

# Ruano Torres et al. v. El Salvador

## ABSTRACT<sup>1</sup>

*This case is about the arrest, mistreatment and prosecution of the wrong man in connection with the investigation of a kidnapping. The State admitted responsibility and the Court found it in violation of several articles of the Convention. In a concurring opinion, Judge Humberto Antonio Sierra Porto raised the question of whether, despite a state having admitted to a violation, the Court may nonetheless find that no such violation existed.*

## I. FACTS

### A. Chronology of Events

**August 22, 2000:** Mr. Jaime Ernesto Rodriguez Marroquín is driving a public transportation bus from the city of San Salvador to the city of Tonacatepeque.<sup>2</sup> Around 7:15 p.m., three individuals board the bus, point guns at Mr. Rodriguez Marroquín, and order him to stop the vehicle.<sup>3</sup> He is ordered off the vehicle, placed in a van, and taken on foot to a rural area.<sup>4</sup>

**August 22, 2000:** Mr. Mauricio Antonio Torres Mejía, a collector on the bus, goes to Mr. Rodriguez Marroquín's brother's house to inform him of what has happened.<sup>5</sup>

**August 23, 2000:** Mr. Rodriguez Marroquín's brother files a complaint with the Civil Crimes Division of the National Civil Police.<sup>6</sup>

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1. Lauren Mayes, Author; John Flynn, Senior IACHR Editor; Kimberly Barreto, Chief IACHR Editor; Cesare Romano, Faculty Advisor.

2. Ruano Torres et al. v. El Salvador, Merits, Reparations, and Costs, Judgment, Inter-Am Ct. H.R. (ser. C) No. 303, ¶ 50 (Oct. 5, 2015).

3. *Id.*

4. *Id.*

5. *Id.* ¶ 51.

6. *Id.*

The kidnappers call Mr. Rodriguez Marroquín's family, demanding money in exchange for his release.<sup>7</sup>

**Approx. August 26, 2000–August 30, 2000:** Mr. Rodriguez Marroquín is released by his kidnappers.<sup>8</sup> In the following days, Mr. Rodriguez Marroquín receives telephonic threats from his kidnappers.<sup>9</sup> He pays them 50,000 colones.<sup>10</sup>

**October 9, 2000:** The Criminal Investigation Division of the National Civil Police interview Francisco Javier Amaya Villalta.<sup>11</sup> Mr. Amaya Villalta, who was imprisoned for committing extortion, says he has information relating to the kidnapping of Mr. Rodriguez Marroquín.<sup>12</sup> He identifies the participants by name and surname.<sup>13</sup> He also refers to a participant whom he only knows as “Chopo”.<sup>14</sup> Mr. Amaya Villalta describes El Chopo as a 24-year-old male residing in the Cantón Colón of Guazapa.<sup>15</sup>

**October 10, 2000:** Investigators from the Criminal Investigation Division of the National Civil Police go to the Police Record and History Department to obtain certified photocopies of Mr. Rodriguez Marroquín's personnel file.<sup>16</sup> The two police officers identify possible perpetrators of the crime and go to the municipal mayors of the cities of Guazapa, Tonacatepeque and San José Guayabal to collect information about the other people identified as presumed participants in the crime.<sup>17</sup>

**October 12, 2000:** After verifying the information provided by Mr. Amaya Villalta, the Office of the Attorney General of the Republic requests the Tonacatepeque Peace Court to dismiss the criminal action against him due to his willingness to provide information pertaining to

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7. *Id.*

8. Ruano Torres et al. v. El Salvador, Merits, Reparations, and Costs, ¶ 52.

9. *Id.*

10. *Id.* In 2018, 50,000 El Salvadoran colones is the equivalent of \$5,714.29 United States Dollars. See XE Currency Converter: SVC to USD, <https://www.xe.com/currencyconverter/convert/?Amount=50%2C000&From=SVC&To=USD>.

11. *Id.* ¶ 53.

12. *Id.*

13. *Id.*

14. Ruano Torres et al. v. El Salvador, Merits, Reparations, and Costs, ¶ 53.

15. *Id.*

16. *Id.* ¶ 54.

