

Pacheco León and Family v. Honduras

ABSTRACT¹

This case is about the assassination of a politician who was candidate for a seat in the National Congress. The Court found the State responsible for failing to properly investigate the assassination and prosecute those responsible.

I. FACTS

A. Chronology of Events

November 2001: Mr. Ángel Pacheco León wins the primaries for the National Party in the Department of Valle and is now a candidate for a seat in the National Congress.² Various officials, including one mayor, congresspersons, and a police officer, demand that he withdraw from the electoral race.³ As a result, Mr. Pacheco León receives death threats and is regularly subjected to harassment, verbal threats, and acts of intimidation.⁴

November 23, 2001: Mr. Pacheco León, his two children, Mr. Jimmy Javier Pacheco and Mr. Miguel Ángel Pacheco Devicente, and his bodyguard Mr. Jorge Carbajal, prepare to attend a political meeting in the Community of Cubulero.⁵ As they leave, they notice a white vehicle parked across the street from Mr. Pacheco León's home.⁶ Mr. Javier Pacheco states that he noticed the same vehicle parked near the home earlier that day.⁷ The men do not recognize the vehicle and walk over to

1. Elizabeth Russo, Author; Shira Diamant, Editor; Kimberly Barreto, Chief IACHR Editor; Cesare Romano, Faculty Advisor

2. Pacheco León and Family v. Honduras, Report on Merits, Report No. 49/15, Inter-Am. Comm'n H.R., Case No. 12.585, ¶ 15 (July 28, 2015).

3. *Id.*

4. Pacheco León and Family v. Honduras, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. (ser. 342) No. 12.585, ¶¶ 1, 27 (Nov. 15, 2017).

5. *Id.* ¶ 28.

6. *Id.*

7. *Id.*

determine who is inside and why they are parked outside the home.⁸ However, as soon as they approach, the car quickly leaves.⁹

At approximately 11:35 P.M. the four men return home from the meeting.¹⁰ Mr. Pacheco León and his son Mr. Javier Pacheco are dropped off while Mr. Jorge Carbajal and Mr. Pacheco León's son, Mr. Pacheco Devicente, leave to search for the car parked near the home earlier that day.¹¹ As Mr. Pacheco León opens the door to his residence, his son hears a sound, turns, and sees a man running towards them.¹² Mr. Javier Pacheco attempts to shut the door but is unable to do so in time.¹³ The man shoots two or three times through the open door hitting Mr. Pacheco León.¹⁴ The man then points the gun at Mr. Javier Pacheco but is out of ammunition and immediately runs away.¹⁵ Mr. Javier Pacheco chases the man outside and sees him enter a white, single cabin pickup truck.¹⁶

Mr. Pacheco León's sons and bodyguard, rush him to the hospital.¹⁷ On the way, they flag down a police patrol and insist they follow the aggressor's vehicle.¹⁸ Mr. Pacheco León is pronounced dead upon arrival.¹⁹

November 24, 2001: The Judge of First Instance (Juez de Letras Seccional) of Nacaome, Department of El Valle, begins the investigation into the death of Mr. Pacheco León.²⁰

The crime scene is searched, and blood samples are collected.²¹ A technician from the Directorate General of Criminal Investigation (Dirección General de Investigación Criminal; "DGIC") describes the crime scene as "contaminated and manipulated."²² An autopsy is performed and concludes "Mr. Pacheco [León] died from 10 injuries

8. *Id.*

9. *Id.*

10. Pacheco León and Family v. Honduras, Admissibility Report, Report No. 118/06, Inter-Am. Comm'n H.R., Case No. 848-04, ¶ 28 (Oct. 26, 2006). 004

11. Pacheco León and Family v. Honduras, Merits, Reparations, and Costs, ¶ 29.

12. *Id.*

13. *Id.*

14. *Id.*

15. *Id.*

16. *Id.*

17. Pacheco León and Family v. Honduras, Merits, Reparations, and Costs, ¶ 29.

18. *Id.*

19. *Id.*

20. Pacheco León and Family v. Honduras, Admissibility Report, ¶ 29.

21. Pacheco León and Family v. Honduras, Merits, Reparations, and Costs, ¶ 34.

22. *Id.*

produced by firearm projectiles.²³ The police confiscate bloodstained clothes and shoes as evidence.²⁴

Between November 24, 2001 and January 11, 2002: The Secretariat of Security hears the testimony of 49 individuals regarding Mr. Pacheco León's murder.²⁵

November 25, 2001: The National Congress elections are held.²⁶ Mr. Pacheco León wins the general election for deputy.²⁷ The National Party of Honduras insists that Mr. Pacheco León's brother, Mr. José Pacheco, replace him as deputy from January 25, 2002 through January 25, 2006.²⁸

