil during the massacre.⁷²

65. *Id.* ¶ 17.

66. *Id.* ¶ 20.

67. *Id.* ¶ 22.

68. *Id.* ¶ 23. (Noting that the original petition is assigned Case No. 11.420 and the second petition Case No. 11.681. The Commission incorporates Case No. 11.420 into the file for Case No. 11.681.)

69. *Id.* ¶ 31.

70. *Id.* ¶ 172.

71. *Id.* ¶ 173.

72. “Las Dos Erres” Massacre v. Guatemala, Preliminary Objections, Merits,

April 4, 2000: The judge of the Criminal Court of First Instance of Petén orders the arrest of sixteen other men for the crime of murder committed against the community of Las Dos Erres.⁷³

April 2000 – Present: Some of the accused men file *amparo* actions in response to the April 4, 2000 resolution ordering their arrest.⁷⁴ The domestic courts respond to each action filed.⁷⁵ Warrants are suspended and reissued as necessary.⁷⁶

April 1, 2001: Representatives of the victims and the State sign a Friendly Settlement Agreement in which the State recognizes its responsibility for the December 6 – 8 events that occurred in Las Dos Erres.⁷⁷

May 3, 2001: The parties sign the “Agreement on Economic Reparation” and the “Agreement on the Dissemination of the Video” to carry out the agreed-upon provisions in the April 1 friendly settlement agreement.⁷⁸

2002: Mr. Osorio Cristales recovers the name given to him by his parents.⁷⁹

March 8, 2006: The Commission receives a communication from the representatives of the victims indicating their desire to discontinue the friendly settlement process and requesting that the Commission continue processing the case because the State breached the commitments it had made as part of the Friendly Settlement Agreement.⁸⁰ Specifically, according to the victims’ representatives, the State “breached its commitment in respect of justice, and partially

Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 211, ¶ 180(d) (Nov. 24, 2009).

73. “Las Dos Erres” Massacre v. Guatemala, Petition to the Court, ¶ 176.

74. *Id.* ¶ 176. An *amparo* action is an extraordinary judicial proceeding intended to protect all basic rights other than physical liberty, and is a means of recourse that may be invoked by any person who believes that any of her rights, implicitly or explicitly protected by the constitution, is being violated.

75. *Id.* ¶¶ 178-280.

76. *Id.*

77. *Id.* ¶¶ 34, 56.

78. *Id.* ¶ 58.

79. *Id.* ¶ 194.

80. Las Dos Erres” Massacre v. Guatemala, Petition to the Court, ¶¶ 50-62.

breached its commitment to provide specialized medical care to the surviving victims and the next of kin of the victims, and to disseminate the documentary” as agreed upon.⁸¹

The State responds that it has partially carried out its terms in most of its commitments made under the Friendly Settlement Agreement, and that its efforts should be recognized despite the delays of their investigations.⁸²

March 14, 2008: The Commission adopts Report on Admissibility and Merits No. 22/08.⁸³

In its report, the Commission finds the violations of 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), 17 (Rights of the Family), 19 (Rights of the Child), 21 (Right to Property), and 25 (Right to Judicial Protection), in relation to Article 1(1) (Obligation to Respect Rights) of the American Convention because of the events that occurred in the community of “Las Dos Erres” in December 1982, and for the subsequent denial of justice by the State.⁸⁴

The Commission recommends that the State perform special, rigorous, impartial, and effective investigation that will prosecute and punish those responsible, as well as remove all factual and legal obstacles that prevent the case from being concluded.⁸⁵ The Commission further recommends that the State implement psycho-social care programs for surviving victims and family members and adopt measures and educational courses as needed to prevent similar events from occurring in the future.⁸⁶

B. Before the Court

July 30, 2008: The Commission submits the case to the Court after the State failed to adopt its recommendations.⁸⁷

81. *Id.* ¶ 62.

82. *Id.* ¶ 63.

83. “Las Dos Erres” Massacre v. Guatemala, Preliminary Objections, Merits, Reparations and Costs, ¶ 1.

84. *Id.* ¶ 1 n.5.

85. Las Dos Erres” Massacre v. Guatemala, Petition to the Court, ¶¶ 8(a)-(b).

86. *Id.* ¶¶ 8(c)-(d).

87. *Id.* ¶ 55.

1. Violations Alleged by Commission⁸⁸

Article 8 (Right to a Fair Trial)

Article 25 (Right to Judicial Protection)

all in relation to:

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

2. Violations Alleged by Representatives of the Victims⁸⁹

Same Violations Alleged by Commission, plus:

Article 4 (Right to Life)

Article 5 (Right to Humane Treatment)

Article 13 (Freedom of Thought and Expression)

Article 17 (Rights of the Family)

Article 18 (Right to a Name)

Article 19 (Rights of the Child)

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) of the Inter-American Convention to Prevent and Punish Torture.

Article 7(b) (Duty to Prevent, Investigate, and Punish Violence) of the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women.

October 2, 2008: The State appoints Mr. Ramón Cadena Rámila as judge *ad hoc*.⁹⁰

88. *Id.* ¶ 2.