17. *Id.*

the kidnapping of Mr. Rodriguez Marroquín.<sup>18</sup> In exchange, he agrees to work with a sketch artist to help identify “El Chopo.”<sup>19</sup>

The investigators in charge of Mr. Rodriguez Marroquín’s case visit and verify the residences of accused participants of the kidnapping.<sup>20</sup> Upon their visit of the Colón farmhouse in the city of Guazapa, they obtain information that “El Chopo” is named Agapito Ruano and resides in Caserío Nance Green, Barrio San José.<sup>21</sup>

**October 13, 2000:** The Chief of the Anti-Kidnapping Unit of the Division of Criminal Investigation sends an official letter to the Municipality of Guazapa requesting a copy of the personal identity card of Agapito Ruano.<sup>22</sup> According to the card, José Agapito Ruano Torres is 24 years old, works as a mason, and lives in the Lotification Monte Cristo of Guazapa.<sup>23</sup>

**October 16, 2000:** The Tonacatepeque Magistrate’s Court suspends Mr. Amaya Villalta’s case for two months, contingent on his providing all necessary information regarding the kidnapping of Mr. Rodriguez Marroquín.<sup>24</sup> In his statement to the court, Mr. Amaya Villalta again identifies people who allegedly participated in the kidnapping, and specifically identifies José Agapito Ruano Torres as El Chopo.<sup>25</sup> Following Mr. Amaya Villalta’s declaration, the Office of the Attorney General orders the administrative detention of Mr. Rodriguez Marroquín’s alleged kidnappers, among them Mr. Ruano Torres.<sup>26</sup> The Guazapa Magistrate’s Court authorizes the search of Mr. Rodriguez Marroquín’s home.<sup>27</sup>

**October 17, 2000:** Mr. Ruano Torres is arrested in his home together with his spouse María Maribel Guevara Ruano and his two-year-old son, Oscar Manuel Ruano Guevara.<sup>28</sup> Police officers break the door of his house while Mr. Ruano Torres is sleeping, give him a hit to the neck, throw him on the ground, handcuff him, and drag him out of the house.<sup>29</sup>

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18. *Id.* ¶ 55.

19. *Id.*

20. Ruano Torres et al. v. El Salvador, Merits, Reparations, and Costs, ¶ 56.

21. *Id.*

22. *Id.* ¶ 57.

23. *Id.*

24. *Id.* ¶ 58.

25. *Id.*

26. Ruano Torres et al. v. El Salvador, Merits, Reparations, and Costs, ¶ 59.

27. *Id.*

28. *Id.* ¶ 62.

29. *Id.*

Once outside, one of the officials strikes Mr. Ruano Torres with the heel of his boot and threatens to kill him if he does not reveal his true identity.<sup>30</sup> The official then begins to load his rifle, continues to threaten Mr. Ruano Torres's life, puts his boot to Mr. Ruano Torres's neck, and rubs dog feces on Mr. Ruano Torres.<sup>31</sup> Once inside the patrol car, police place a noose around Mr. Ruano Torres' neck, threatening his life.<sup>32</sup> In front of television cameras, Mr. Ruano Torres admits to being El Chopo.<sup>33</sup>

**October 17, 2000:** After the arrest, Mr. Ruano Torres is transported to the Criminal Investigation Division of the National Civil Police in the city of Guazapa.<sup>34</sup> He receives a medical check-up, where lacerations in his neck, thorax, and shoulders and scars on his nose and thighs are recorded.<sup>35</sup> He is then transferred to the Central Penitentiary "La Esperanza" of the San Luis Mariona Canton of Ayutuxtepeque.<sup>36</sup>

**October 18, 2000:** The Court of Peace of Tonacatepeque orders Mr. Ruano Torres's detention.<sup>37</sup>

**October 20, 2000:** An initial hearing is held in the Magistrate's Court of Tonacatepeque.<sup>38</sup> Mr. Ruano Torres refuses to provide a statement of facts.<sup>39</sup> The court orders a formal investigation of the case and decides to keep all accused in provisional detention.<sup>40</sup>

**October 27, 2000:** The Court of First Instance of Tonacatepeque issues an order of formal instruction against Mr. Ruano Torres.<sup>41</sup>

**November 27, 2000:** Pedro Torres Hércules, cousin of Mr. Ruano Torres, goes to the Court of First Instance of Tonacatepeque to request a special hearing, claiming eyewitness statements indicate Mr. Ruano Torres was

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30. *Id.*

31. *Id.*

32. Ruano Torres et al. v. El Salvador, Merits, Reparations, and Costs, ¶ 62.

33. *Id.*

34. *Id.* ¶ 64.