Three individuals, Mr. Héctor Efraín Estrada, Mr. Alberto Vijil Espinal, and Mr. Jehring Roberto Maldonada are arrested by the Sheriff and Departmental Chief as suspects in the murder of Mr. Pacheco León.²⁹ The three men appear before the Judge of First Instance of Nacaome.³⁰

November 27, 2001: Mr. José Pacheco, along with several family members, file a complaint with the Coordinator of the Public Ministry of Nacaome (Coordinador Local del Ministerio Público de Nacaome) requesting all information pertaining to the investigation of Mr. Pacheco León's murder.³¹

Mr. Javier Pacheco and Mr. Pacheco Devicente testify before DGIC and identify individuals allegedly linked to the homicide.³² Mr. Javier Pacheco is shown a line-up of the three suspects and is unable to identify the individuals.³³ In addition, Mr. Pacheco Devicente is shown the vehicle confiscated from the three suspects to determine if it is the same vehicle seen at the time of his father's murder.³⁴

Two of the three suspects, Mr. Estrada and Mr. Maldonada, deny involvement in the murder during their preliminary examination.³⁵

23. *Id.*

24. *Id.* ¶ 36.

25. Pacheco León and Family v. Honduras, Admissibility Report, ¶ 29.

26. *Id.* ¶ 28.

27. Pacheco León and Family v. Honduras, Merits, Reparations, and Costs, ¶ 30.

28. *Id.*

29. Pacheco León and Family v. Honduras, Admissibility Report, ¶ 29.

30. *Id.*

31. Pacheco León and Family v. Honduras, Merits, Reparations, and Costs, ¶ 35.

32. *Id.* ¶ 38.

33. Pacheco León and Family v. Honduras, Admissibility Report, ¶ 29.

34. *Id.*

35. *Id.*

Between November 27, 2001 and December 6, 2001: The Judge of First Instance of Nacaome, Department of El Valle hears testimony from 30 witnesses and/or suspects regarding the death of Mr. Pacheco León.³⁶

November 28 and 29, 2001: The Prosecutor of the Public Ministry of the Department of Valle hears 18 testimonial statements.³⁷ The third suspect, Mr. Vijíl Espinal denies involvement in the murder during his preliminary examination.³⁸

November 30, 2001: The Judge of First Instance of Nacaome finds that the blood type found in the car matched Mr. Pacheco León's and orders Mr. Héctor Estrada and Mr. Alberto Espinal be detained.³⁹ In addition, the Sectional Court of Nacaome, Department of Valle orders the release of Mr. Jehring Maldonada on bail because there is "not enough merit" to justify detention.⁴⁰

December 20, 2001: The Chief of the Homicide Section at the DGIC of Choluteca issues a report to the Regional Coordinator of the DGIC outlining Mr. Pacheco León's murder investigation thus far.⁴¹ In her report she states that multiple witnesses have come forward naming the perpetrators of the murder but are refusing to issue written statements because they fear their lives are in danger.⁴² Further, she requests the Regional Coordinator make necessary arrangements to protect the witnesses.⁴³

January 3, 4, and 7, 2002: The DGIC receives 20 accounts pointing to suspect PR as the perpetrator of the murder.⁴⁴

January 14, 2002: The Criminal and Forensic Sciences Laboratory of the Public Ministry ("Laboratory") presents a report stating that witnesses at a restaurant near Nacaome, Valle, overheard a group of men discussing a plan to kill Mr. Pacheco León one day prior to the murder.⁴⁵ The

36. *Id.*

37. Pacheco León and Family v. Honduras, Merits, Reparations, and Costs, ¶ 38.

38. Pacheco León and Family v. Honduras, Admissibility Report, ¶ 29.

39. Pacheco León and Family v. Honduras, Merits, Reparations, and Costs, ¶ 37. ; Pacheco León and Family v. Honduras, Admissibility Report, ¶ 29.

40. Pacheco León and Family v. Honduras, Merits, Reparations, and Costs, ¶ 37. ; Pacheco León and Family v. Honduras, Admissibility Report, ¶ 29.

