

Nadege Dorzema et al. v. Dominican Republic

ABSTRACT¹

This case, also known as the “Guayubin Massacre,” addresses the standards to be followed by States that try to prevent illegal migrants from entering their territory. In this case, the Court found violations of several articles of the American Convention to the detriment of a group of Haitians who had entered the Dominican Republic illegally. The Dominican security forces had deployed excessive and disproportional forces, and later failed to provide due process guarantees to the victims and failed to investigate and prosecute those responsible for the massacre.

I. FACTS

A. Chronology of Events

June 16, 2000: A group of Haitian migrants arrive in Ouanamithe, Haiti, otherwise known as Wanament in Haitian Creole,² with the intent of crossing illegally into the Dominican Republic.

June 17, 2000: The group crosses the Massacre River and scrubland until they enter the Dominican Republic in the region of Santa Maria.³

June 18, 2000: In the early morning, about thirty Haitian nationals are picked up by a truck, driven by Mr. Felix Antonio Nuñez Peña and accompanied by Mr. Máximo Ruben de Jesus Espinal, both of whom are Dominican nationals.⁴ The truck, whose passengers include a minor by the name of Roland Israel and a pregnant woman named Ms. Sylvie Fe-

1. Theodore Nguyen, Author; Jennifer Toghian, Editor; Hayley Garscia, Chief IACHR Editor; Cesare Romano, Faculty Advisor.

2. Nadege Dorzema et al. v. Dominican Republic, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 251, ¶41 (Oct. 24, 2012).

3. *Id.*

4. *Id.*

lizer, begins its journey to Santiago de los Caballeros, a city in the Dominican Republic.⁵ The truck travels on a road in the northern part of the Dominican Republic, about thirty miles past the border of Haiti, near the village of Guayubin.⁶

The Haitian nationals are either squatting or sitting in the back of the truck, which is covered by tarpaulin.⁷ The truck drives through a first checkpoint without being stopped.⁸ At approximately 3:00 a.m., the truck arrives at a second checkpoint in Botoncillo where the soldiers gesture for the truck to stop.⁹ The truck, however, does not stop and continues on its way to the town of Copey.¹⁰ As a result, four soldiers belonging to the Border Forces Operations Post get into their patrol vehicle and pursue the truck.¹¹

After a two to five kilometer pursuit, the patrol vehicle catches up with the truck and begins flashing its light and honking its horn in an effort to get the truck to stop.¹² The truck does not yield to the patrol vehicle and continues on its path.¹³ During the pursuit, the truck is zigzagging at a considerable speed.¹⁴

Driving conditions at this time are poor and are exacerbated by the early morning darkness, irregular road conditions, and the considerable speed at which both cars are driving.¹⁵ Throughout the pursuit, the patrol car is around 150 to 300 meters away from the truck.¹⁶

The soldiers fire numerous shots at the truck with their regulation weapons and an M16 rifle, which hit the back gates and the cabin of the truck.¹⁷ As a result of the gunfire, co-driver Mr. de Jesus Espinal is mortally wounded and his body is thrown from the truck.¹⁸

The soldiers see Mr. Espinal's body thrown from the vehicle, but continue in their pursuit of the truck.¹⁹ There are no offensive or defen-

5. *Id.*

6. B. Duhaime & C. Lafontaine, *Human Rights and Migrations in the Americas: Revisiting the Dorzema et al vs Dominican Republic Case*, QUEBEC J. OF INT'L L. 449, 463 (Nov. 2013), available at http://rs.sqdi.org/volumes/RQDI_HS201311_15_Duhaime-Lafontaine.pdf.

7. Nadege Dorzema et al. v. Dominican Republic, Merits, Reparations and Costs, ¶ 41.

8. *Id.* ¶ 42.

9. *Id.*

10. *Id.*

11. *Id.* ¶ 43.

12. *Id.*

13. *Id.*

14. *Id.*

15. *Id.*

16. *Id.*

17. *Id.* ¶ 44.

18. *Id.* ¶¶ 43-44.

19. *Id.* ¶ 44.

sive attacks made by the truck.²⁰ Thereafter, however, the patrol car deliberately collides with the truck with such force that the truck overturns.²¹ Some of the truck's passengers are trapped under the truck, and those who are not attempt to escape the patrol vehicle.²² The soldiers shoot at the passengers fleeing on foot.²³

Two soldiers eventually search for medical help and subsequently order the surviving victims to lift up the overturned truck to free any trapped victims.²⁴ Upon realizing that the victims could not lift the truck on their own, the soldiers assist in trying to free the victims.²⁵ Those trapped are pulled out from under the truck and separated into groups of the dead²⁶ and the wounded.²⁷ Seven people are dead as a result of the shots fired and the truck overturning.²⁸ The soldiers order the survivors to place the bodies of the dead and seriously wounded into the ambulance to be taken to the José María Cabral and Baez Regional University Hospital in Santiago.²⁹ A total of nine people are taken to the hospital and at least five are hospitalized.³⁰ However, some of those hospitalized state that the care they receive is scant or non-existent.³¹

Eleven of the survivors are arrested but there are only records of seven of them since no formal arrest record is made.³² Several hours after their arrest, the detainees are taken to a military barrack in Deja-bón.³³ The soldiers at this barrack threaten the detainees with forced la-

20. Brief for the Equal Rights Trust as Amicus Curiae Supporting Petitioners, ¶ 7.

21. *Id.*

22. *Id.* ¶ 47.

23. *Id.*

24. *Id.* ¶ 50

25. *Id.*

26. Mr. Fritz Alce (Haitian national), Ms. Iffaudia Dorzema (Haitian national) Ms. Nadege Dorzema (Haitian national), and Mr. Máximo Ruben de Jesus Espinal (Dominican national) are killed as a result of the gunfire. *Id.* ¶ 48. Ms. Jacqueline Maxime dies from injuries to her chest and abdomen sustained in the truck roll-over. *Id.* Ms. Pardis Fortilus and Ms. Roselene Therméus are killed as a result of bullet wounds shot after the truck had overturned. *Id.*

27. *Id.* While the State indicates that thirteen individuals survived with injury, the Court is only able to verify the following ten injured survivors: Ms. Rose-Marie Petit Homme, Mr. Michel François, Mr. Noclair Florvilien, Mr. Joseph Desravine, Mr. Joseph Pierre, Mr. Renaud Tima, Mr. Selafoi Pierre, Ms. Sylvie Felizor, Mr. Josier Maxime and Ms. Sonide Nora; and at least four other survivors: Mr. Roland Israel, Ms. Rose-Marie Dol, Mr. Honorio Winique, and Mr. Alphonse Oremis. *Id.* ¶ 49.