35. *Id.*

36. *Id.*

37. *Id.* ¶ 68.

38. Ruano Torres et al. v. El Salvador, Merits, Reparations, and Costs, ¶ 69.

39. *Id.*

40. *Id.* ¶ 70.

41. *Id.* ¶ 72.

actually working on the reconstruction of a school during the kidnapping of Mr. Rodriguez Marroquín.<sup>42</sup>

**January 11, 2001:** Mr. Rodriguez Marroquín positively identifies Mr. Ruano Torres in a line-up.<sup>43</sup>

**April 19, 2001:** The Office of the Prosecutor General of the Republic makes the formal accusation against Mr. Ruano Torres in the kidnapping of Mr. Rodriguez Marroquín.<sup>44</sup>

**April 25, 2001:** The public defender, Emilia Martinne Castillo del Castillo, offers the court witnesses and documentary evidence showing Mr. Ruano Torres was not El Chopo.<sup>45</sup>

**April 26, 2001:** Mr. Ruano Torres's preliminary hearing is held, and the judge declares the evidence presented by Ms. Castillo del Castillo to be inadmissible because it was outside of the time allowed for the presentation of evidence.<sup>46</sup>

**September 24, 2001:** The Municipal Mayor of Guazapa informs the Court of Second Sentence of San Salvador of Mr. Ruano Torres's honesty, and that "El Chopo" is actually the nickname of Rodolfo Ruano Torres, Mr. Ruano Torres's brother.<sup>47</sup>

**September 27, 2001:** Roberto Ruano Torres, Mr. Ruano Torres's brother, and two other witnesses present a letter before the Second Court of San Salvador indicating that El Chopo is Rodolfo Ruano Torres.<sup>48</sup>

**October 1, 2001:** The public hearing before the Second Court of Judgment of San Salvador is held.<sup>49</sup> Several witnesses state that, on the day of the kidnapping of Mr. Rodriguez Marroquín, Mr. Ruano Torres was working with his brother Roberto in the reconstruction of a school until late night, and El Chopo is Rodolfo Ruano Torres.<sup>50</sup>

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42. *Id.* ¶ 74.

43. *Id.* ¶ 75.

44. Ruano Torres et al. v. El Salvador, Merits, Reparations, and Costs, ¶ 80.

45. *Id.* ¶ 81.

46. *Id.* ¶ 82.

47. *Id.* ¶ 86.

48. *Id.* ¶ 87.

49. *Id.* ¶ 89.

50. Ruano Torres et al. v. El Salvador, Merits, Reparations, and Costs, ¶ 89.

**October 5, 2001:** The Second Judgment Court of San Salvador issues a judgment against Mr. Ruano Torres, imposing a penalty of 15 years in prison, an accessory penalty of loss of rights of the citizen, and the payment of five thousand colones.<sup>51</sup>

*B. Other Relevant Facts*

[None]

II. PROCEDURAL HISTORY

*A. Before the Commission*

**December 12, 2003:** Pedro Torres Hércules submits a petition to the Inter-American Commission of Human Rights on behalf of his cousin, Mr. Ruano Torres, alleging Mr. Ruano Torres was tortured when he was arrested and the State judiciary unfairly tried and convicted him.<sup>52</sup>

**October 17, 2008:** The Commission approves Admissibility Report No. 77/09 and concludes it is competent to hear the case.<sup>53</sup>

**November 4, 2013:** The Commission approves Merits Report No. 82/13, in which it concludes that El Salvador was responsible for violating Mr. Ruano Torres's guarantees to judicial protection and personal integrity.<sup>54</sup> The Commission further found the State responsible for violating María Maribel Guevara de Ruano's, Oscar Manuel Ruano Guevara's, Keily Lisbeth Ruano Guevara's, and Pedro Torres Hércules's right to psychological and moral integrity.<sup>55</sup>

The Commission recommends the State: (1) take all measures necessary to annul the sentence imposed against Mr. Ruano Torres as soon as possible; (2) conduct an investigation to clarify the alleged acts of torture committed against Mr. Ruano Torres by police at the time of his arrest, identify those responsible, and sanction them accordingly; and (3) adopt measures to prevent similar events from happening in the future.<sup>56</sup>

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51. *Id.* ¶ 90.

52. Jose Agapito Ruano Torres et al. v. El Salvador, Admissibility Report, Report No. 77/08, Inter-Am. Comm'n H.R., Case No. 12.679, ¶ 2 (Oct. 19, 2008).