41. Pacheco León and Family v. Honduras, Admissibility Report, ¶ 29.

42. *Id.*

43. *Id.*

44. Pacheco León and Family v. Honduras, Merits, Reparations, and Costs, ¶ 38.

45. *Id.*, ¶ 40.

witnesses identify four individuals including Mr. Héctor Estrada (under arrest), Mr. Manuel Antonio Vides (congressperson), Mr. Benjamín Cárdenas (alternate congressperson), and Mr. Salvador Cárdenas as the men engaged in conversation at the restaurant.⁴⁶

January 25, 2002: Based on existing information linking Mr. Jorge Berrios Escoto, Mr. Salvador Cárdenas, and Mr. Wilfredo Cárdenas Romero to the homicide, the DGIC orders three raids of their residences.⁴⁷ In Mr. Jorge Escoto's residence officers obtain a shotgun, a revolver, cartridges, and caps.⁴⁸ In Mr. Salvador Cárdenas' residence officers find public security force plates.⁴⁹ In Mr. Wilfredo Romero's residence officers locate a gun, cartridges and caps.⁵⁰ All items are given to the Judge of First Instance of Nacaome.⁵¹

In addition, witnesses suggest that Mr. Jorge Escoto had motive because he disapproved of Mr. Pacheco León's political activity.⁵² Further, the 9mm gun confiscated from Mr. Wilfredo Romero's residence is identical to the weapon used in the homicide and was purchased just one week prior to the shooting.⁵³

February 11, 2002: The Chief of the Homicide Section at the DGIC of Choluteca issues a new report on the investigation outlining evidence that points to six new suspects in the homicide.⁵⁴ The report states the reasons for the Chief's determination.⁵⁵ Two of the six suspects have issues with Mr. Pacheco León's political affiliation and are named by witnesses as being involved in the murder.⁵⁶ A third suspect identified in the report is said to have bought the same 9mm handgun used in the murder just days prior.⁵⁷

May 3, 2002: The Court of Appeals of Choluteca revokes the detention of Mr. Héctor Estrada and Mr. Alberto Espinal stating there is not enough evidence linking them to the crime.⁵⁸

46. Pacheco León and Family v. Honduras, Report on Merits, ¶ 53.

47. Pacheco León and Family v. Honduras, Merits, Reparations, and Costs, ¶ 41.

48. *Id.*

49. *Id.*

50. *Id.*

51. *Id.*

52. *Id.* ¶ 44.

53. Pacheco León and Family v. Honduras, Merits, Reparations, and Costs, ¶ 44.

54. Pacheco León and Family v. Honduras, Admissibility Report, ¶ 29.

55. *Id.*

56. Pacheco León and Family v. Honduras, Merits, Reparations, and Costs, ¶ 44.

57. *Id.*

58. *Id.* ¶ 37.

October 15, 2002: Suspects Mr. Héctor Estrada, Mr. Alberto Espinal, and Mr. Jehring Maldonada's defense attorney requests a stay of proceedings.⁵⁹

November 28, 2002: DGIC releases a report indicating that the person who shot Mr. Pacheco León may be a police officer working for Mr. Jorge Escoto out of the Casamata headquarters.⁶⁰

July 6, 2004: Two of Mr. Pacheco León's sisters, along with his brother, lodge a complaint before the local coordinator of the Public Ministry naming seven people as suspects on their brother's murder.⁶¹

July 15, 2004: The Public Prosecutor of the Department of Valle presents a report which states that Mr. Pacheco León's autopsy report is missing from his file.⁶²

September 20, 2004: The Sectional Court of Nacaome, Department of Valle orders an analysis of the blood found on Mr. Jehring Maldonada, Mr. Héctor Estrada, and Mr. Alberto Espinal's clothes to determine if it is a match to Mr. Pacheco León's DNA and discover that Mr. Pacheco León's blood sample obtained during his autopsy was destroyed.⁶³ The State orders an exhumation of the corpse in order to obtain DNA.⁶⁴

September 16, 2005: Mr. Pacheco León's body is exhumed, DNA samples are obtained, and no positive match is found.⁶⁵

January 11, 2008: Suspect SM, member of the National Preventive Police, makes a statement before the DGIC claiming that in 2001 he was assigned to Tegucigalpa and therefore was not in the area where the murder took place.⁶⁶

May 22, 2008: Mr. Pacheco León's son makes a statement describing the physical characteristics of the perpetrator.⁶⁷ He is shown photographs of

59. Pacheco León and Family v. Honduras, Admissibility Report, ¶ 29.

60. Pacheco León and Family v. Honduras, Merits, Reparations, and Costs, ¶ 43.

61. Pacheco León and Family v. Honduras, Admissibility Report, ¶ 29.

62. Pacheco León and Family v. Honduras, Merits, Reparations, and Costs, ¶ 45.

63. *Id.* ¶ 47-48.

64. *Id.* ¶ 48.

65. *Id.*

66. *Id.* ¶ 49.