28. *Id.* ¶ 48.

29. *Id.* ¶ 49.

30. *Id.* ¶ 51. Mr. Joseph Desravine, Ms. Sonide Nora, Mr. Noclair Florvilien, Mr. Josier Maxime, and Mr. Michel François are the hospitalized individuals. *Id.*

31. *Id.*

32. *Id.* ¶ 54. The Court has information on the following seven individuals: Ms. Rose Marie Dol, Ms. Sylvie Felizor, Ms Rose-Marie Petit Homme, Mr. Renaud Tima, Mr. Selafoi Pierre, Mr. Joseph Pierre, and the minor, Roland Israel. *Id.*

33. *Id.*

bor in the fields but provide them with the option to be taken to the border of Haiti in exchange for money.³⁴ In response, the detainees make a collection to pay the soldiers who, that same day, transfer the detainees to Quanamithe, Haiti.³⁵

June 19, 2000: The Secretary of State for the Armed Forces orders the Joint Board of General Officers of the Armed Forces to conduct a thorough and comprehensive investigation of the facts of the instant case.³⁶

June 20, 2000: The bodies of the deceased are placed in a mass grave in Dominican territory.³⁷

July 13, 2000: The Public Prosecutor recommends that four soldiers be tried by court martial.³⁸ Thereafter, the victims and next of kin sought trial before the ordinary courts rather than the military tribunals in order to ensure accountability and transparency in the procedures.³⁹ The Supreme Court, however, refuses their application on January 3, 2005.⁴⁰ This information was finally furnished to the victims on August 2, 2007, sixty-four months after their request to the Supreme Court.⁴¹

B. Other Relevant Facts

Strong anti-Haitian policies developed in the State under the leadership of President Rafael Leónidas Trujillo Molina (1930-1960) and his successor President Joaquín Antonio Balaguer Ricardo (1960-1996).⁴² The policies furthered by the Trujillo and Balaguer regimes had a profound impact on the “collective consciousness” of the Dominican population and among Dominican officials.⁴³ These policies legitimized racist and intolerant attitudes to the detriment of the Haitian people.⁴⁴

In the first third of the twentieth century, the first major migration of Haitians to the Dominican Republic took place when about 100,000

34. *Id.* ¶ 55

35. *Id.*

36. *Id.* ¶ 56.

37. Brief for the Equal Rights Trust as Amicus Curiae Supporting Petitioners, ¶ 8.

38. *Id.* ¶ 10.

39. *Id.*

40. Nadege Dorzema et al. v. Dominican Republic, Merits, Reparations and Costs, ¶ 64.

41. *Id.* ¶ 65.

42. B. Duhaime & C. Lafontaine, *Human Rights and Migrations in the Americas: Revisiting the Dorzema et al vs Dominican Republic Case*, QUEBEC J. OF INT'L L. 449, 459 (Nov. 2013), available at http://rs.sqdi.org/volumes/RQDI_HS201311_15_Duhaime-Lafontaine.pdf.

43. *Id.*

44. *Id.*

Haitians moved to the country's sugar plantations.⁴⁵ Many of these Haitian immigrants became permanent residents of the State, starting families in the country with children and grandchildren who were born and raised in the Dominican Republic.⁴⁶ It is estimated that between 900,000 and 1.2 million Haitians and Dominicans of Haitian origin make up the population of 8.5 million in the Dominican Republic.⁴⁷

This Haitian migration is largely explained by the environmental degradation and poverty that plagues Haiti.⁴⁸ Thus, many of the Haitian immigrants fled to the State in hopes of better job opportunities and socio-economic conditions.⁴⁹ Nevertheless, once migrating, many of the Haitians still suffer from poverty and marginalization due to their legal status and lack of opportunities.⁵⁰

II. PROCEDURAL HISTORY

A. Before the Commission

November 28, 2005: The initial petition is presented by the Support Group for Refugees and Repatriates (*Grupo de Apoyo a Los Repatriados y Refugiados*), represented by Mr. Cherubin Tragelus, and by the Dominican-Haitian Cultural Center, represented by Mr. Antonio Pol Emil.⁵¹

October 23, 2006: The International Clinic for the Defense of Human Rights of the Université du Québec à Montréal ("UQAM"), represented by Mr. Bernard Duhaime and Ms. Carol Hilling, is accredited as a co-petitioner.⁵²

December 22, 2008: The Commission approves Admissibility Report 95/08.⁵³

November 2, 2010: The Commission issues Merits Report No. 174/10.⁵⁴

45. Nadege Dorzema et al. v. Dominican Republic, Merits, Reparations and Costs, ¶ 38.

46. *Id.*

47. *Id.* ¶ 39.

48. *Id.*

49. *Id.*

50. *Id.*

51. Nadege Dorzema et al. v. Dominican Republic, Petition No. 1351-05, Inter-Am. Comm'n H.R., ¶ 1 (Dec. 22, 2008)

52. Nadege Dorzema et al. v. Dominican Republic, Merits, Reparations and Costs, ¶ 3(a).

53. *Id.* ¶ 3(b).

54. *Id.* ¶ 3(c).

The Commission found that the State was responsible for the violation of the rights to life, personal integrity, personal liberty, non-discrimination, judicial guarantees, and judicial protection established in Articles 2, 4, 5, 7, 24, 8, and 25 of the American Convention.⁵⁵

B. Before the Court

February 11, 2011: The Commission submits the case to the Court after the State failed to adopt its recommendations.⁵⁶

Sometime Before October 24, 2012: The Court receives *amici curiae* briefs from the following institutions: the “Bartolomé de las Casas” Human Rights Institute of the Universidad Carlos III of Madrid; the Human Rights Clinic of the Loyola Law School of Los Angeles; the Equal Rights Trust; the Asylum and Human Rights Clinic of the Boston University School of Law; and the Latin American Council of International and Comparative Law Scholars (*Consejo Latinoamericano de Estudios de Derecho Internacional y Comparado*, “COLADIC-RD”), Dominican Republic chapter.⁵⁷

1. Violations Alleged by Commission⁵⁸

Article 2 (Obligation to Give Domestic Legal Effect to Rights)
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 24 (Right to Equal Protection)
Article 25 (Right to Judicial Protection)

55. *Id.*

56. *Id.* ¶ 1.