53. *See id.*

54. Ruano Torres et al. v. El Salvador, Merits, Reparations, and Costs, ¶ 2.

55. *Id.*

56. *Id.*

**January 22, 2014:** The State presents a report of its implementation of the Commission's recommendations and requests the Commission to grant an extension.<sup>57</sup> The Commission denies the extension because the State abstained from making preliminary objections within the deadline established by Article 51 of the American Convention.<sup>58</sup>

### *B. Before the Court*

**February 13, 2014:** The Commission submits the case to the jurisdiction of the Inter-American Court after the State fails to adopt its recommendations, highlighting the “need to obtain justice for the victim and his family”.<sup>59</sup>

#### 1. Violations Alleged by Commission<sup>60</sup>

Article 5 (Right to Humane Treatment)

Article 7 (Right to Personal Liberty)

Article 8 (Right to a Fair Trial)

Article 25 (Right to Judicial Protection)

*all in relation to:*

Article 1(1) (Obligation of Non-Discrimination) of the American Convention.

#### 2. Violations Alleged by Representatives of the Victims<sup>61</sup>

Same Violations Alleged by Commission, plus:

Article 7(1) (Right to Personal Liberty and Security)

Article 7(2) (Prohibition of Deprivation of Liberty Unless for Reasons and Conditions Previously Established by Law)

Article 8(1) (Right to a Hearing Within a Reasonable Time by a Competent and Independent Tribunal)

Article 8(2)(e) (Right to Assistance by Counsel Provided by State) of the American Convention.

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57. *Id.*

58. *Id.*

59. *Id.*

60. Jose Agapito Ruano Torres et al. v. El Salvador, Report on Merits, Report No. 82/13, Inter-Am. Comm'n H.R., Case No. 12.679, ¶ 2 (Nov. 4, 2013).

61. Ruano Torres et al. v. El Salvador, Merits, Reparations, and Costs, ¶ 6. Ruddy Orlando Arreola Higueros and Alberto Hassim González Herrera served as representatives of Mr. Ruano Torres.

Article I (Right to Life, Liberty and Personal Security)  
Article XVIII (Right to a Fair Trial)  
Article XXV (Right of Protection From Arbitrary Arrest)  
Article XXVI (Right to Due Process of Law) of the American Declaration  
of the Rights and Duties of Man.

**November 18, 2014:** The State recognizes international responsibility for the forced disappearance of Mr. Ruano Torres.<sup>62</sup>

**March 11, 2015:** The President of the Court approves the petitioner's request for necessary assistance through the Legal Assistance Fund for Victims.<sup>63</sup>

**September 30, 2015:** The Court initiates deliberation of its Judgment.<sup>64</sup>

### III. MERITS

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

Humberto Antonio Sierra Porto, President  
Roberto F. Caldas, Vice-President  
Manuel E. Ventura Robles, Judge  
Diego García, Judge  
Alberto Pérez Pérez, Judge  
Eduardo Vio Grossi, Judge  
Eduardo Ferrer Mac-Gregor Poisot, Judge

Pablo Saavedra Alesandri, Secretary  
Emilia Segares Rodríguez, Deputy Secretary

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

**October 5, 2015:** The Court issues its Judgment on Merits, Reparations, and Costs.<sup>65</sup>

The Court unanimously accepts the acknowledgment of international responsibility made by the State,<sup>66</sup> because:

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62. *Id.* ¶ 7.

63. *Id.* ¶ 9.

64. *Id.* ¶ 13.

65. *Id.*

66. *Id.* "Decides" ¶ 1.



*The State repeatedly expressed its recognition and acceptance of the facts presented by the Inter-American Commission and acknowledged its failure to guarantee due process, all to the detriment of Mr. Ruano Torres.<sup>67</sup> Despite some dispute of facts by the State, the Court found that the State's overwhelming acknowledgment of responsibility on multiple occasions and in multiple settings was sufficient to consider any controversy over the facts ceased.<sup>68</sup>*

The Court found unanimously that El Salvador had violated;

Articles 5(1) (Right to Physical, Mental, and Moral Integrity) and 5(2) (Prohibition of Torture, and Cruel, Inhumane or Degrading Treatment) in relation to Article 1(1) (Obligation of Non-Discrimination) of the Convention, to the detriment of Mr. Ruano Torres,<sup>69</sup> because:

*The State subjected Mr. Ruano Torres to acts of violence that reached a level of intensity high enough to be considered torture.<sup>70</sup> Any violation of Article 5(2) (Prohibition of Torture, and Cruel, Inhumane, or Degrading Treatment) of the Convention will necessarily entail a violation of Article 5(1) (Right to Physical, Mental, and Moral Integrity).<sup>71</sup> Although the acts of torture against Mr. Ruano Torres were reported to the State, the State failed to conduct a diligent, independent, and impartial investigation into the acts.<sup>72</sup> Thus, the Court found the State's excessive use of force against Mr. Ruano Torres in an effort to gain a confession was strictly prohibited by international law.<sup>73</sup>*

Article 8(2) (Right to Be Presumed Innocent), in relation to Article 1(1) (Obligation of Non-Discrimination) of the Convention, to the detriment of Mr. Ruano Torres,<sup>74</sup> because:

*The State failed to exhaust all necessary means to investigate and reliably determine the person nicknamed El Chopo.<sup>75</sup> From the initial investigation and throughout the entirety of the proceedings against Mr. Ruano Torres, there were clear doubts and discrepancies surrounding*

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67. Ruano Torres et al. v. El Salvador, Merits, Reparations, and Costs, ¶ 15.

68. *Id.* ¶ 22.

69. *Id.* “Declares” ¶¶ 2, 3.

70. *Id.* ¶ 123.

71. *Id.* ¶ 118.

72. *Id.* ¶ 124.

73. Ruano Torres et al. v. El Salvador, Merits, Reparations, and Costs, ¶ 120.

74. *Id.* “Declares” ¶ 4.

75. *Id.* ¶ 130.

*the identity of Mr. Ruano Torres as El Chopo.*<sup>76</sup> *Nevertheless, the State still failed to conduct an investigation into the facts presented on behalf of Mr. Ruano Torres to rule out his participation in the event, denying him his right to defense.*<sup>77</sup> *The Court was also troubled by the irregularity in which the State carried out Mr. Rodríguez Marroquín's identification of Mr. Ruano Torres as his kidnapper.*<sup>78</sup>

Article 25(1) (Right of Recourse Before a Competent Court), in relation to Article 1(1) (Obligation of Non-Discrimination) of the Convention, to the detriment of Mr. Ruano Torres,<sup>79</sup> because:

*The State failed to respond to and investigate the allegations of human rights abuses against Mr. Ruano Torres.*<sup>80</sup> *In effect, the State did not provide Mr. Ruano Torres with a fair and adequate judicial remedy, gave no respect to the presumption of innocence, and denied Mr. Ruano Torres the right to defense.*<sup>81</sup> *Therefore, the Court determined that the State failed to guarantee an effective judicial remedy against acts that violated the fundamental rights of Mr. Ruano Torres.*<sup>82</sup>

Articles 7(1) (Right to Personal Liberty and Security), 7(3) (Prohibition of Arbitrary Arrest or Imprisonment), and 7(6) (Right to Have Recourse Before a Competent Court), in relation to Article 1(1) (Obligation of Non-Discrimination) of the Convention, to the detriment of Mr. Ruano Torres,<sup>83</sup> because:

*The State subjected Mr. Ruano Torres to nine months of arbitrary detention and deprivation of liberty, as the State court judgment was based on criminal proceedings without judicial guarantees.*<sup>84</sup> *A writ of habeas corpus filed did not protect Mr. Ruano Torres's liberty, as the State failed to carry out the necessary procedures to determine whether the detention was valid.*<sup>85</sup> *Thus, the Court found the arrest and*

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76. *Id.*

77. *Id.*

78. *Id.* ¶ 134.

79. Ruano Torres et al. v. El Salvador, Merits, Reparations, and Costs, "Declares" ¶ 5.

80. *Id.* ¶ 138.

81. *Id.*

82. *Id.* ¶ 136.

83. *Id.* "Declares" ¶ 6.

84. *Id.* ¶ 142.