67. *Id.* ¶ 50.

suspects but is unable to identify any individual.⁶⁸ Rather, he indicates two suspects in the photographs possibly fit the description of the perpetrator.⁶⁹

February 16, 2009: A prosecutor from the Public Prosecutor's Office informs the Regional Prosecutor Coordinator ("Regional Coordinator") that the National Directorate of Criminal Investigation (DNIC) has not provided enough evidence to charge any suspects in the investigation.⁷⁰

March 1, 2010 and August 19, 2010: A prosecutor from the Public Prosecutor's Office reports to the Regional Coordinator that the DNIC has had over six years to solve this murder yet investigators have remained stagnant.⁷¹ The prosecutor recommends special personnel be assigned to the case.⁷²

December 13, 2013: A Prosecutor of the Public Ministry sends an official letter to the Regional Coordinator reiterating the previous reports from March 1st and August 19th of 2010.⁷³

February 24, 2014: Mr. Pacheco León's brother, Mr. José Pacheco, requests the Prosecutor's Office Special Human Rights continue the investigation into his brother's death.⁷⁴

March 19, 2014: The Human Right's Prosecutor requests a copy of the file from the Prosecutor of Public Ministry.⁷⁵

B. Other Relevant Facts

Honduras ranks among Latin America's most corrupt and crime-ridden countries.⁷⁶ According to "Central America In Transparency International's Corruption Perception Index", Honduras scores 2.5 points out of a possible 10, standing alongside Nicaragua at the bottom of the

68. Pacheco León and Family v. Honduras, Merits, Reparations, and Costs, ¶ 50.

69. *Id.*

70. *Id.* ¶ 51.

71. *Id.* ¶ 52.

72. *Id.*

73. *Id.*

74. Pacheco León and Family v. Honduras, Merits, Reparations, and Costs, ¶ 54.

75. *Id.*

76. Marvin Palacios, *El Case De Angel Pacheco León fue un Crimen Político*, DEFENSORES EN LÍNEA, <http://defensoresenlinea.com/el-caso-de-angel-pacheco-leon-fue-un-crimen-politico/>

list.⁷⁷ In 2008, Latinobarometro, a regional survey, presented figures highlighting the pervasive distrust in political systems. According to these figures, Hondurans' trust in Congress was 26 percent, the judiciary, 28 percent, and political parties, 20 percent; far below the already low averages for Latin America.⁷⁸

Politically, Honduras remains split; the older generations, established at the highest ranks, are directly linked to Honduras's military coups.⁷⁹ Thus, these leaders hold the military to the highest esteem and support the military's intervention in politics.⁸⁰ On the other hand, younger generations of politicians remain invisible in the military hierarchy.⁸¹

Mr. Pacheco León was a young nationalist leader who did not fit in with the old structures of the National party.⁸² After he successfully won the primaries, he began receiving threats from politicians, police officers and military personnel.⁸³ In one particular instance Mr. Pacheco León was summoned to meet with former President Mr. Rafeal Leonard Callejas, also a member of the National Party, where Mr. Leonard Callejas ordered Mr. Pacheco León yield his office as congressperson to Mr. Raúl Pino Rodríguez, which he refused.⁸⁴

Following this conversation Mr. Pacheco León was continually threatened and harassed by members the National Party in an attempt to intimidate him to the point of stepping down as congressperson.⁸⁵ He informed one of his sons, Mr. Ángel Pacheco, that if he was elected and discovered members of the National Party were committing crimes, he would report it and ensure they are jailed.⁸⁶ During his testimony before the Inter-American Court, expert Mr. Alejandro Ramelli posited that Mr.

77. *Id.*

78. *Id.*

79. Kevin Casas-Zamora, *Causes and Implications of the Crisis in Honduras*, WORLD POLITICS REVIEW, <https://www.worldpoliticsreview.com/articles/5436/causes-and-implications-of-the-crisis-in-honduras>

80. Leticia Salomón, *Honduras: A History that Repeats Itself*, 45 NACLA REPORT ON THE AMERICAS, 58 (2012).

81. *Id.*

82. Palacios, *supra* note 76.

83. Pacheco León and Family v. Honduras, Report on Merits, ¶¶ 25, 27.

84. *Id.* ¶ 28.

85. *Id.*: The threats included: a warning that Mr. Leonard Callejas wanted to kill him; death threats from former congressperson Mr. Benjamín Cárdenas because of Mr. Pacheco León's political activities⁸⁵; an incident where alternate congressperson Mr. Raúl Rodríguez Pino cornered Mr. Pacheco León at gunpoint and told him "what you've worked for...you will not...enjoy."; threats over the phone from Mr. Rodríguez Pino stating "I will kill you and your entire family."

86. *Id.* ¶ 37.