57. *Id.* ¶ 9.

58. *Id.* ¶ 3(c) Although the Commission did not formally raise an Article 3 (Right to Juridical Personality) violation, the Commission tried to bring an Article 3 argument at the hearing. *Id.* ¶ 222.

2. Violations Alleged by Representatives of the Victims⁵⁹

Same Violations Alleged by Commission.

III. MERITS

A. *Composition of the Court*⁶⁰

Diego García-Sayán, President
Manuel E. Ventura Robles, Vice-President
Leonardo A. Franco, Judge
Margarette May Macaulay, Judge
Alberto Pérez Pérez, Judge
Eduardo Vío Grossi, Judge

Pablo Saavedra Alessandri, Secretary
Emilia Segares Rodríguez, Deputy Secretary

B. *Decision on the Merits*

October 24, 2012: The Court issues its Judgment on the Merits, Reparations and Costs.⁶¹

The Court found unanimously that the Dominican Republic had violated:

Article 4(1) (Prohibition of Arbitrary Deprivation of Life), in relation to Article 1(1) of the Convention, to the detriment of Ms. Jacqueline Maxime, Mr. Fritz Alce, Ms. Roselene Therméus, Ms. Ilfaudia Dorzema, Mr. Máximo Rubén de Jesús Espinal, Ms. Pardis Fortilus, and Ms. Nadege Dorzema,⁶² because:

*According to the Court, it was undisputed that the State agents pursued and opened fire indiscriminately against the truck causing it to flip over, killing six Haitian nationals, and injuring at least ten others.*⁶³

59. *Id.* The Support Group for Refugees and Repatriates, the Dominican-Haitian Cultural Center, and the International Clinic for the Defense of Human Rights of the UQAM serve as representatives of the victims.

60. Judge Rhadys Abreu Blondet did not participate in the deliberation or signing of this Judgment because she is a Dominican national. *Id.* n.1.

61. *Nadege Dorzema et al. v. Dominican Republic, Merits, Reparations and Costs.*

62. *Id.* ¶ 97.

63. *Id.* ¶ 83.

There was no evidence to show that the migrants were armed or had retaliated violently in any manner.⁶⁴ In order to determine whether or not the State violated Article 4(1) (Prohibition of Arbitrary Deprivation of Life), the Court analyzed the principles of legality, absolute necessity, and proportionality.⁶⁵

Regarding legality, the Court stated that when using force, it must be done to further the achievement of a legitimate goal.⁶⁶ In this case, the goal was to prevent a vehicle from fleeing that failed to stop at a checkpoint.⁶⁷ State law and training should establish how to react in this situation.⁶⁸ However, at the time the events took place, the State had no legislation establishing rules for the use of force by State agents.⁶⁹

Regarding absolute necessity, the Court deemed that when using force, it must be determined whether other means are available to protect the life and safety of the person or situation, which the actor sought to protect.⁷⁰ The Court determined that the State agents should not have used lethal force against people who were not a threat or source of imminent danger to the agents or any third parties.⁷¹ Thus, the scenario did not constitute a situation of absolute necessity.⁷² The Court observed that there were less extreme measures that could have been implemented to achieve the same end, such as traffic controls, barricades, speed bumps, and tire puncturing devices.⁷³

Regarding proportionality, the Court found that the force used must be proportionate to the level of resistance.⁷⁴ There must be proportionality between the force used and the harm sought to prevent.⁷⁵ In the present case, though the truck failed to stop at the checkpoint, giving rise to a dangerous pursuit, at no time was there any aggression from the people in the truck.⁷⁶ The State agents, nonetheless, fired high caliber weapons indiscriminately at the truck and fleeing people resulting in injury and

64. *Id.*

65. *Id.*

66. *Id.* ¶ 85(i).

67. *Id.*

68. *Id.*

69. *Id.*

70. *Id.* ¶ 85(ii).

71. *Id.*

72. *Id.*

73. *Id.* ¶ 88.

74. *Id.* ¶ 85(iii).

75. *Id.*

76. *Id.* ¶ 86.

death.⁷⁷

Overall, the Court found that the State's use of unlawful and excessive force constituted an arbitrary deprivation of life.⁷⁸ Additionally, none of the victims were given the opportunity to surrender, nor was a gradual attempt to achieve their detention attempted; rather, the agents used lethal weapons to kill them.⁷⁹ Thus, the Court concluded the State violated the right to life established in Article 4(1) (Prohibition of Arbitrary Deprivation of Life) of the American Convention, in relation to Article 1(1).⁸⁰

Article 5(1) (Right to Physical, Mental, and Moral Integrity), in relation to Article 1(1) of the Convention, to the detriment of Mr. Noclair Florvilien, Mr. Joseph Desvraine, Ms. Sylvie Felizor, Ms. Michel Françoise, Ms. Sonide Nora, Ms. Rose-Marie Petit-Homme, Mr. Joseph Pierre, Mr. Renaud Tima, Mr. Selafoi Pierre, Mr. Josier Maxime, Mr. Alphonse Oremis, and Mr. Honorio Winique,⁸¹ because:

The Court found that due to the State's unlawful, unnecessary, and excessive force, at least five individuals were injured by the gunfire and at least five were injured as a result of the truck overturning.⁸² Additionally, based on medical records, the Court found that these victims also suffered psychological harm.⁸³ Thus, the Court was able to conclude that the State violated its obligation to respect the right to personal integrity set out in Article 5(1) (Right to Physical, Mental, and Moral Integrity), in relation to Article 1(1) of the Convention.⁸⁴

Article 5(1) (Right to Physical, Mental, and Moral Integrity), in relation to Article 1(1) of the Convention, to the detriment of Ms. Jacqueline Maxime, Mr. Fritz Alce, Ms. Roselene Therméus, Ms. Ilfaudia Dorzema, Mr. Máximo Rubén de Jesús Espinal, Ms. Pardis Fortilus, and Ms. Nadege Dorzema, and their next of kin,⁸⁵ because:

The violations in this section involve actions subsequent to the main

77. *Id.*

78. *Id.* ¶ 92.

79. *Id.* ¶ 95.

80. *Id.* ¶ 97.

81. *Id.*

82. *Id.* ¶ 98.