89. "Las Dos Erres" Massacre v. Guatemala, Preliminary Objections, Merits, Reparations and Costs, ¶ 4. The Office of Human Rights Office of the Archdiocese of Guatemala, the Center for Justice and International Law, and the Association of Relatives of the Detained and Disappeared of Guatemala served as representatives of victims of the "Las Dos Erres" massacre.

90. "Las Dos Erres" Massacre v. Guatemala, Preliminary Objections, Merits,

January 20, 2009: The State submits its brief of preliminary objections, answer to the application, and observations to the brief of pleadings and motions, indicating that it partially accepts the facts denounced by the Commission and its allegations of violation to Articles 8 (Right to a Fair Trial) and 25 (Right to Judicial Protection) of the Convention. However, the State claims incompetence *ratione temporis* of the Court, with respect to Articles 4 (Right to Life), 5 (Right to Humane Treatment), 17 (Rights of the Family), 18 (Right to a Name and to Surname of Parents), and 19 (Rights of the Child) of the Convention because the alleged violations occurred between December 6 and December 8, 1982, which is before the State accepted the Court's contentious jurisdiction (March 9, 1987).⁹¹

November 24, 2009: The Court partially rejects the State's preliminary objection on the decision that it does have the competence to hear the facts and alleged violations of Articles 5 (Right to Humane Treatment), 17 (Rights of the Family), 18 (Right to a Name and to Surname of Parents), and 19 (Rights of the Child) of the Convention because the Court has inherent power, as an organ with contentious function, to determine the scope of its own jurisdiction.⁹² Though Guatemala is correct that the Court cannot hear the facts of the massacre themselves because they occurred before the State accepted the Court's jurisdiction, the Court finds that it has jurisdiction to hear the violations claimed by the representatives because they are not based on facts of the massacre, but rather on those facts which occurred after March 9, 1987, which is after when the State accepted the Court's contentious jurisdiction.⁹³

III. MERITS

A. *Composition of the Court*⁹⁴

Cecilia Medina Quiroga, President
Diego García-Sayán, Vice-President

Reparations, and Costs, ¶ 8 n.11.

91. *Id.* ¶ 6.

92. *Las Dos Erres' Massacre v. Guatemala, Preliminary Objections, Merits, Reparations and Costs*, ¶¶ 44, 51.

93. *Id.* ¶ 47. Guatemala accepted the Court's jurisdiction on March 9, 1987.

94. Judge Leonardo A. Franco did not participate in the deliberations and signing of the Judgment by reason of force majeure. Secretariat of the Court Pablo Saavedra Alessandri, also by reason of force majeure, was not present during the decision.

Sergio García Ramírez, Judge
Manuel E. Ventura Robles, Judge
Margarette May Macaulay, Judge
Rhadys Abreu Blondet, Judge
Ramón Cadena Rámila, Judge *ad hoc*

Emilia Segares Rodríguez, Deputy Secretary

B. Decision on the Merits

November 24, 2009: The Court issues its Judgment on the Preliminary Objection, Merits, Reparations and Costs.⁹⁵

The Court found unanimously that Guatemala had violated:

Articles 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal) and 25(1) (Right of Recourse Before a Competent Court), in relation to Article 1(1) of the Convention; Article 1 (Obligation to Prevent and Punish Torture), 6 (Obligation to Take Effective Measures and Punish Torture and Cruel, Inhuman, and Degrading Treatment), and 8 (Obligation to Investigate and Prosecute) of the Inter-American Convention to Prevent and Punish Torture; and Article 7(b) (Duty to Prevent, Investigate, and Punish Violence) of the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women, to the detriment of the 155 victims connected with the Las Dos Erres Community⁹⁶ because:

The Las Dos Erres Massacre was part of massive human rights violations in Guatemala in which multiple massacres and incredible violence against humanity occurred.⁹⁷ Twenty-seven years after the massacre and fifteen years after the onset of investigation as to the facts of the massacre, the criminal proceeding is still in its beginning stages.⁹⁸ Despite the State's partial recognition of responsibility, the

95. *Id.* ¶¶ 237, 241.

96. *Id.* ¶¶ 153-154, 310(2). The 155 "victims" are the two survivors and 153 next of kin of the deceased.

97. *Id.* ¶ 152.

98. *Id.* ¶ 120.

*Court found that the State failed to provide adequate access to justice to the two survivors of the massacre and to the 153 next of kin of the deceased.*⁹⁹

*Specifically, the Court noted three reasons that contributed to the victims' lack of access to justice.*¹⁰⁰ *First, the State allowed indiscriminate and permissive use of judicial remedies.*¹⁰¹ *The accused filed at least thirty-three appeals for legal protection of which twenty-four were ultimately denied.*¹⁰² *Those appeals took up to four years to resolve.*¹⁰³ *The Court acknowledged that an appeal for legal protection is an adequate remedy to protect an individual's human rights.*¹⁰⁴ *In this case, however, the structure of the appeal process was problematic and inadequately used, which resulted in the impediment of true efficiency.*¹⁰⁵

*Second, the court found the delay by judicial authorities to be unjustified and deliberate.*¹⁰⁶ *The time spent resolving the applicability of the Law of National Reconciliation delayed the criminal proceeding for over eight years.*¹⁰⁷ *In the years after the massacre, there was no effective judicial mechanism in place to investigate the human rights violations or to punish those responsible.*¹⁰⁸ *Indeed, fifteen years after FAMDEGUA filed the application on behalf of petitioners, the criminal proceeding was still in its initial stages.*¹⁰⁹ *This contributed to the excessive delay in the proper administration of justice.*¹¹⁰

*Third, the Court noted the lack of complete and thorough investigation.*¹¹¹ *With the magnitude of the massacre and the generalized context of violence inflicted by the State, the Court reasoned that the State must seriously investigate all of the potentially responsible parties, including high officials and State employees, as*

99. *Id.* ¶¶ 152, 310(1).