85. Ruano Torres et al. v. El Salvador, Merits, Reparations, and Costs, ¶ 143.

*subsequent detention of Mr. Ruano Torres became arbitrary and illegal when he was denied minimum fundamental judicial guarantees.*<sup>86</sup>

Article 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal), 8(2)(d) (Right to Self-Defense or Legal Assistance and to Communicate Freely with Counsel), and 8(2)(e) (Right to Assistance by Counsel Provided by State) in relation to Article 1(1) (Obligation of Non-Discrimination) of the Convention, to the detriment of Mr. Ruano Torres,<sup>87</sup> because:

*The State failed to provide Mr. Ruano Torres with basic due process guarantees.*<sup>88</sup> *The Court noted that due process is “intimately linked with the notion of justice,” and serves to resolve inequalities between parties, a fair trial, and the resolution of disputes in a manner most likely to ensure a solution.*<sup>89</sup> *Central to due process is the accused’s right to defense.*<sup>90</sup> *An accused has the unequivocal right to defend himself personally, or to be assisted by an advocate of his election.*<sup>91</sup>

*In order to ensure due process guarantees, states have a duty to adopt all necessary measures to ensure public defense institutions are efficient, including adequate processes of selecting and training public defenders.*<sup>92</sup> *While the Court recognized that it cannot hold states responsible for all failures and inadequacies of public defenders, it found the public defense of Mr. Ruano Torres to be almost illusory in nature.*<sup>93</sup> *Mr. Ruano Torres’s public defender failed to raise obvious and essential defenses and did not file an appeal of conviction.*<sup>94</sup> *The overwhelming omissions of Mr. Ruano Torres’s public defense “left him in a state of defenselessness.”*<sup>95</sup> *Therefore, the Court found the State denied Mr. Ruano Torres basic due process guarantees.*<sup>96</sup>

Articles 5(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal), in relation to Article 1(1)

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86. *Id.* ¶ 141.

87. *Id.* “Decides” ¶ 7.

88. *Id.* ¶ 151.

89. *Id.*

90. *Id.* ¶ 153.

91. Ruano Torres et al. v. El Salvador, Merits, Reparations, and Costs, ¶ 154.

92. *Id.* ¶ 163.

93. *Id.* ¶ 167.

94. *Id.*

95. *Id.*

96. *Id.* ¶ 174.

(Obligation of Non-Discrimination) of the Convention, to the detriment of María Maribel Guevara de Ruano, Oscar Manuel Ruano Guevara, Keily Lisbeth Ruano Guevara and Pedro Torres Hercules,<sup>97</sup> because:

*The State violated the right to psychological and moral integrity of several family members of Mr. Ruano Torres.<sup>98</sup> The State acknowledged the violation of personal integrity to the detriment of Mrs. Guevara de Ruano, Oscar Manuel, Keily Lisbeth, and Mr. Torres Hércules.<sup>99</sup> Mr. Ruano Torres's wife and son witnessed the torture suffered by Mr. Ruano Torres.<sup>100</sup> They both later suffered from psychological distress, including sleeping problems, loneliness, and depression.<sup>101</sup> Mrs. Guevara de Ruano was also gravely affected by the terrible prison conditions endured by her husband.<sup>102</sup> In the absence of her husband, Mrs. Guevara de Ruano was left to care for and financially support her children alone.<sup>103</sup>*

*Mr. Ruano Torres's children, Oscar and Keily, were also gravely affected by their father's arbitrary imprisonment.<sup>104</sup> Oscar grew up to become rebellious and Keily did not know her father for much of her life.<sup>105</sup> Mr. Ruano Torres's cousin, Pedro, stated that he had left his job to follow the case and suffered together with Mr. Ruano Torres's wife and children facing uncertainty and fear for his cousin's life.<sup>106</sup> Thus, the Court found that the State violated the rights of Mrs. Guevara de Ruano, Oscar Manuel, Keily Lisbeth, and Mr. Torres Hércules.<sup>107</sup>*

### C. Dissenting and Concurring Opinions

#### 1. Concurring Opinion of Judge Humberto Antonio Sierra Porto

In a concurring opinion, Judge Humberto Antonio Sierra Porto raised the question of whether, despite a state having admitted to a violation, the Court may nonetheless find that no such violation

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97. Ruano Torres et al. v. El Salvador, Merits, Reparations, and Costs, "Declares" ¶ 8.

98. *Id.* ¶ 176.

99. *Id.* ¶ 179.

100. *Id.* ¶ 180.

101. *Id.* ¶ 181.

102. *Id.* ¶ 182.

103. Ruano Torres et al. v. El Salvador, Merits, Reparations, and Costs, ¶ 183.

104. *Id.* ¶ 184.

105. *Id.*

106. *Id.* ¶ 187.