Pacheco León's murder was a "selective crime" which targeted the young politician because he threatened the interests of the elite party.⁸⁷

According to the 2018 World Report, Honduras remains one of the most violent countries in the world.⁸⁸ The judiciary and police are largely corrupt and provide little public security.⁸⁹ In order to combat the widespread police abuse and corruption President Juan Orlando Hernández announced that the Special Commission for Police Reform Restructuring will extend its mandate until 2018.⁹⁰ Since its inception, the Commission has removed nearly 4,000 of more than 9,000 police officers from duty for involvement in corruption and criminal acts.⁹¹

II. PROCEDURAL HISTORY

A. Before the Commission

August 27, 2004: Ms. Marlene Pacheco Posadas presents a petition on behalf of Mr. Pacheco León against the State of Honduras ("State") to the Inter-American Commission for Human Rights for not conducting a serious and diligent investigation into the murder of Mr. Pacheco León.⁹²

February 27, 2006: The State replies to the complaint and requests that the petition be declared inadmissible because: (1) the petitioners failed to exhaust domestic remedies; and (2) it guaranteed due legal process and attempted to identify the perpetrators of Mr. Pacheco León's death.⁹³

October 26, 2006: The Commission issues Admissibility Report No. 118/06 and declares the petition admissible.⁹⁴ It dismisses the State's argument for failure to exhaust domestic remedies because the remedies do not properly provide due process of law.⁹⁵

July 28, 2015: The Commission adopts Report on the Merits No. 49/15.⁹⁶ It finds that the State violated Articles 4.1, 5.1, 8.1, 23, and 25.1 of the

87. Marvin Palacios, *supra* note 76.

88. Jorge Cabrera, *Honduras Events of 2017*, HUMAN RIGHTS WATCH, <https://www.hrw.org/world-report/2018/country-chapters/honduras>

89. *Id.*

90. *Id.*

91. *Id.*

92. Pacheco León and Family v. Honduras, Admissibility Report, ¶ 1.

93. *Id.* ¶¶ 24, 14.

94. *Id.* ¶ 40.

95. *Id.* ¶ 23.

96. *See* Pacheco León and Family v. Honduras, Report on Merits.

American Convention in relation to Article 1.1 to the detriment of Mr. Pacheco León and his family.⁹⁷ To guarantee non-repetition, the Commission recommends the State: (1) provide adequate reparations for the violation of Mr. Pacheco León's human rights; (2) develop and carry out an impartial, complete, and effective judicial investigation of the death; (3) identify all person's involved and protect all witnesses and other stakeholders in the process; (4) adopt the measures needed to investigate the possible sources of risk to Mr. José Pacheco León and his family and determine their connection to the present case; and (5) adopt the measures needed to avoid the repetition of events of the present case.⁹⁸

B. Before the Court

November 13, 2015: The Commission submits the case to the Court after the State failed to adopt its recommendations.⁹⁹

1. Violations Alleged by Commission

Article 8.1 (Right to a Hearing Within a Reasonable Time by a Competent and Independent Tribunal)

Article 25.1 (Right of Recourse Before a Competent Court)

Article 4.1 (Right to Life)

Article 23 (Right to Participate in Government)

Article 5.1 (Right to Humane Treatment)

all in relation to:

Article 1.1 (Obligation to Respect Rights)

2. Violations Alleged by Representatives of the Victims

Same Violations Alleged by Commission, plus:

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

March 18, 2016: Committee of Relatives of the Detained and Disappeared in Honduras (el Comité de Familiares de Detenidos y Desaparecidos en Honduras; "COFADEH") with the support of Lawyers Without Borders Canada (Abogados sin Fronteras Canadá; "ASFC") submit their brief of pleadings, motions, and evidence to the Court.¹⁰⁰

97. *Id.* ¶ 4.

98. *Id.* ¶ 155.

99. Pacheco León and Family v. Honduras, Merits, Reparations, and Costs, ¶ 1.

100. *Id.* ¶ 6.

COFADEH and ASFC request the Court find that the State of Honduras is internationally responsible for violating the same articles alleged by the Commission, along with Article 2 of the American Convention.¹⁰¹ Further, they request that the Court order Honduras adopt various reparative measures and reimburse certain costs and expenses.¹⁰² Mr. Pacheco León's representatives request \$44,521.83 for expenses incurred by COFADEH, as well as an additional \$10,074.00 spent to ensure witnesses would be present at the hearing.¹⁰³ Further, they request \$6,232.97 for the expenses and costs incurred by the victim's relatives in attending the public hearing (airfare, vehicle rental and lodging).¹⁰⁴ Consequently, the requested total of cost and expenses is \$60,828.80.¹⁰⁵

July 5, 2016: The State files its response to the Commission's submission of the case to the Court denying responsibility.¹⁰⁶

February 15, 2017: The President of the Court issues an Order requesting a public hearing of the parties and the Commission.¹⁰⁷ In addition, he orders witness statements from Ms. Andrea Pacheco López, Ms. Blanca Rosa Herrera Rodríguez, and Ms. Marleny Pacheco, as well as three expert witnesses.¹⁰⁸

April 24, 2017: Both parties and the Commission present their final written arguments and observations to the Court.¹⁰⁹

May 9, 2017: The President of the Court issues an Order requesting all parties submit documentation to the Court no later than May 19, 2017.¹¹⁰

May 19, 2017: The State presents their observations.¹¹¹ The Commission requests and is granted an extension until May 26, 2017.¹¹²

101. *Id.*

102. *Id.*

103. *Id.* ¶ 220.