100. *Id.* ¶ 153.

101. *Id.*

102. *Id.* ¶ 111.

103. *Id.*

104. *Id.* ¶ 153.

105. *Id.*

106. *Id.*

107. *Id.* ¶ 125.

108. *Id.* ¶ 130.

109. *Id.* ¶ 133.

110. *Id.*

111. *Id.* ¶ 153.

well as take steps to locate and identify the deceased.¹¹² The investigation carried out was not complete or thorough because it referred only to infringements to life and not to the facts related to the alleged torture and other acts of violence against the women and children.¹¹³ Though at least sixty soldiers participated in the execution of the massacre, exclusive of other masterminds and general participants, only twenty participants had been identified and only one arrested.¹¹⁴ The one participant who was arrested was also subsequently released.¹¹⁵

The victims' next of kin had a right to know what happened to their families and to know where their remains lie, and it was the State's responsibility to satisfy these expectations.¹¹⁶ For those reasons, the Court found that the State failed to adequately investigate, prosecute, and punish those allegedly responsible, prevented the victims' access to justice, and converted the judicial system "into a system indifferent to impunity."¹¹⁷

Article 17 (Rights of the Family), 18 (Right to a Name and to Surname of Parents) and 19 (Rights of the Child) in relation to Article 1(1) of the Convention, to the detriment of Mr. Ramiro Antonio Osorio Cristales,¹¹⁸ because:

The Court established that children have special rights, which correspond to specific obligations and protections of the family, society, and state.¹¹⁹ Mr. Osorio Cristales was six-years-old and living with his family when the massacre occurred.¹²⁰ After witnessing the executions of his mother and sister, Mr. Osorio Cristales was kidnapped by one of the kaibiles, who had participated in the massacre and taken away from his community.¹²¹ A different name was also imposed on him.¹²²

112. *Id.* ¶ 152.

113. *Id.* ¶ 136.

114. *Id.* ¶ 143.

115. *Id.*

116. *Id.* ¶ 147.

117. *Id.* ¶ 152.

118. *Id.* ¶ 155.

119. *Id.* ¶ 184.

120. *Id.* ¶ 179(a).

121. *Id.* ¶¶ 179((b), 179(f)-180(a).

122. *Id.* ¶¶ 179(c)-(d).

*The State owed Mr. Osorio Cristales special, additional, and complementary measures of protection in accordance with the provisions of the Convention.*¹²³ *The State did not fulfill this responsibility.*¹²⁴ *The Court found that the absolute lack of state action to reunite Mr. Osorio Cristales as a child with his family, or to assist in the recovery of his true name, constituted violations of Articles 17, 18, and 19 of the Convention.*¹²⁵

Article 5(1) (Right to Physical, Mental, and Moral Integrity) in relation to Article 1(1) of the Convention, to the detriment of the 153 next of kin,¹²⁶ and in relation to Article 1(1) and 19 (Rights of the Child) of the Convention, to the detriment of Mr. Ramiro Antonio Osorio Cristales and Mr. Salomé Armando Gómez Hernández,¹²⁷ because:

*The State caused emotional damage to the surviving victims and the next of kin of the deceased.*¹²⁸ *The Court found that the lack of judicial response and remedy to the grave crimes that occurred affected the personal integrity of the 153 victims comprising the next of kin of those killed in the massacre.*¹²⁹ *The psychological damage and suffering that the victims' next of kin continue to endure, fifteen years after the investigations began, implicate the State's responsibility for violation of Article 5(1).*¹³⁰ *The Court further found that the State's failure to adopt protective measures to care for Mr. Osorio Cristales and Mr. Gómez Hernández, resulted in the denial of their rights as children of the State, thereby also constituting an Article 5(1) violation.*¹³¹

*Though the Commission did not claim there to be a violation of Article 5(1) of the Convention, the Commission expressed that "impunity constitutes a breach of the State's duty which harms the victim, their next of kin, and the society as a whole, and is conducive to the chronic repetition of the related human rights violations."*¹³² *The*

123. *Id.* ¶ 180(d),186.

124. *Id.* ¶ 178.

125. *Id.* ¶ 200.

126. *Id.* ¶ 310(5).

127. *Id.*

128. *Id.* ¶¶ 208-217.

129. *Id.* ¶ 217.

130. *Id.*

131. *Id.*

132. *Id.* ¶ 201.