83. *Id.*

84. *Id.*

85. *Id.*

events, which include the due diligence of the investigation, treatment of the survivors, and treatment of the deceased.⁸⁶ The Court reviewed the State's obligation to guarantee rights to life and personal integrity in connection to the events without discrimination.⁸⁷

The Court recognized that, based on the principles of force, if an individual is injured due to the use of force, assistance and medical aid should be ensured, provided, and relatives or close friends should be notified as soon as possible.⁸⁸ Additionally, the incident should be promptly reported and reviewed by authorities.⁸⁹

When discussing due diligence in the investigation, the Court referred to Article 1(1) (Obligation to Respect Rights), which includes the obligation to investigate violations of substantive rights.⁹⁰ This is particularly pertinent in cases where lethal force has been used.⁹¹ Thus, the Court found that when the State became aware that their security agents used lethal force, it was obligated to initiate a "serious, independent, impartial, and effective investigation without delay."⁹²

Through newspaper articles, incidents regarding lethal force in the past, different testimonies, and the complaint filed by the next of kin in the domestic region, the Court found that the State did not investigate the events with the due diligence required by Article 1(1) (Obligation to Respect Rights).⁹³ The facts of this case show that the surviving migrants were forced to move the bodies of the wounded and dead without the presence of a prosecutor.⁹⁴ Additionally, the soldiers threw the bodies into ambulances as if they were objects and no evidence of a serious investigation was found.⁹⁵

Thus, the Court concluded that the next of kin's right to mental and moral integrity was violated based on the additional suffering caused by the subsequent acts and omissions of the State agents.⁹⁶ As a result, the

86. *Id.* ¶ 99.

87. *Id.*

88. *Id.* ¶ 100.

89. *Id.*

90. *Id.* ¶ 101.

91. *Id.*

92. *Id.*

93. *Id.* ¶ 103.

94. *Id.* ¶ 104.

95. *Id.*

96. *Id.* ¶ 105.

*Court concluded that Article 5(1) (Right to Physical, Mental, and Moral Integrity) was violated to the detriment of the victims.*⁹⁷

*Regarding the treatment of the survivors, the Court found a failure to register the entries and exits of the victims from the hospital they were taken to, lack of medical care for the five seriously injured victims, and a failure to diagnose their condition and administer necessary treatment.*⁹⁸ *Thus, the Court concluded that the survivors' right to personal integrity was violated.*⁹⁹

*When discussing the treatment of the deceased and their corpses, the Court noted that the corpses were eventually buried in a mass grave by the surviving victims.*¹⁰⁰ *As such, the Court observed that the corpses were not repatriated or returned to the victims' next of kin.*¹⁰¹ *The Court recognized that the return of a deceased body to its next of kin is of "paramount importance" in order to complete the mourning process.*¹⁰² *International standards require that upon positive identification, a body should be returned to the next of kin.*¹⁰³

*Thus, the Court concluded that the State's demeaning treatment of the victims violated Article 5(1) (Right to Physical, Mental, and Moral Integrity) in relation to Article 1(1) of the Convention to the detriment of the deceased and their next of kin.*¹⁰⁴

Article 7 (Right to Personal Liberty), in relation to Article 1(1) of the Convention, to the detriment of Ms. Rose-Marie Petit-Homme, Mr. Joseph Pierre, Mr. Renaud Tima, Mr. Selafoi Pierre, Ms. Sylvie Felizor, Roland Israel and Ms. Rose Marie Dol,¹⁰⁵ because:

*In this section, the Court examined the events that took place throughout the detention of Ms. Rose-Marie Petit-Homme, Mr. Joseph Pierre, Mr. Renaud Tima, Mr. Selafoi Pierre, Ms. Sylvie Felizor, Roland Israel and Ms. Rose Marie Dol.*¹⁰⁶ *Due to the migratory status of the victims,*

97. *Id.*

98. *Id.*

99. *Id.*

100. *Id.* ¶¶ 114-116.

101. *Id.*

102. *Id.*

103. *Id.*

104. *Id.* ¶ 117.

105. *Id.*

106. *Id.* ¶ 124.

the Court conducted its analysis of Article 7 (Right to Personal Liberty) in conjunction with Article 8 (Right to a Fair Trial) of the Convention.¹⁰⁷ Additionally, the Court analyzed the detention based on the requirements of exceptionality of Article 7 (Right to Personal Liberty) of the Convention rather than as a deprivation of liberty for identity verification and/or border control, due to the fact that the detention was carried out on State territory and not when the migrants crossed the border.¹⁰⁸

Before the Court conducted an analysis of the sub-provisions of Article 7 (Right to Personal Liberty), it indicated that Article 7(1) (Right to Personal Liberty and Security) of the Convention contains a general rule that “[e]very person has the right to personal liberty and security.”¹⁰⁹ Thus, this general obligation would be deemed violated should the Court find a violation of any paragraph of Article 7 (Right to Personal Liberty).¹¹⁰

According to the Court, limitations of physical liberty, even for a short period of time, must strictly adhere to the relevant provisions of the American Convention and domestic law, provided that domestic law does not conflict with the Convention.¹¹¹ Thus, Article 8(2) of the 1994 Constitution and the 1939 Immigration Law, controlling at the time of the incident, was relevant.¹¹² In addition, the Immigration Regulation No. 279 of May 12, 1939 was relevant to the deportation procedures.¹¹³

Article 8(2) of the 1994 Constitution provides guidelines for individuals who have been imprisoned or deprived of liberty.¹¹⁴ This includes the right to due process, the right to be brought before a competent judicial authority, and the right not to be transferred from one prison facility to another without an order from a competent judicial authority.¹¹⁵

Article 13 of the 1939 Immigration law indicates that that no alien shall be deported without due process, which includes being informed of the specific charges on which the deportation is based and a fair opportuni-

107. *Id.*

108. *Id.*

109. *Id.* ¶ 125.

110. *Id.*

111. *Id.* ¶ 126.

112. *Id.*

113. *Id.* ¶¶ 127-128.