104. *Id.*

105. Pacheco León and Family v. Honduras, Merits, Reparations, and Costs, ¶ 220.

106. *Id.* ¶ 7.

107. *Id.* ¶ 8.

108. *Id.*

109. *Id.* ¶ 9.

110. *Id.*

111. Pacheco León and Family v. Honduras, Merits, Reparations, and Costs, ¶ 9.

112. *Id.*

November 13, 14, and 15, 2017: The Court begins deliberations on its Judgment.¹¹³

III. MERITS

A. *Composition of the Court*

Roberto F. Caldas, President
Eduardo Ferrer Mac-Gregor Poisot, Vice-President
Eduardo Vio Grossi, Judge
Humberto A. Sierra Porto, Judge
Elizabeth Odio Benito, Judge
Eugenio Raúl Zaffaroni, Judge
Luis Patricio Pazmiño Freire, Judge

Pablo Saavedra Alessandri, Secretary
Emilia Segares Rodríguez, Deputy Secretary

B. *Decision on the Merits*

November 15, 2017: The Court issues its Judgment on Merits, Reparations, and Costs.¹¹⁴

The Court found unanimously, that the State had violated:

Articles 8(1) (Right to a Fair Trial), and 25(1) (Right to Judicial Protection), in relation to Article 1(1) of the Convention, to the detriment of Mr. Pacheco León,¹¹⁵ because:

The Court asserted that the State did not exercise the due diligence required to satisfy the right to access justice during the course of investigations.¹¹⁶ Specifically, the Court reasoned that, after 16 years, Mr. Pacheco León's homicide remained unpunished.¹¹⁷ The Court concluded that this further evidenced the State's continued failure to conduct a diligent investigation.¹¹⁸

113. *Id.* ¶ 10.

114. *Id.* ¶ 1.

115. *Id.* ¶ 231.

116. *Id.* ¶ 73.

117. Pacheco León and Family v. Honduras, Merits, Reparations, and Costs, ¶ 128.

118. *Id.*

With regard to Mr. Pacheco León's right to a fair trial, the Court determined witness testimony, as well as the DGIC report, indicated the State was aware of the possible link between Mr. Pacheco León's political activity and his murder.¹¹⁹ Although the State investigated some of the early leads, they failed to fully investigate all suspects identified.¹²⁰ This omission indicated negligent conduct.¹²¹ Further, the State's failure to provide witness protection adversely affected the investigation.¹²²

Additionally, in discussing Mr. Pacheco León's right to judicial protection, the Court determined that in order to protect this right the State must avoid undue delays and nuisances within the investigation.¹²³ The investigation stalled on numerous occasions with no explanation or justification for the periods of inaction.¹²⁴ The Court concluded there had been a total of 6 years and 7 months of absolute inactivity during the investigation.¹²⁵

Finally, the Court highlighted that a homicide allegedly linked to political activity affects not only the victim's family, but also the State's citizens as a whole.¹²⁶ As such, the Court emphasized that, in order to chill the citizen's fear of political corruption, authorities should have proceeded with diligence and haste in the investigation.¹²⁷

Article 5(1) (Right to Humane Treatment), in relation to Article 1(1) of the Convention, to the detriment of the victim's family,¹²⁸ because:

In citing Blake v. Guatemala, the Court highlighted that the way in which authorities investigate a crime may affect the victim's loved ones.¹²⁹ Further, the authorities' actions or omissions may violate the personal integrity of loved ones.¹³⁰ Subsequently, the Court asserted that each family member listed above experienced inhumane treatment in relation to how the investigation was conducted.¹³¹ The Court relied on the

119. *Id.* ¶ 105.

120. *Id.* ¶ 108.

121. *Id.*

122. *Id.* ¶ 114.

123. Pacheco León and Family v. Honduras, Merits, Reparations, and Costs, ¶ 74.

124. *Id.* ¶ 126.

125. *Id.*

126. *Id.* ¶ 128.

127. *Id.*

128. *Id.* ¶ 182.