107. *Id.* ¶ 188.

existed.<sup>108</sup> Considering the regulations that dictate state recognition of international responsibility, he concluded that “it is up to the Court to decide both the source of a recognition of state responsibility as well as its legal effects, taking into account the responsibilities that concern [the Court] to protect human rights.”<sup>109</sup> In Judge Sierra Porto’s view, the Court is not bound to accept a state’s recognition of responsibility.<sup>110</sup>

While Judge Sierra Porto recognized that states usually accept responsibility in good faith, he noted the Court should be guided by several considerations when determining the admissibility and effect of recognitions in those cases, where such a position could contradict a decision taken by the state’s national courts, or may lead to the Court overturning decisions internally.<sup>111</sup> In regards to the State’s recognition, Judge Sierra Porto concluded: (1) the State’s recognition is reasonable because there is no evidence it was politically motivated; (2) there is no evidence of hidden reprieve; (3) any irregularities in the case do not raise concerns about the truthfulness of the State’s expressions; (4) wherever there is recognition by a state, the Court has a duty to analyze the factual basis for such recognition; and, (5) the Court may only revoke a decision at the national level “when there are elements of conviction or certainty regarding the factual elements that determine the will of the state.”<sup>112</sup>

#### 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 Facts That Generated the Violations and Punish Those Responsible

The Court found that Mr. Ruano Torres was subjected to acts of torture at the time of his arrest, and the State breached its duty to investigate those acts. Thus, the Court held the State must, within

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108. Ruano Torres et al. v. El Salvador, Merits, Reparations, and Costs, Separate Opinion of Judge Humberto Antonio Sierra Porto, Inter-Am Ct. H.R. (ser. C) No. 303, ¶ 2 (Oct. 5, 2015).

109. *Id.* ¶ 4 (internal quotations omitted) (citing Article 62 of the Rules of Court).

110. *Id.*

111. *Id.* ¶ 7.

112. *Id.*

reasonable time, conduct an effective investigation and criminal proceeding against the acts which violated Mr. Ruano Torres's right.<sup>113</sup>

## 2. Determine Responsibility of Officials

The Court ordered that the State must determine any responsibility of the officials of the public defender's office in contributing to the violation of Mr. Ruano Torres's rights, and, if applicable, apply any consequences as required by the law.<sup>114</sup>

## 3. Repeal the Sentence Issued

The Court ordered that the State must use necessary measures to revoke Mr. Ruano Torres's sentence and remove any judicial, administrative, criminal or police records created from the proceedings.<sup>115</sup>

## 4. Provide Adequate Care

The Court ordered the State to provide adequate care for Mr. Ruano Torres and his family, including psychological, psychiatric and pharmaceutical care.<sup>116</sup>

## 5. Provide Academic or Vocational Training

The Court ordered the State to provide scholarships to State institutions for the higher education Mr. Ruano Torres and his family.<sup>117</sup>

## 6. Publish the Judgment

The Court ordered the State to publish the Court's official summary in the official State newspaper and an additional nationally-circulated newspaper and have it publicly accessible for one year.<sup>118</sup>

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113. *Ruano Torres et al. v. El Salvador, Merits, Reparations, and Costs*, ¶¶ 197, 198.

114. *Id.* ¶ 205.

115. *Id.* ¶ 211.

116. *Id.* ¶ 215.

117. *Id.* ¶ 219.

118. *Id.* ¶ 222.

### 7. Commemorative Plaque

The Court required the State to visibly place a plaque at the Public Defender Unit headquarters to remember the acts against Mr. Ruano Torres.<sup>119</sup>

### 8. Implement Training Programs

The Court ordered the State to implement human rights training programs focusing on international standards of effective investigation and cruel inhumane treatment.<sup>120</sup> The Court further required that reference be made to this judgment in the training courses.<sup>121</sup>

### 9. Strengthen the Institutional Capacities of the Public Defenders' Offices

The Court required the State to implement training programs for public defenders focusing on the international standards of due process rights and the right to defense.<sup>122</sup>

## *B. Compensation*

The Court awarded the following amounts:

### 1. Pecuniary Damages

The State must pay the following in pecuniary damages: (1) \$10,000.00 (USD) to Mr. Ruano Torres; (2) \$10,000.00 (USD) to Mrs. Guevara de Ruano; and, (3) \$20,000.00 (USD) to Mr. Torres Hercules.<sup>123</sup>

### 2. Non-Pecuniary Damages

The State was compelled to pay the following in non-pecuniary damages: (1) \$130,000.00 (USD) to Mr. Ruano Torres; (2) \$35,000.00 (USD) to Mrs. Guevara de Ruano; (3) \$20,000.00 to Oscar Manuel; (4)

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119. *Ruano Torres et al. v. El Salvador*, Merits, Reparations, and Costs, ¶ 225.

