

# Serrano Cruz Sisters v. El Salvador

## ABSTRACT<sup>1</sup>

*This is a case about the disappearance of two children during El Salvador's civil war. In 1982, Ernestina and Erlinda Serrano Cruz, seven and three years old respectively, were captured by soldiers in the Atlacatl Battalion of the Salvadoran Army, during a military operation known as "Operación Limpieza" (Operation Cleansing). The Court found that the State violated the American Convention on Human Rights for the capture, abduction and forced disappearance of the Serrano Cruz sisters. The case was only partly successful because some issues were beyond the Court's temporal jurisdiction. The case also touched on the relationship between international human rights law and international humanitarian law.*

## I. FACTS

### A. Chronology of Events

El Salvador enters into a brutal civil war after years of social inequality, a terrible economy, and dictatorial rule.<sup>2</sup> From 1980 to 1991, the right-wing party fights leftist anti-government guerilla units, known as the Farabundo Marti National Liberation Front (*Frente Farabundo Martí para la Liberación Nacional*; "FMLN").<sup>3</sup> The armed conflict results in approximately 75,000 murders and countless forced disappearances.<sup>4</sup> Villages that the government believes are assisting guerrillas are targeted and massacred.<sup>5</sup> Operation Cleansing (*Operación Limpieza*) is one of the military operations run by the State of El Salvador to

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1. Maya Rozov, Author; Elise Cossart-Daly, Heather Hassan, Grace Kim, and Sascha Meisel, Editors; Sarah Frost, Chief Articles Editor; Cesare Romano, Faculty Advisor.

2. Jessica Riley, *Disappeared Children in El Salvador Are Still Missing After 30 Years*, EXAMINER.COM (Aug. 19, 2012), <http://www.examiner.com/article/disappeared-children-el-salvador-are-still-missing-after-30-years>.

3. *Id.*

4. *Id.*

5. *Id.*

“cleanse” the civilian population of dissenters.<sup>6</sup> Over 800 children disappear during the chaos.<sup>7</sup> At least 400 have yet to be found.<sup>8</sup>

**May 27, 1982 – June 9, 1982:** The members of the Serrano Cruz family flees from their home during *Operación Limpieza* to protect their lives.<sup>9</sup> At some point during their escape the family becomes separated while hiding in the woods from the soldiers.<sup>10</sup> Seven-year-old Ernestina and three-year-old Erlinda are left with their father, Dionisio Serrano, two of their siblings, and a number of other villagers.<sup>11</sup> This group walks for three days, and subsequently hides for an additional three days with little food or water.<sup>12</sup> While in hiding, Dionisio Serrano leaves Ernestina and Erlinda by themselves when he goes to get water from a nearby river.<sup>13</sup>

**June 2, 1982:** The Serrano sisters begin to cry and are discovered by members of the Atlactl Battalion of the Salvadoran army.<sup>14</sup> Witnesses testify that they saw the Serrano Cruz sisters being taken by a military helicopter and handed over to the Red Cross relief workers, but they have not been seen since.<sup>15</sup>

**April 30, 1993:** María Victoria Cruz Franco, the victims’ mother, files a complaint with the local Chalatenango Trial Court arising from the disappearance of her daughters.<sup>16</sup>

**November 13, 1995:** Mrs. Cruz Franco files a petition for habeas corpus before the Constitutional Chamber of the Supreme Court of Justice.<sup>17</sup>

### B. Other Relevant Facts

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6. *Id.*

7. *Id.*

8. *Id.*

9. Serrano Cruz Sisters v. El Salvador, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 131, ¶ 2 (Sept. 9, 2005).

10. *Id.* ¶ 35(a)(1).

11. *Id.*

12. *Id.*

13. *Id.*

14. *Id.*

15. Serrano Cruz Sisters v. El Salvador, Admissibility Report, Report No. 31/01, Inter-Am. Comm’n H.R., Case No. 12.132, ¶ 2 (Feb. 23, 2001).

16. *Id.*

17. *Id.*

The Association for the Search for Missing Children (*Asociación Pro-Búsqueda de Niñas y Niños Desaparecidos*) has investigated 818 cases of children who disappeared during El Salvador's conflict.<sup>18</sup>

## II. PROCEDURAL HISTORY

### A. *Before the Commission*

**February 16, 1999:** The Association for the Search for Missing Children and the Center for Justice and International Law ("CEJIL") file a complaint with the Commission.<sup>19</sup>

**February 23, 2001:** The Commission issues Admissibility Report No. 31/01, declaring this case admissible and applying the exception found under Article 46(2)(c) of the Convention, as domestic remedies failed to function with the requisite effectiveness with regards to forced disappearance cases.<sup>20</sup>