114. *Id.*

115. *Id.*

ty to refute such charges.¹¹⁶

Lastly, *Immigration Regulation No. 279 of May 12, 1939* provides that immigration officials shall conduct a full investigation of any alien whenever there is a “truthful” report or any reason to believe that the alien is within the State in violation of the *Immigration Act*.¹¹⁷ Further, the regulation provides a set of steps that must be followed to deport an alien and to allow the alien to oppose his or her deportation.¹¹⁸

Regarding Article 7(2) (*Prohibition of Deprivation of Liberty Unless for Reasons and Conditions Previously Established by Law*), despite the aforementioned rules, after the truck overturned, eleven people were detained and taken to the Border Intelligence Operations Base (“DOIF”) in Montecristi.¹¹⁹ They were then taken to the Dejabón military barracks, where soldiers forced the detainees to pay them money or to face prison time where they would do hard labor.¹²⁰ The evidence showed that the soldiers were paid off, and as a result the detainees were taken to Ouanaminthe, in Haiti.¹²¹ This transfer was not authorized by a written or justified order.¹²² Additionally, at no time were any of the detainees brought before a competent authority as required by the Constitution.¹²³

Further, the Court found that the State did not respect the requirement to record information regarding the detainees so that they could be deported.¹²⁴ Accordingly, there was an absence of information on the “G1-form” showing a disregard of the provisions set forth in Regulation No. 279.¹²⁵ Based on these findings, the Court ruled that the State violated Article 7(2) (*Prohibition of Deprivation of Liberty Unless for Reasons and Conditions Previously Established by Law*) of the American Convention.¹²⁶

Regarding, Article 7(3) (*Prohibition of Arbitrary Arrest or Imprison-*

116. *Id.* ¶ 128.

117. *Id.* ¶ 129.

118. *Id.*

119. *Id.* ¶ 130.

120. *Id.*

121. *Id.*

122. *Id.*

123. *Id.*

124. *Id.* ¶ 131

125. *Id.*

126. *Id.*

ment), the Court found that the State did not detain the victims with the intention of bringing them before a judge or other officer authorized to exercise judicial power in order to formulate charges against them in compliance with domestic norms.¹²⁷ Thus, the Court ruled that the arrests were for unlawful and arbitrary purposes because the victims were not detained in order to conduct formal immigration procedures.¹²⁸ Therefore, the State violated of Article 7(3) (Prohibition of Arbitrary Arrest or Imprisonment) of the Convention.¹²⁹

In analyzing Article 7(4) (Right to be Informed of Reasons of Arrest and Charges), the Court looked specifically at the domestic law and the provisions of the Constitution.¹³⁰ The Court determined that detainees, held for deportation purposes, must be informed of the specific reasons that they are subject to deportation.¹³¹

At no time during the deprivation of liberty, however, were the Haitian detainees informed of the reasons for their detention.¹³² There was also no written evidence to show that the detainees were given any kind of information of the charges against them.¹³³ Thus, the Court found that the State violated, once more, Article 7(2) (Prohibition of Deprivation of Liberty Unless for Reasons and Conditions Previously Established by Law) and Article 7(4) (Right to be Informed of Reasons of Arrest and Charges) of the American Convention.¹³⁴

Regarding Article 7(5) (Right to Be Promptly Brought Before a Judge and Right to a Trial Within Reasonable Time), the Court emphasized that Article 8(3)(d) of the 1994 Dominican Constitution, in force at the time of the detention, indicated that: “[a]nyone deprived of their liberty shall be brought before the competent judicial authority within forty-eight hours of their detention or release.”¹³⁵ Additionally, Article 7(5) (Right to Be Brought Promptly Before a Judge and Right to a Trial Within Reasonable Time) of the Convention provides that a judge or officer authorized by law to exercise judicial power should promptly re-

127. *Id.* ¶ 134

128. *Id.*

129. *Id.*

130. *Id.* ¶ 132

131. *Id.*

132. *Id.*

133. *Id.*

134. *Id.*

135. *Id.* ¶ 138

view the detention to guarantee the rights of the detainees.¹³⁶

Though the detention lasted less than forty-eight hours, the detainees were expelled without ever being brought before a competent authority that would determine their release.¹³⁷ Thus, the Court found that the State violated Article 7(5) (Right to Be Brought Promptly Before a Judge and Right to a Trial Within Reasonable Time) of the American Convention.¹³⁸

Regarding Article 7(6) (Right to Have Recourse Before a Competent Court), the Court found that due to how rapidly the detainees were deported, they never had the opportunity to exercise an appropriate remedy that would ensure the lawfulness of their detention.¹³⁹ Additionally, the Court observed that the migratory regulations in effect at the time did not establish remedies to contest the permissibility of their arrest or detention.¹⁴⁰ Thus, the Court ruled that the State violated Article 7(6) (Right to Have Recourse Before a Competent Court) of the Convention.¹⁴¹

Articles 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal) and 22(9) (Prohibition of Collective Expulsions), in relation to Article 1(1) of the Convention, to the detriment of Ms. Rose-Marie Petit-Homme, Mr. Joseph Pierre, Mr. Renaud Tima, Mr. Selafoi Pierre, Ms. Sylvie Felizor, Roland Israel, Ms. Rose Marie Dol, Mr. Josier Maxime and Ms. Sonide Nora,¹⁴² because:

The Court noted that the violation of Article 22(9) (Prohibition of Collective Expulsion) was not originally included in the Merits Report, but was later brought up by the representatives of the victims.¹⁴³

Regarding Article 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal), the Court observes that the right to due process of law should be guaranteed to all persons regardless of their migration status.¹⁴⁴ According to the Court, ensuring the victims'

136. *Id.* ¶ 135

137. *Id.* ¶ 139.

138. *Id.*

139. *Id.* ¶ 143

140. *Id.*

141. *Id.*

142. *Id.* ¶ 78.

143. *Id.* ¶ 151

144. *Id.* ¶ 159.

right to due process was particularly important here due to the undocumented migrants' vulnerability to potential or actual violations of rights.¹⁴⁵

The Court made note of due process standards set out by the State and the 1999 Protocol of Understanding on Reparation Mechanisms between the Dominican Republic and the Republic of Haiti.¹⁴⁶ Taking into account both the domestic standards in force in the State and international law, the Court determined that, in order to preserve due process rights, several minimum guarantees are required, including the right to be informed of the charges against him or her and the opportunity to defend against his or her charges.¹⁴⁷

From the forgoing evidence, the Court found that the migrants were not provided any of the minimum guarantees. Thus, the Court ruled that the State violated Article 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal) of the American Convention in relation to Article 1(1).¹⁴⁸

Article 22(9) (Prohibition of Collective Expulsion) prohibits the collective expulsion of aliens.¹⁴⁹ The Court stated that, due to the collective nature of such an expulsion, decisions on whether or not to deport do not involve an objective analysis of the individual circumstances of each migrant and therefore are arbitrary.¹⁵⁰ The Court found that the migrants as a collective group were treated without considering any of their special needs as individuals.¹⁵¹ Thus, the State violated article 22(9) (Prohibition of Collective Expulsion) of the American Convention, in relation to Article 1(1).¹⁵²

Article 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal) and 25(1) (Right of Recourse Before a Competent Court) in relation to Article 1(1) of the American Convention, to the detriment of Ms. Jacqueline Maxime, Mr. Fritz Alce, Ms. Roselene Therméus, Ms. Ilfaudia Dorzema, Mr. Máximo Rubén de Jesús Espinal, Ms. Pardis Fortilus, Ms. Nadege Dorzema, Mr. Joseph

145. *Id.* ¶ 154.