129. Pacheco León and Family v. Honduras, Merits, Reparations, and Costs, ¶ 170.

130. *Id.*

131. *Id.* ¶ 180.

testimony of expert witness, Ms. Rodríguez Matute, to emphasize their reasoning.¹³² The expert stated that the family believed the evidence provided would lead to a swift apprehension of the perpetrator.¹³³ As time passed, their anger grew, and they lost confidence in the justice system.¹³⁴ Further, the family lived in constant fear that they too would be targeted.¹³⁵

More specifically, Ms. Andrea Pacheco López, Mr. Pacheco León's mother, stated that the authority's failure to solve her son's homicide caused severe emotional distress and increased the pain she was already experiencing.¹³⁶ Additionally, the Court reasoned that Ms. Marleny Pacheco Posadas, Mr. Pacheco León's sister, lived in the United States and had to travel to Honduras a total of 9 times throughout the investigation.¹³⁷ Further, the investigative process subjected Mr. Javier Pacheco to constant revictimization.¹³⁸

The Court reasoned that Mr. Pacheco León's family member's personal integrity was violated due in part because of the way the investigation was handled, and also because of the threats, harassment, and other acts of intimidation they experienced.¹³⁹ Based on the foregoing reasons, the Court held that the State violated Article 5(1) and failed to respect the physical, mental, and moral integrity of Ms. Andrea Pacheco López, Ms. Blanca Rosa Herrere Rodríguez, Mr. José Pacheco, Ms. Marleny Pacheco Posadas, and Mr. Jimmy Javier Pacheco Ortiz.

The Court found unanimously, that Honduras had not violated:

The obligation to adopt provisions of domestic law in relation to Article 2 (Domestic Legal Effects) of the Convention, to the detriment of Mr. Pacheco León,¹⁴⁰ because:

The Court determined that the petitioners failed to bring forth enough evidence to distinguish the Article 2 claim from their claim Article 1(1)

132. *Id.* ¶ 179.

133. *Id.*

134. *Id.*

135. Pacheco León and Family v. Honduras, Merits, Reparations, and Costs, ¶ 179.

136. *Id.* ¶ 178.

137. *Id.*

138. *Id.* ¶ 182.

139. *Id.* ¶ 169.

140. *Id.* ¶ 231.

claim.¹⁴¹ Additionally, the Court found no grounds to examine the facts of the case in relation to Article 2.¹⁴²

Articles 4(1) (Right to Life), and 23(1) (Right to Participate in Government),¹⁴³ because:

With regard to Mr. Pacheco León's right to life, the Court asserted that flaws in an investigation do not automatically amount to an Article 4 violation.¹⁴⁴ Although there were indications that State agents were involved in the homicide, there was not enough evidence to prove that persons responsible belonged to the State structure.¹⁴⁵ Although some state agents may have been involved, there was also evidence pointing to individuals with no involvement in politics.¹⁴⁶ The Court held that although the connection between Mr. Pacheco León's political activity and his death was plausible, more evidence was needed to prove state agents were acting under the protection of state power.¹⁴⁷

Additionally, in discussing Mr. Pacheco León's right to participate in government, the Court explained that although the state has a duty to protect political leaders at risk, the state must be made aware that such a risk exists.¹⁴⁸ Here, there is no evidence that the State had knowledge of any risk present prior to Mr. Pacheco León's death.¹⁴⁹ Furthermore, the mere testimony that threatening statements were made are not sufficient to determine a violation of political rights.¹⁵⁰ Lastly, prior to Mr. Pacheco León's death and the upcoming election, his political activity was extremely limited.¹⁵¹ Thus, the Court concluded that the State was not responsible for violating Mr. Pacheco León's political rights.

C. Dissenting and Concurring Opinions

[None]

141. Pacheco León and Family v. Honduras, Merits, Reparations, and Costs, ¶ 184.

142. *Id.* ¶ 184.

143. *Id.* ¶ 231.

144. *Id.* ¶ 148.

145. *Id.* ¶ 149.

146. *Id.* ¶ 152.

147. Pacheco León and Family v. Honduras, Merits, Reparations, and Costs, ¶ 152.

148. *Id.* ¶ 157.

149. *Id.* ¶ 161.