*representatives of the victims also claimed violation of Article 5 in their brief of pleadings and motions on grounds that the State has not conducted a full and effective investigation and has not taken steps to prevent those responsible from taking positions of power in Guatemala.*¹³³

Article 1 (Obligation to Respect Rights) and Article 2 (Obligation to Give Domestic Legal Effect to Rights), to the detriment of 155 victims of the Las Dos Erres Community,¹³⁴ because:

*In addition to the offenses described above, the State failed to adopt legal and practical measures to guarantee the effectiveness of the legal protection appeals process.*¹³⁵

The Court did not rule on the alleged violation of:

Article 13 (Freedom of Thought and Expression) of the Convention¹³⁶ because:

*The Court reasoned that the right to know the truth is already included within the investigation and prosecution rights enshrined in Articles 8 (Right to a Fair Trial) and 25 (Right to Judicial Protection) of the Convention.*¹³⁷

Article 21 (Right to Property), in relation to Article 1(1) of the Convention,¹³⁸ because:

*The Court lacked jurisdiction to adjudicate any infringements of the right to property because they occurred prior to the recognition of the Court's contentious jurisdiction.*¹³⁹

C. Dissenting and Concurring Opinions

1. Concurring Separate Opinion of Judge *ad hoc* Ramón Cadena Rámila

133. *Id.* ¶ 202.

134. *Id.* ¶ 310(3).

135. *Id.* ¶ 154.

136. *Id.* ¶ 151.

137. *Id.*

138. *Id.* ¶ 310(6).

139. *Id.* ¶ 222.

In a separate opinion, Judge Cadena Rámila offered his thoughts on the transcendental issues examined by the Court and discussed the principles that constitute a State's humanitarian duties.¹⁴⁰ First, the Judge believes that from the context described in the Judgment, it was clear that the State of Guatemala did not observe universally accepted principles and customs of international law during the hostilities of the internal armed conflict and in the current case.¹⁴¹ Judge Cadena Rámila noted that it would have been desirable for the judgment to indicate that Guatemala is obligated to identify those responsible, and to thoroughly investigate the events to determine if there were any violations to international humanitarian law.¹⁴² Two arguments that support this assertion are the inclusion of general international law in the interpretation and application of the American Convention, and the ability of the Court to consider acts of aggravating circumstances.¹⁴³

Judge Cadena Rámila noted that the interpretation and application of the American Convention does not exclude those of general international law.¹⁴⁴ In fact, the American Convention refers to obligations imposed by international law and to the "generally recognized principles of international law."¹⁴⁵ Furthermore, the lack of jurisdiction to determine violations of specific conventions does not mean that the Court cannot consider acts considered to be of aggravating circumstance.¹⁴⁶ When the massacre occurred, the prohibition against acts of violence towards prisoners, as established in Article 3 of the Geneva Conventions was already part of customary international law; therefore, the State of Guatemala was under an obligation to comply with it.¹⁴⁷

Second, Judge Cadena Rámila found it appropriate to apply the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women.¹⁴⁸

He noted that it was extremely important to apply the Convention

140. "Las Dos Erres" Massacre v. Guatemala, Preliminary Objections, Merits, Reparations, and Costs, Separate Opinion of Judge ad hoc Ramón Cadena Rámila, Inter-Am. Ct. H.R. (ser. C) No. 211, ¶ 12 (Nov. 24, 2009).

141. *Id.* ¶ 9.

142. *Id.* ¶ 14.

143. *Id.* ¶ 15.

144. *Id.*

145. *Id.*

146. *Id.* ¶ 16.

147. *Id.* ¶ 18.

148. *Id.* ¶ 19.

of Belém do Pará in the case of the Las Dos Erres massacre because the Convention defines violence against women and recognizes their right to life without violence.¹⁴⁹ He advanced the argument that the “application of gender perspective enriches the manner of looking at reality and acting on it.” Judge Cadena Rámila opined that the rapes that occurred during the Las Dos Erres massacre demonstrate the continued inequality between women and men and therefore falls well within the ambit of the Convention of Belém do Pará.¹⁵⁰

Judge Cadena Rámila also suggested that reparations be made in connection to these violations.¹⁵¹ For example, according to Judge Cadena Rámila, the State should expand and intensify training to authorities regarding the causes, nature, and consequences of gender violence.¹⁵² Training should also guarantee that the impact and consequences of the acts of violence be contemplated in the National Compensation Plan.¹⁵³ Finally, he would have the State implement training programs on women’s rights and measures of protection and prevention to guarantee women a life free from violence.¹⁵⁴

Lastly, Judge Cadena Rámila concluded that the State must provide access to information and state secrets in cases of grave human crimes.¹⁵⁵ International law recognizes the rights of individuals to receive information.¹⁵⁶ In cases of human rights violations, State authorities cannot resort to mechanisms such as confidentiality and state secret to justify their refusal to supply information required by the authorities.¹⁵⁷ Judge Cadena Rámila maintains that the Guatemalan Army and the State of Guatemala were obligated to deliver documents that provide necessary information to shed light on the Las Dos Erres Massacre as well as other cases of the same gravity.¹⁵⁸

IV. REPARATIONS

The Court ruled unanimously that the State had the following

149. *Id.* ¶ 21. The Convention recognizes that “violence against women is an offense to human dignity and a manifestation of the historically unequal power relations between women and men.”

150. *Id.* ¶ 23.

151. *Id.* ¶ 24.

152. *Id.*

153. *Id.*

154. *Id.*

155. *Id.* ¶ 25.

156. *Id.* ¶ 29.

157. *Id.* ¶ 30.