120. *Id.* ¶ 231.

121. *Id.*

122. *Id.* ¶ 235.

123. *Id.* ¶ 245.

\$20,000.00 (USD) to Keily Lisbeth; and, (5) \$10,000.00 (USD) to Mr. Torres Hercules.<sup>124</sup>

### 3. Costs and Expenses

The State must pay \$4,555.62 (USD) in reimbursement fees to the Legal Assistance Fund of the Inter-American Human Rights System for costs and expenses of handling the proceedings, including appearances and submission of affidavits.<sup>125</sup>

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

\$ 259,555.62 (USD)

### C. Deadlines

From the date the Court issued this Judgment, the State had one year to render the criminal sentence and proceedings against Mr. Ruano Torres ineffective.<sup>126</sup> The victims had six months to notify the State of their intent to receive medical care.<sup>127</sup> The State had six months to publish the official summary and Judgment.<sup>128</sup> The State had one year to install the commemorative plaque.<sup>129</sup> All payments must be made to the victims and representatives within one year.<sup>130</sup>

## V. COMPLIANCE AND FOLLOW-UP

**February 5, 2018:** The Court was unable to evaluate whether there was adequate compliance on behalf of the State in regard to its duty to provide adequate psychiatric or psychological care to the victims because the State had not yet provided enough information.<sup>131</sup> However, the Court did find the State fully complied with the other measures of reparation.<sup>132</sup>

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124. *Id.* ¶ 251.

125. Ruano Torres et al. v. El Salvador, Merits, Reparations, and Costs, ¶ 259.

126. *Id.* ¶ 211.

127. *Id.* ¶ 216.

128. *Id.* ¶ 222.

129. *Id.* ¶ 225.

130. *Id.* ¶ 260.

131. Ruano Torres et al. v. El Salvador, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. (ser. C) ¶ 7 (Feb. 5, 2018).

132. *Id.* ¶¶ 10, 14.



## VI. LIST OF DOCUMENTS

*A. Inter-American Court*

## 1. Preliminary Objections

[None]

## 2. Decisions on Merits, Reparations and Costs

[Ruano Torres et al. v. El Salvador, Merits, Reparations, and Costs, Judgment, Inter-Am Ct. H.R. \(ser. C\) No. 303 \(Oct. 5, 2015\)](#)

[Ruano Torres et al. v. El Salvador, Merits, Reparations, and Costs, Separate Opinion of Judge Humberto Antonio Sierra Porto, Inter-Am Ct. H.R. \(ser. C\) No. 303 \(Oct. 5, 2015\)](#)

## 3. Provisional Measures

[Ruano Torres et al. v. El Salvador, Provisional Measures, Order of the President, Inter-Am. Ct. H.R. \(Mar. 11, 2015\)](#)

## 4. Compliance Monitoring

[Ruano Torres et al. v. El Salvador, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. \(ser. C\) \(Feb. 5, 2018\)](#)

## 5. Review and Interpretation of Judgment

[None]

*B. Inter-American Commission*

## 1. Petition to the Commission

[Not Available]

## 2. Report on Admissibility

[Ruano Torres et al. v. El Salvador, Admissibility Report, Report No. 77/08, Inter-Am. Comm'n H.R., Case No. 12.679 \(Oct. 19, 2008\)](#)

## 3. Provisional Measures

[None]

## 4. Report on Merits

[Ruano Torres et al. v. El Salvador, Report on Merits, Report No. 82/13, Inter-Am. Comm'n H.R., Case No. 12.679 \(Nov. 4, 2013\)](#)

## 5. Application to the Court

[Ruano Torres et al. v. El Salvador, Petition to the Court, Inter-Am. Comm'n H.R., Case No. 12.679 \(Feb. 13, 2014\)](#)

## VII. BIBLIOGRAPHY

[Iliana Cornejo, \*Ruano Torres: The Victim of the Salvadorian State\*, EL MUNDO \(Oct. 4, 2016\), <http://elmundo.sv/ruano-torres-la-victima-del-estado-salvadoreno/>](#)