146. *Id.* ¶ 166.

147. *Id.* ¶ 175.

148. *Id.* ¶ 176.

149. *Id.* ¶ 168.

150. *Id.* ¶ 171.

151. *Id.* ¶ 178.

152. *Id.*

Pierre, Mr. Selafoi Pierre, Mr. Joseph Desravine, Mr. Renaud Tima, Ms. Sylvie Felizor, Ms. Rose-Marie Petit-Homme, Ms. Sonide Nora, Mr. Josier Maxime, Mr. Noclair Florvilien, Mr. Michel Francoise, Roland Israel, Ms. Rose Marie Dol, Mr. Alphonse Oremis, and Mr. Honorio Winique,¹⁵³ because:

In determining whether Article 25(1) (Right to Recourse Before a Competent Court) and 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal) were violated, the Court discussed two topics: (1) the military justice system cannot be the competent jurisdiction for human rights matters; and (2) the impunity of the offenders and access to justice.¹⁵⁴

The Court determined that the military courts are not effective to determine issues of serious human rights violations.¹⁵⁵ Military courts are limited to hearing cases that involve the protection of special juridical rights of military nature that involve members of the armed forces in the exercise of their function.¹⁵⁶ The Court finds that the military justice system is not a competent system to investigate and prosecute the violators of human rights.¹⁵⁷ Instead, this duty is always upon the ordinary justice system.¹⁵⁸

In the present case, the arbitrary deprivation of life and the injuries to the Haitian migrants inflicted by the State agents are acts that, under no circumstances, have a relationship to military goals.¹⁵⁹ The rights violated, such as the right to life and personal integrity, are protected by domestic criminal law and the American Convention, not by military law.¹⁶⁰

The Court determined that the investigation in this case was carried out by military officials and judges, that there was no record of any ballistics report, that the victims were not allowed to participate in the proceedings, that the investigation was not individualized to each injured person, that the arrest warrants against the indicted soldiers were never executed, and that the investigation failed to determine whether the use

153. *Id.* ¶¶ 198, 201.

154. *Id.* ¶¶ 187-201.

155. *Id.* ¶ 188

156. *Id.*

157. *Id.*

158. *Id.*

159. *Id.* ¶ 190.

160. *Id.*

of force violated the principles of legality, necessity, and proportionality.¹⁶¹

Additionally, the Joint Court Martial Appeals Court acquitted three soldiers on grounds that the murder that took place was preceded by provocation or serious threats of violence.¹⁶² The Court found that this ruling conflicted with the uncontested fact that the victims never resisted or posed any danger to the soldiers, a fact confirmed by the soldiers themselves.¹⁶³ This decision, nonetheless, resulted in the removal of the perpetrators from custody and left the facts of the case in impunity.¹⁶⁴ The military jurisdiction's involvement in the investigation of the facts also violated the parameters of exceptionality and did not take into account the nature of the acts involved.¹⁶⁵

Regarding the impunity of the offenders and access to justice, the Court found that the victims of human rights violations and their next of kin have the right to have their grievances heard and resolved by a competent court, within the parameters of due process.¹⁶⁶ These rights go far beyond the military sphere and are inherent in ordinary jurisdiction.¹⁶⁷

From the evidence, on September 30, 2002, the next of kin of the deceased made a request to open an investigation on the case that was rejected by the First Instance Court of the Montecristi Judicial District.¹⁶⁸ In addition, the Supreme Court of Justice's decision in January 2, 2005 rejected an appeal for the appointment of an ordinary judge to the case.¹⁶⁹ This decision not only disregarded the provisions of the Convention that restrict military jurisdiction, but also obstructed the participation of the next of kin in their capacity as victims.¹⁷⁰

Based on the military justice systems involvement in the case and the impunity of the offenders and access to justice, the Court ruled that the State violated Articles 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal) and 25(1) (Right to Re-

161. *Id.* ¶ 192.

162. *Id.* ¶ 197.

163. *Id.*

164. *Id.*

165. *Id.*

166. *Id.* ¶ 199.

167. *Id.*

168. *Id.* ¶ 194.

169. *Id.*

170. *Id.*

course Before a Competent Court), in relation to Article 1(1) of the Convention.¹⁷¹

Article 2 (Obligation to Give Domestic Legal Effect to Rights), in relation to Articles 8 (Right to a Fair Trial) and 25 (Right to Judicial Protection) of the Convention,¹⁷² because:

The Court emphasized that it is the obligation of the state parties to adapt their domestic law to the provisions of the Convention to ensure that certain rights are recognized.¹⁷³ This requires the elimination of traditions and practices of any nature that cause a violation of the guarantees set out in the Convention and the enactment of laws and putting into practice effective measures that effectively observe said guarantees.¹⁷⁴

Domestic law must clearly indicate who soldiers are, the criminal offences that pertain to the military jurisdiction, what determines the illegality of unlawful conduct, when the use of military punitive power is justified, and the corresponding sanctions.¹⁷⁵

The Court observed that the military jurisdiction was attempting to justify its intervention based on Article 3 of Law No. 3483 of 1953 which provides that “[. . .] Offenses of all kinds committed by soldiers [. . .] of the State shall be tried by the military jurisdiction.”¹⁷⁶ The Supreme Court further justified military jurisdiction using Article 28 of Law No. 834.¹⁷⁷

The Court reasoned that the actions of the military officials during the investigation and the trial of the case in the military jurisdiction, and those of the ordinary domestic court represented a clear failure to comply with the obligations set in Article 2 (Obligation to Give Domestic Legal Effect to Rights).¹⁷⁸ The Court found that the State’s laws were not in compliance with this obligation because their rules conflicted with the provisions in the Convention that restrict the military’s involvement

171. *Id.* ¶ 201.

172. *Id.* ¶ 211. The Merits Judgment did not indicate which victims this violation was committed against.

173. *Id.* ¶ 207.

174. *Id.*

175. *Id.* ¶ 208.

176. *Id.* ¶ 211.