158. *Id.* ¶ 29.

obligations:

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

1. Judgment as a Form of Reparation

The Court indicated that the Judgment itself should be understood as a form of reparation.¹⁵⁹

2. Full Investigation, Determination, Prosecution, and Punishment of All Perpetrators and Masterminds

There should be serious, effective, and timely investigation of the facts associated with the violations in order to prosecute and eventually punish those responsible.¹⁶⁰ The State must determine all alleged perpetrators and masterminds of the massacre and initiate proceedings against them.¹⁶¹ The State must further initiate disciplinary, administrative, or criminal actions against the estate authorities who may have thwarted or prevented adequate investigation of the facts or extended the impunity of the massacre.¹⁶² Also, the State should publish the results of the investigation and of the criminal proceeding to the Guatemalan public.¹⁶³

3. Regulation on the Law on the Appeal for Legal Protection

In order to avoid repetition of these facts in the future, the State should adopt the measures necessary to amend the law on appeals for legal protection so that it cannot be abused during the investigation process.¹⁶⁴

4. Identification and Delivery of the Remains of the Individuals Executed in the Las Dos Erres Massacre to Their Next of Kin

159. "Las Dos Erres" Massacre v. Guatemala, Preliminary Objections, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 211, ¶ 310(7) (Nov. 24, 2009).

160. *Id.* ¶ 310(8).

161. *Id.* ¶ 233(c).

162. *Id.* ¶ 233(d).

163. *Id.* ¶ 236.

164. *Id.* ¶¶ 240, 310(10).

The Court ordered the State to use all available means to exhume, identify, and deliver the remains of the victims of the Las Dos Erres massacre to their next of kin.¹⁶⁵ In the event that remains are identified, they must be delivered to the respective victim's next of kin as soon as possible and at no cost to the families.¹⁶⁶

5. Training of Justice Agents

The State should implement training courses on human rights for the State authorities to prevent the occurrence of similar events in the future.¹⁶⁷ Specifically, the Court ordered that the State organize and initiate a specific program of training and strengthening to improve the justice system in Guatemala.¹⁶⁸

6. Publication of Judgment

The State must publish the pertinent portions of the Judgment in the State's official gazette and in another newspaper with national circulation in Guatemala.¹⁶⁹ The State must also publish the entire Judgment for at least one year on an official website created by the State.¹⁷⁰

7. Public Recognition of International Responsibility and Dissemination of the Documentary Video Showing the Facts of the Las Dos Erres Massacre

The State must perform a public act of recognition of international responsibility, referencing the facts of the massacre, the instant case, and the human rights violations declared in the Judgment.¹⁷¹ The State must also show a documentary video on the facts of the massacre during the public ceremony, at a public act in the capital of Petén, in a department of the western area where grave human rights violations have also occurred.¹⁷² The State must also widely distribute the video

165. *Id.* ¶ 310(11).

166. *Id.* ¶ 248.

167. *Id.* ¶¶ 250, 310(12).

168. *Id.* ¶ 253.

169. *Id.* ¶ 310(13).

170. *Id.* ¶ 256.

171. *Id.* ¶¶ 261, 310(14).

172. *Id.* ¶ 263.

for subsequent viewing.¹⁷³ To the extent possible, the performance and specifics of the public ceremony should be carried out in a manner to the agreement and cooperation of the next of kin.¹⁷⁴

8. Construction of a Monument

The Court ordered the State to build a monument at the site of the massacre in memory of those killed during the massacre.¹⁷⁵

9. Medical and Psychological Attention to the Victims

The Court ordered the State to provide medical and psychological treatment to the 153 next of kin of the deceased victims and the two surviving victims for the time necessary, immediately, and without cost to them.¹⁷⁶

10. Creation of a Webpage to Search for Children Abducted and Illegally Retained

The Court required the State to create a webpage for the search of children abducted and illegally retained during the internal conflict in order to provide guidance and support to institutions or national associations dedicated to the search for such children.¹⁷⁷ The State must adopt measures and allocate human, economic, logistic, and other resources necessary for this webpage to function and comply with its purpose.¹⁷⁸

B. Compensation

The Court awarded the following amounts:

1. Pecuniary Damages

173. *Id.*

174. *Id.* ¶ 262.

175. *Id.* ¶ 265.

176. *Id.* ¶ 270.

177. *Id.* ¶ 271.

178. *Id.* ¶ 273.

[None]

2. Non-Pecuniary Damages

The court awarded \$20,000 to each of the 153 next of kin of the deceased victims for violation to their right to a fair trial and right of judicial protection.¹⁷⁹

The court also awarded \$40,000 to Mr. Osorio Cristales to compensate him for the suffering he endured during his kidnapping, the denial of his ability to reside with his family and keep the name given to him at birth, and for the psychological effects and damages to his life project and exile.¹⁸⁰

The court further awarded \$30,000 to Mr. Gómez Hernández for the violations to his human rights.¹⁸¹

3. Costs and Expenses

The court awarded \$9,500 to FAMDEGUA and \$27,000 to CEJIL for the costs and expenses incurred in litigating the case and for future compliance monitoring.¹⁸² The Court also awarded \$96.92 to Mr. Osorio Cristales.¹⁸³

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

\$3,166,596.92

C. Deadlines

The Court provided that the State must carry out the investigation of the case without delay, and must adopt legal, administrative, and other measures necessary to regulate the law on appeals for legal protection in conformity with Article 2 (Obligation to Give Domestic Legal Effect to Rights) of the American Convention within a reasonable term of the judgment.¹⁸⁴

The State is required to initiate a follow up on the work already

179. *Id.* ¶ 292.