150. *Id.*

151. *Id.*

IV. REPARATIONS

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

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

1. Investigate the Murder and Identify, Prosecute and Punish those Responsible

The Court indicated that the State failed to investigate Mr. Pacheco León's death with due diligence and within a reasonable amount of time.¹⁵² As such, the Court ordered the State to adopt all necessary measures to continue the investigation and identify, judge, and punish all those responsible within a reasonable amount of time.¹⁵³ Further, the Court ordered the State enable Mr. Pacheco León's family to participate in the investigation and have access to any information as it becomes available.¹⁵⁴ Lastly, the Court ordered the State make all criminal proceedings open to the public and this measure must be complied with within 6 months from the definitive conclusion of the investigation.¹⁵⁵

2. Publish the Judgment

The Court ordered the State make the following publications within a period of six months from the present judgment: 1) a summary of the present judgment issued by the Court in an official, widely circulated newspaper as well as a local newspaper in Valle, and 2) the present judgment issued by the Court in its entirety on an official State website accessible by the public, for a period of at least one year.¹⁵⁶

3. Implement Diligent Research Protocol

The Court ordered the State implement diligent research protocol in accordance with international standards within one year of the judgment.¹⁵⁷ This protocol is to be used for the investigation of crimes

152. *Id.* ¶ 194.

153. Pacheco León and Family v. Honduras, Merits, Reparations, and Costs, ¶ 194.

154. *Id.*

155. *Id.* ¶ 195.

156. *Id.* ¶ 201.

157. *Id.* ¶ 206.

involving violent deaths possibly related to political affiliation and must submit an annual report for three years.¹⁵⁸

4. Establish a Mandatory Training Program

The Court ordered the State establish a mandatory training program within one year of the judgment.¹⁵⁹ The program will focus on human rights, standards for a diligent investigation, and technical aspects of politically motivated homicides.¹⁶⁰ This course is to be completed by police officers, prosecutorial, and judicial officials.¹⁶¹ The State must submit an Annual report on these programs for a period of three years.¹⁶²

B. Compensation

The Court awarded the following amounts:

1. Pecuniary Damages

The Court awarded \$15,000 to Ms. Marleney Pacheco Posadas as well as an additional \$15,000 to Mr. José Pacheco as compensation for expenses related to the search for justice in Mr. Pacheco León's murder.

2. Non-Pecuniary Damages

The Court awarded \$15,000 each for Mr. Miguel Ángel Pacheco Devincible, Mrs. Cinthia Mirella Pacheco Devincible, Mrs. Tania Melissa Pacheco López, Mr. Juan Carlos Pacheco Euceda, Mrs. Bianca Gisselle Pacheco Herrera, and Otilia Pacheco, Concepción Pacheco, Blanca Pacheco, María Regina Pacheco, Francisco Pacheco, Norma Pacheco, Jamileth Pacheco, Jaqueline Pacheco and Jorge Pacheco.¹⁶³ The Court also awarded \$30,000 for Mrs. Blanca Rosa Herrera Rodríguez, Mr. Jimmy Pacheco, Mrs. Andrea Pacheco López, Mr. José Pacheco and Mrs. Marleny Pacheco Posadas.¹⁶⁴

158. *Id.*

159. *Pacheco León and Family v. Honduras*, Merits, Reparations, and Costs, ¶ 207.

160. *Id.*

161. *Id.*

162. *Id.* ¶ 208.

163. *Id.* ¶ 219.

164. *Id.*

3. Costs and Expenses

The Court awarded \$40,000 to COFADEH for the costs and expenses incurred during both domestic and international criminal proceedings.¹⁶⁵

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

\$ 430,000

C. Deadlines

The State must comply with the order of the court and make the payments for compensation for pecuniary and non-pecuniary damages, and costs and expenses, within a period of one year from the date of notification of the judgment.¹⁶⁶

V. COMPLIANCE AND FOLLOW-UP

[None]

VI. LIST OF DOCUMENTS

A. Inter-American Court

1. Preliminary Objections

[None]

2. Decisions on Merits, Reparations and Costs

[Pacheco León and Family v. Honduras, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. \(ser. 342\) No. 12.585 \(Nov. 15, 2017\).](#)

3. Provisional Measures

[Pacheco León and Family v. Honduras, Provisional Measures, Order of the President, Inter-Am. Ct. H.R. \(ser. 342\) \(Feb. 15, 2017\).](#)

165. Pacheco León and Family v. Honduras, Merits, Reparations, and Costs, ¶ 223.

166. *Id.* ¶ 225.

4. Compliance Monitoring

[None]

5. Review and Interpretation of Judgment

[Not Available]

B. Inter-American Commission

1. Petition to the Commission

[Not Available]

2. Report on Admissibility

[Pacheco León and Family v. Honduras, Admissibility Report, Report No. 118/06, Inter-Am. Comm'n H.R., Case No. 848-04 \(Oct. 26, 2006\).](#)

3. Provisional Measures

[Not Available]

4. Report on Merits

[Pacheco León and Family v. Honduras, Report on Merits, Report No. 49/15, Inter-Am. Comm'n H.R., Case No. 12.585 \(July 28, 2015\).](#)

5. Application to the Court

[Not Available]

VII. BIBLIOGRAPHY

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