177. *Id.*

178. *Id.*

in human rights cases.¹⁷⁹

The Court noted, however, that the State made changes to its Constitutional and legislative norms between 2002 and 2012.¹⁸⁰ The new laws, which include changes to the Code of Criminal Procedure and the adoption of Law No. 278/2004, helped establish the competence of the ordinary jurisdiction to try offenses committed by military personnel.¹⁸¹ For instance, Article 54 of the 2012 Constitution indicates that “acts committed by members of the Armed Forces that constitute crimes and offenses shall fall within the sphere of ordinary criminal or military law, and therefore, shall be heard and punished by the competent bodies [. . .]”.¹⁸² Additionally, the new changes established the exceptional nature of the military jurisdiction as exclusively for disciplinary offenses and for offenses strictly related to the armed forces.¹⁸³

The Court ruled that these changes between 2002 and 2010 remedied the State’s obligation to adopt domestic legal provisions established in Article 2 (Obligation to Give Domestic Legal Effect to Rights) of the American Convention.¹⁸⁴

Article 1(1) (Obligation to Respect Rights), in relation to Articles 2 (Obligation to Give Domestic Legal Effect to Rights), 4 (Right to Life), 5 (Right to Humane Treatment), 7 (Right to Personal Liberty), 8 (Right to a Fair Trial), 22(9) (Prohibition of Collective Expulsions), and 25 (Right to Judicial Protection) of the American Convention,¹⁸⁵ because:

Article 1(1) (Obligation to Respect Rights) provides that the rights recognized in the Convention must be guaranteed without any discrimination for reasons of race, color, national or social origin, economic status, or any other social condition.¹⁸⁶ The Court recognized the concept of indirect discrimination, which can exist when there is a disproportionate impact of norms, actions, policies, or other measures that appear to be neutral, but have negative effects on particular groups of

179. *Id.* ¶ 216.

180. *Id.* ¶ 212.

181. *Id.* ¶¶ 213-215.

182. *Id.*

183. *Id.* ¶ 217.

184. *Id.*

185. *Id.* ¶ 238.

186. *Id.* ¶ 231.

people.¹⁸⁷ *It is the State's duty to take affirmative steps to rectify discriminatory practices within their societies to the detriment of specific groups of people.*¹⁸⁸

*In this case, the Haitian migrants were vulnerable due to: (1) the absence of preventative measures to address issues relating to migratory control on the land border with Haiti despite their vulnerability as a group; (2) the use of violent, illegal, and disproportionate force against unarmed migrants; (3) the failure to investigate the excessive force, the absence of testimony, and the impunity of the events; (4) the detention and collective deportation without due guarantees; (5) the lack of proper medical attention to the injured victims; and (6) the degrading treatment of the corpses and failure to return them to the next of kin.*¹⁸⁹

*The Court ruled that, based on the foregoing violations, there was de facto discrimination against the victims due to their status as migrants.*¹⁹⁰ *As a result, the Court concluded that the State discriminated against the Haitian migrants in ensuring their right in violation of Article 1(1)(Obligation to Respect Rights) of the American Convention in relation to Articles 2 (Obligation to Give Domestic Legal Effect to Rights), 4 (Right to Life), 5 (Right to Humane Treatment), 7 (Right to Personal Liberty), 8 (Right to a Fair Trial), 22(9) (Prohibition of Collective Expulsions), and 25 (Right to Judicial Protection).*¹⁹¹

The Court did not rule on:

Articles 3 (Right to Juridical Personality) and 24 (Right to Equal Protection) of the American Convention,¹⁹² because:

*The Court made a distinction between Articles 1(1) (Obligation to Respect Rights) and 24 (Right to Equal Protection) of the Convention.*¹⁹³ *Article 1(1) (Obligation to Respect Rights) refers to the State's duty to respect and ensure, without discrimination, the rights contained in the American Convention.*¹⁹⁴ *This is in contrast to Article 24 (Right to Equal Protection), which refers to discriminatory treatment pertaining to do-*

187. *Id.* ¶ 235.

188. *Id.* ¶ 236.

189. *Id.* ¶ 237.

190. *Id.* ¶ 238.

191. *Id.*

192. *Id.* ¶ 227.

193. *Id.* ¶ 226.

194. *Id.*

*mestic law.*¹⁹⁵

*In the present case, the parties did not demonstrate unequal protection of domestic law.*¹⁹⁶ *Thus, the Court did not rule on Article 24 (Right to Equal Protection) of the Convention.*¹⁹⁷ *Additionally, the Court found that the arguments relating to Article 3 (Right to Juridical Personality) of the Convention do not align with the Court's case law regarding the right to juridical personality, but rather to the analysis of Article 1(1) (Obligation to Respect Rights).*¹⁹⁸

C. Dissenting and Concurring Opinions

[None]

IV. REPARATIONS

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

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

1. Investigate, Prosecute, and Punish Those Responsible

The State must re-open the investigation into the facts of the case in order to individualize, identify, prosecute, and punish all those responsible for the events that took place.¹⁹⁹ The State must investigate all the facts and background information related to the instant case and remove all obstacles to the proper investigation of the case.²⁰⁰

2. Locate and Return the Victims' Remains

The State must determine the locations of the bodies of the deceased and repatriate them in order to return them to their next of kin.²⁰¹

195. *Id.*

196. *Id.* ¶ 227.

197. *Id.*

198. *Id.*

199. *Id.* ¶ 245.

200. *Id.* ¶ 249

201. *Id.*

3. Provide Medical Treatment

The State must provide the necessary medical and psychological treatment required by the victims for the duration necessary.²⁰²

4. Publish the Judgment

The State must publish the official summary of this Judgment as follows: (1) once in the State's official gazette; (2) once in a national newspaper with widespread circulation in the State; and (3) once in a national newspaper with widespread circulation in Haiti, translated into French and Creole.²⁰³

5. Publicly Apologize

The State must carry out a public act of acknowledgment accepting responsibility for their acts and issue an apology for their responsibility in relation to the facts of this case.²⁰⁴ A reference must be made to the human rights violations declared in the Judgment and must be done so in a public ceremony in the presence of senior State officials, including those from the military and Board Intelligence Operations Base, and the victims.²⁰⁵ The State must work with the victims or their representatives on the means they deem appropriate for the public acknowledgement for details such as location and required characteristics.²⁰⁶

6. Train State Officials in Human Rights

The State must implement permanent training programs for officials of the Armed Forces, border control agents, and agents in charge of migratory procedures.²⁰⁷ The training should include the following topics: (1) the use of force by law enforcement agents in compliance with the principles of legality, proportionality, necessity and exceptionality and establish a criteria of progressive and differentiated use of force; (2) the principle of non-discrimination to migrants; and (3) due process in the detention and deportation of irregular migrants according to the standards set out in this Judgment.²⁰⁸ The State must comply by

202. *Id.*

203. *Id.* ¶ 263.