180. *Id.* ¶ 293.

181. *Id.* ¶ 294.

182. *Id.* ¶ 303.

183. *Id.* ¶ 304.

184. *Id.* ¶¶ 242, 310(8).

undertaken by the Commission to search for and identify the next of kin of the victims of the massacre as well as take any other steps necessary for the exhumation and identification of the remainder of the victims within six months from the time of notification of the Judgment.¹⁸⁵

The training program required for justice agents to strengthen the justice system in Guatemala must be organized and initiated within six months from the date of judgment.¹⁸⁶

The State's publication of the entire judgment on an official website must occur within two months.¹⁸⁷ Publication of the pertinent portions of the judgment in the official gazette and another newspaper of wide national circulation must be accomplished within six months.¹⁸⁸ The State should circulate the documentary video about the massacre within one year.¹⁸⁹

The State is required to construct the monument in memory of those killed in the massacre within one year.¹⁹⁰

The victims are entitled to receive medical and psychological attention, provided by the State, immediately.¹⁹¹

The State's obligation to create a webpage to assist in the search for missing children must be fulfilled within one year.¹⁹²

The State must pay all non-pecuniary damages within one year from the notification of the judgment.¹⁹³ Costs and expenses must be paid within one year.¹⁹⁴

V. INTERPRETATION AND REVISION OF JUDGMENT

[None]

VI. COMPLIANCE AND FOLLOW-UP

March 28, 2008: The State forwarded amendments to the Law on Amparo, Habeas Corpus, and Constitutionality to the Constitutional

185. *Id.* ¶ 247.

186. *Id.* ¶ 253.

187. *Id.* ¶ 256.

188. *Id.*

189. *Id.* ¶ 264.

190. *Id.* ¶ 265.

191. *Id.* ¶ 70.

192. *Id.* ¶ 274.

193. *Id.* ¶ 295.

194. *Id.* ¶¶ 303-304.

Court and is awaiting amendments.¹⁹⁵ In order to assess compliance with this measure of reparation, the Court requested that the State report on all the specific new initiatives, actions and measures, and their results, that have been implemented by the State with respect to the law while the corresponding law is being amended.¹⁹⁶

February 9, 2010: Regarding the State's obligation to execute arrest warrants ordered against the individuals declared responsible for the Las Dos Erres Massacre, on this date, Reyes Collin Gualip was arrested.¹⁹⁷ Indictments implicating him for the crime of murder were issued against him on February 17, 2010.¹⁹⁸

February 10, 2010: Manuel Pop Sun was arrested and transferred to the Criminal, Drug Trafficking and Environmental Crimes Court of First Instance.¹⁹⁹ On February 12, 2010, Pop Sun was implicated in proceedings for murder and human rights violations.²⁰⁰

February 14, 2010: The Court noted that the State fully complied with its obligation to publish the judgment in the official gazette and a major national newspaper.²⁰¹

March 3, 2010: Carlos Antonio Carías López, who during the massacre held the rank of Second Lieutenant of the Guatemalan Army, came forward voluntarily and was implicated in the proceedings for murder and theft.²⁰²

The Public Prosecution Service also requested the extradition of Gilberto Jordán, Jorge Vinicio Sosa Orantes, and Pedro Pimentel Ríos, who have been captured in the United States.²⁰³ The State is also taking measures to locate other defendants who are abroad.²⁰⁴

The Court acknowledged the State's efforts but reiterated that the State must intensify its actions as soon as possible to make progress in

195. "Las Dos Erres" Massacre v. Guatemala, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. ¶ 18 (July 6, 2011).

196. *Id.*

197. *Id.* ¶ 7.

198. *Id.*

199. *Id.*

200. *Id.*

201. *Id.* ¶ 31.

202. *Id.* ¶ 7.

203. *Id.*

204. *Id.*

the corresponding investigations.²⁰⁵

April 13, 2010: The State indicated that it had completed the exhumations of the victims of the massacre and concluded the procedures for the extraction and classification of skeletal remains.²⁰⁶ The remains were transferred to the Forensic Anthropology Foundation of Guatemala (“FAFG”) laboratory for the extraction of samples and subsequent DNA testing.²⁰⁷

The Court assessed the efforts made by the State to comply with their obligation to exhume, identify, and return the remains of the victims to their next of kin positively, and indicated that the State should continue reporting on the measures implemented to identify those exhumed.²⁰⁸

April 26, 2010: The State fully complied with its obligation to publish the entire judgment on an official webpage.²⁰⁹

May 12, 2010: With respect to providing the victims with medical and psychological treatment, the State stated that it requested information on the age, identification number, and exact addresses of the beneficiaries from the legal representatives in the case so as to locate the beneficiaries, but that it has been unable to obtain the addresses of the beneficiaries.²¹⁰

The Court found that the State had not complied with the obligation to provide medical and psychological treatment ordered, and reiterated the importance of the State to coordinate with the representatives to locate the beneficiaries.²¹¹ In order to monitor compliance with this obligation, the State must provide detailed and updated information on the measures adopted and the results.²¹²

September 10, 2010: In its May 10, 2012 report to the Court, the State stated that on this day, the Court of First Instance Court on Criminal Matters, Drug-Trafficking and Environmental Crimes of Guatemala ordered the active extradition of accused persons pending arrest who are

205. *Id.* ¶ 14.

206. *Id.* ¶ 19.

207. *Id.*

208. *Id.* ¶ 23.

209. *Id.* ¶ 31.

210. *Id.* ¶ 40.

211. *Id.* ¶ 43.

212. *Id.*

now located in the United States.²¹³

December 21, 2010: The State indicated that it had prepared a project to offer the course “Application of National and International Human Rights Law in Proceedings for Grave Violations in Guatemala” to train public prosecutors and assistant prosecutors of the Public Prosecution Service.²¹⁴ The State noted, however, that due to lack of funds, it has not been possible to open the course immediately.²¹⁵ It also does not appear that the State has made a retrospective analysis of the training courses provided to members of the Armed Forces.²¹⁶

The Court observed that despite the measures taken by the State relating to the implementation of training courses thus far, the measures have been insufficient to comply with the orders in the judgment.²¹⁷ The Court requested that the State refer to its training courses in its next report to the Court.²¹⁸

December 27, 2010: The State made payment of costs and expenses to FAMDEGUA.²¹⁹

May 30, 2011: CEJIL sent a draft agreement to the Presidential Commission for Coordinating Executive Policy in Human Rights (“COPREDEH”) and waited for payment to be made via bank transfer.²²⁰

July 6, 2011: The Court issued a decision monitoring the State’s compliance with its judgment.²²¹

Aside from the aforementioned compliance measures taken, the Court found that the State has still only partially complied with its obligation to make payment of compensation to beneficiaries and legal representatives.²²² The Court confirmed that the State has made positive

213. “Las Dos Erres” Massacre v. Guatemala, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. ¶ 8 (Sept. 4, 2012).

214. “Las Dos Erres” Massacre v. Guatemala, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. ¶ 25 (July 6, 2011).

215. *Id.* ¶ 24.

216. *Id.* ¶ 25.

217. *Id.* ¶ 27.

218. *Id.*

219. *Id.* ¶ 55.

220. *Id.*

221. “Las Dos Erres” Massacre v. Guatemala, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. (July 6, 2011).

222. *Id.* ¶ 58.

efforts to pay compensation of non-pecuniary damages to 121 of the beneficiaries.²²³ The Court requested that the State continue to report on the measures taken and results with respect to the thirty-four victims yet to receive payment.²²⁴

The Court also noted that the act of public acknowledgement of international responsibility and the production of the documentary on the facts of the massacre have not been carried out.²²⁵ The Court found that the State must take all necessary steps to carry this act out as soon as possible.²²⁶

The State had not taken any steps to erect a monument in the place once occupied by the Las Dos Erres community.²²⁷ The Court reiterated to the State its obligation to comply with this measure of reparation and requested that the State present updated and detailed information on the steps taken to comply.²²⁸

The Court also found that the webpage to search for children abducted and illegally held has yet to be created, and reiterated that it is essential for the State to adopt the necessary measures and allocate the human, financial, logistic, and other resources required to create the webpage.²²⁹

The State must submit a complete and detailed report to the Inter-American Court of Human Rights, indicating all measures taken to comply with the reparations ordered by the Court that remain pending by October 18, 2011.²³⁰

August 2, 2011: In its May 4, 2012 report to the Court, the State reported that the Criminal Court of First Instance for Criminal Matters, Drug Trafficking, and Environmental Crimes (“The Court of First Instance”) found Reyes Colin Gualip, Manuel Pop Sun, Daniel Martínez Méndez and Carlos Antonio Carías López guilty of murdering the inhabitants of Las Dos Erres, and guilty for Crimes against Humanity against the security of the State.²³¹ The Court of First Instance also found Carlos Antonio Carías Lopez responsible for aggravated theft of

223. *Id.*

224. *Id.*

225. *Id.* ¶ 35.

226. *Id.*

227. *Id.* ¶ 39.

228. *Id.*

229. *Id.* ¶ 47.

230. *Id.* ¶ 59(2).

231. “Las Dos Erres” Massacre v. Guatemala, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. ¶ 7 (Sept. 4, 2012).

the property of Las Dos Erres inhabitants.²³² The State also ordered the Office of the Public Prosecutor to continue investigating other persons that might have participated in those events.²³³

The Court stated that it valued the actions implemented by the State to make progress in the investigation of the facts and in obtaining convictions in the instant case, but noted that the State must continue adopting pertinent measures to complete investigations to prosecute and, if applicable, punish all the alleged individuals responsible for the violations found in the Judgment.²³⁴

December 7, 2011: Regarding its duty to show a video on the facts of the Massacre of Las Dos Erres community during the ceremony and also “to show it at a public act in the capital of Petén and in a department of the western area in which grave human rights violations occurred during the internal armed conflict,” the State indicated that it arranged for the presentation of the video on December 7, 2011, on the anniversary of the facts, and that this act took place in Santa Elena, Petén, with the presence of local authorities.²³⁵ It further alleged that it has agreed with the victims’ representatives to carry out the second act in the Department of Alta Verapáz—scheduling of that act is still pending.²³⁶