204. *Id.* ¶ 265.

205. *Id.*

206. *Id.*

207. *Id.* ¶ 270

208. *Id.*

submitting annual reports for three consecutive years indicating the measures it has taken to achieve the training programs.²⁰⁹

7. Organize a Media Campaign

Since it was proven that the State was responsible for long history of discrimination against migrants, the State must organize a media campaign regarding the rights of regular and irregular migrants on State territory.²¹⁰ The State must, for three consecutive years, present annual reports indicating the measures taken to achieve this.²¹¹

B. Compensation

The Court awarded the following amounts:

1. Pecuniary Damages

The Court determined that the State owes \$10,000 to each of the seven deceased victims for the loss of income that would have been made during his or her probable life.²¹² This money is to be furnished to each of the deceased victim's next of kin.²¹³

Regarding the ten surviving victims who were injured, the Court ordered the State to pay each \$3,500 for the time they were unable to work.²¹⁴

2. Non-Pecuniary Damages

For each of the seven deceased victims, the Court ordered the State to pay \$20,000, which must be delivered to their heirs to cover the cost of litigation before the Court.²¹⁵ For each of the ten surviving victims who were injured, the Court ordered the State to pay \$16,500.²¹⁶ For the non-injured four surviving victims, the Court ordered the State to pay \$10,000.²¹⁷ For Ms. Sylvie Felizor who was pregnant at the time of the incident, and Roland Israel, who was a minor, the Court ordered the

209. *Id.*

210. *Id.* ¶ 272.

211. *Id.*

212. *Id.* ¶ 284.

213. *Id.*

214. *Id.* ¶ 285.

215. *Id.* ¶ 298.

216. *Id.* ¶ 288.

217. *Id.*

State to pay the additional sum of \$2,000.²¹⁸ For the next of kin of the deceased victims, the Court ordered the State to pay the additional sum of \$7,000 to each son or daughter, father, mother spouse or permanent companion and \$5,000 to each sibling and one grandmother of a victim.²¹⁹

The Court ordered the State to distribute the pecuniary and non-pecuniary damages in the following way: fifty percent of the compensation shall be shared, in equal parts, between the victim's children.²²⁰ If one or more of the children are deceased, their damages will increase the amounts of the other children of the same victim;²²¹ fifty percent of the compensation shall be delivered to the individual who was the victim's spouse or permanent companion at the time of his or her death;²²² if there are no family members in any of the categories (spouse, permanent companion, children), the corresponding amount will increase the part that corresponds to the other category;²²³ if the victim did not have children, a spouse, or a permanent companion, the compensation for pecuniary damages shall be delivered to his or her parents;²²⁴ and if the victim has no family members in any of the categories defined, the compensation shall be paid to his or heirs in accordance with inheritance laws.²²⁵

3. Costs and Expenses

The Court ordered the State to pay \$25,000 to the International Clinic for the Defense of Human Rights of the UQAM, \$17,000 to the Support Group for Refugees and Repatriates, and \$16,000 to the Dominican-Haitian Cultural Center for litigation costs.²²⁶

The Court ordered the State to reimburse the Victim's Legal Assistance Fund in the amount of \$5,972.21 for the expenses incurred.²²⁷

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

\$836,972.21

218. *Id.*

219. *Id.*

220. *Id.* ¶ 289.

221. *Id.*

222. *Id.*

223. *Id.*

224. *Id.*

225. *Id.*

226. *Id.* ¶ 297.

227. *Id.* ¶ 301.

C. Deadlines

The State must re-open the investigation into the facts of the case within a reasonable time.²²⁸

The State must determine the locations of the bodies of the deceased and return them to their next of kin within one year of notification of the Judgment.²²⁹

The State must immediately provide the necessary medical and psychological treatment required by the victims for the duration necessary.²³⁰

The State must publish the Judgment and publicly apologize within six months of notification of the Judgment within the guidelines indicated previously.²³¹

The State must pay the litigation costs to the International Clinic for the Defense of Human Rights of the UQAM, the Support Group for Refugees and Repatriates, and the Dominican-Haitian Cultural Center the within one year of notification of this Judgment.²³² The State must reimburse the Victim's Legal Assistance Fund for the expenses incurred within ninety days of notification of this Judgment.²³³

Lastly, the State must pay the pecuniary and non-pecuniary damages within one year of this Judgment.²³⁴

V. INTERPRETATION AND REVISION OF JUDGMENT

[None]

VI. COMPLIANCE AND FOLLOW-UP

[None]

228. *Id.* ¶ 249(a)

229. *Id.* ¶ 253

230. *Id.* ¶ 259.

231. *Id.* ¶¶ 263, 265.

232. *Id.* ¶ 297.

233. *Id.* ¶ 301.

234. *Id.* ¶ 289.

VII. LIST OF DOCUMENTS

A. Inter-American Court

1. Preliminary Objections

[None]

2. Decisions on Merits, Reparations and Costs

[Nadege Dorzema et al. v. Dominican Republic, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. \(ser. C\) No. 251 \(Oct. 24, 2012\).](#)

3. Provisional Measures

[None]

4. Compliance Monitoring

[None]

5. Review and Interpretation of Judgment

[None]

B. Inter-American Commission

1. Petition to the Commission

[Nadege Dorzema et al. v. Dominican Republic, Petition No. 1351-05, Inter-Am. Comm'n H.R. \(Dec. 22, 2008\).](#)

2. Report on Admissibility

[None]

3. Provisional Measures

[None]

4. Report on Merits

[Nadege Dorzema et al. v. Dominican Republic, Report on Merits, Report No. 174/10, Inter-Am. Comm'n H.R., Case No. 12.688 \(Nov. 2, 2010\).](#)

5. Application to the Court

[None]

VIII. BIBLIOGRAPHY

B. Duhaime & C. Lafontaine, *Human Rights and Migrations in the Americas: Revisiting the Dorzema et al vs Dominican Republic Case*, QUEBEC J. OF INT'L L. 449 (Nov. 2013), available at http://rs.sqdi.org/volumes/RQDI_HS201311_15_Duhaime-Lafontaine.pdf.