The Court took note of the two public acts organized in the city of Guatemala and Santa Elena, and of the presentation of the documentary video at the act held in Santa Elena, and considers that the State has complied with what was ordered in the Judgment as to the organization of the two public acts and the presentation of the respective documentary video on the facts of the Massacre of Las Dos Erres community in one of the acts.²³⁷ However, the Court also stated that the State must take measures to show the documentary video and distribute it as widely as possible as soon as possible.²³⁸

December 15, 2011: In its May 4, 2012 report to the Court, the State reported that on December 15, 2011, in response to its duty to organize the ordered public acts, the State, coordinated the transfer of persons residing in different parts of the country to the city, provided them with

232. *Id.*

233. *Id.*

234. *Id.* ¶ 11.

235. *Id.* ¶ 13.

236. *Id.* ¶ 18.

237. *Id.* ¶ 16.

238. *Id.* ¶ 17.

meals and accommodation, and hosted the Act of International Acknowledgment.²³⁹

February 8, 2012: With respect to the rest of its duty to pay compensation for non-pecuniary damages, the State reported that in November and December 2011, it made corresponding payments of the amounts ordered to 15 persons declared victims in the Judgment.²⁴⁰ In this report, the State also made note that it has not been able to contact seven of the victims and is taking some action in relation to the 13 victims who have passed away.²⁴¹

May 4, 2012: The State sent a report to the Court indicating its progress as discussed above.²⁴² The State indicated that it has paid compensation in the amounts ordered in favor of three more of the victims.²⁴³

September 4, 2012: The Court issued a decision monitoring the State's compliance with its judgment.²⁴⁴ This decision mostly discussed the State's February 28, 2012 and May 4, 2012 reports to the Court.

The Court expressed that it values the efforts made by the State to pay the compensatory amounts for non-pecuniary damage ordered in favor of 13 more victims and considers said payments to be fulfilled.²⁴⁵ The Court also noted that of a total of 155 victims in respect of whom it ordered the payment of compensations, to date, the State has complied with the payment in favor of 134 of them.²⁴⁶

The Court stated that it considers that the State has fully complied with the payment of costs and legal expenses to CEJIL as ordered in the judgment.²⁴⁷

However, the Court noted that the State has not presented fundamental and detailed information regarding the progress made in observation of all the other measures of reparation ordered, and re-establishes the pending compliance requests ordered in the Judgment of

239. *Id.* ¶ 12.

240. *Id.* ¶ 18.

241. *Id.* ¶ 19.

242. *Id.*

243. *Id.* ¶ 18.

244. "'Las Dos Erres' Massacre v. Guatemala, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. (Sept. 4, 2012).

245. *Id.*

246. *Id.* ¶ 23.

247. *Id.* ¶ 25.

November 24, 2009.²⁴⁸

VII. LIST OF DOCUMENTS

A. *Inter-American Court*

1. Preliminary Objections

[“Las Dos Erres” Massacre v. Guatemala, Preliminary Objections, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. \(ser. C\) No. 211 \(Nov. 24, 2009\).](#)

2. Decisions on Merits, Reparations and Costs

[“Las Dos Erres” Massacre v. Guatemala, Preliminary Objections, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. \(ser. C\) No. 211 \(Nov. 24, 2009\).](#)

[“Las Dos Erres” Massacre v. Guatemala, Preliminary Objections, Merits, Reparations, and Costs, Separate Opinion of Judge ad hoc Ramón Cadena Rámila, Inter-Am. Ct. H.R. \(ser. C\) No. 211 \(Nov. 24, 2009\).](#)

3. Provisional Measures

[None]

4. Compliance Monitoring

[“Las Dos Erres” Massacre v. Guatemala, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. \(Sept. 4, 2012\).](#)

[“Las Dos Erres” Massacre v. Guatemala, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. \(July 6, 2011\).](#)

248. *Id.* ¶¶ 26-27.

5. Review and Interpretation of Judgment

[None]

B. Inter-American Commission

1. Petition to the Commission

“Las Dos Erres” Massacre v. Guatemala, Petition No. 11.681, Inter-Am. Comm’n H.R. (Sept. 13, 1996).

2. Report on Admissibility

“Las Dos Erres” Massacre v. Guatemala, Report on Admissibility and Merits, Report No. 22/08, Inter-Am. Comm’n H.R., Case No. 11.681 (Mar. 14, 2008).

3. Provisional Measures

“Las Dos Erres” Massacre v. Guatemala, Precautionary Measures, Order of the Commission, Inter-Am. Comm’n HR., Case No. 11.681 (Sept. 12, 2000).

4. Report on Merits

“Las Dos Erres” Massacre v. Guatemala, Report on Admissibility and Merits, Report No. 22/08, Inter-Am. Comm’n H.R., Case No. 11.681 (Mar. 14, 2008).

5. Application to the Court

[“Las Dos Erres” Massacre v. Guatemala, Petition to the Court, Inter-Am. Comm’n H.R., Case No. 11.681 \(July 30, 2008\).](#)

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