**March 4, 2003:** The Commission adopts Report No. 37/03, declaring that the State has violated Articles 4 (Right to Life), 5 (Right to Humane Treatment), 7 (Right to Personal Liberty), 8 (Right to a Fair Trial), 17 (Rights of the Family), 18 (Right to a Name and Surname of Parents), 19 (Rights of the Child), and 25 (Right to Judicial Protection) of the American Convention.<sup>21</sup> Accordingly, the Commission makes three recommendations to the State: (1) to conduct a complete and effective investigation in order to find the Serrano Cruz sisters and provide the appropriate reparations should the girls be found, (2) to conduct an effective investigation to determine who is responsible for the violations suffered by the Serrano sisters and their next of kin, and (3) to make adequate reparations to the next of kin of the Serrano sisters.<sup>22</sup>

### B. *Before the Court*

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18. Justin Shore, *El Salvador Acknowledges and Apologizes for Forced Disappearances of Children*, THE HUM. RTS. BR. (DEC. 2, 2009), <http://hrbrief.org/2009/12/el-salvador-acknowledges-and-apologizes-for-forced-disappearances-of-children/>

19. Serrano Cruz Sisters v. El Salvador, Admissibility Report, ¶ 1.

20. Serrano Cruz Sisters v. El Salvador, Preliminary Objections, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 118, ¶ 7 (Nov. 23, 2004).

21. *Id.* ¶ 12.

22. Serrano Cruz Sisters v. El Salvador, Preliminary Objections, ¶ 12.

**June 14, 2003:** The Commission submits the case to the Court after the State failed to adopt its recommendations.<sup>23</sup>

**July 23, 2003:** The State appoints Alejandro Montiel Argüello as judge *ad hoc*.<sup>24</sup>

#### 1. Violations Alleged by Commission<sup>25</sup>

Article 4 (Right to Life)

Article 5 (Right to Humane Treatment)

Article 7 (Right to Personal Liberty)

Article 8(1) (Right to a Fair Trial)

Article 17 (Rights of the Family)

Article 18 (Right to a Name and Surname of Parents)

Article 19 (Rights of the Child)

Article 25 (Right to Judicial Protection)

*all in relation to:*

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

#### 2. Violations Alleged by Representatives of the Victims<sup>26</sup>

Same Violations Alleged by the Commission.

**October 31, 2003:** The State submits four preliminary objections to the Court.<sup>27</sup>

**November 23, 2004:** The Court delivers its judgment on the preliminary objections.<sup>28</sup> First, the State argues that the Court lacks jurisdiction *rationae temporis* because the facts of the case, as well as the commencement of the violations, happened before the State accepted jurisdiction of the Court.<sup>29</sup> Further, the State claims that application for the crime of forced disappearance cannot be invoked retroactively because the term was defined in the American Convention after the facts of the present case.<sup>30</sup> In response to the first preliminary objection,

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23. Serrano Cruz Sisters v. El Salvador, Merits, Reparations, Costs, ¶ 1.

24. Serrano Cruz Sisters v. El Salvador, Preliminary Objections, ¶ 21.

25. Serrano Cruz Sisters v. El Salvador, Merits, Reparations, Costs, ¶¶ 49, 108, 116, 126.

26. *Id.* ¶¶ 50, 109, 119, 127.

27. *Id.* ¶ 5.

28. Serrano Cruz Sisters v. El Salvador, Preliminary Objections, ¶ 21.

29. *Id.* ¶¶ 49, 54.

30. *Id.* ¶ 100.

the Court holds that it will not rule on the violation of Articles 4 (Right to Life), 5 (Right to Humane Treatment), and 7 (Right to Personal Liberty) regarding the forced disappearances because the violations commenced before the State accepted the jurisdiction of the Court, meaning the Court does not have jurisdiction to rule on these Articles.<sup>31</sup> In relation to Articles 8 (Right to a Fair Trial) and 25 (Right to Judicial Protection), the Court holds that it maintains jurisdiction because the facts relating to the Articles took place after the State accepted the jurisdiction.<sup>32</sup> The Court holds that, because international law recognizes forced disappearance as a human rights violation, the Court has jurisdiction whether or not the State ratified the Convention before the alleged violations of its Articles. The Court holds that these violations did not need to be ratified by the State for the Court to have jurisdiction on the issues because international law recognizes forced disappearance as a human rights violation.<sup>33</sup>

Second, the State asserts that the Court lacked subject matter jurisdiction because the issues of the case are governed by international humanitarian law, which is outside the Court's jurisdiction.<sup>34</sup> The State argues that since there was a non-international armed conflict raging in El Salvador, international humanitarian law, not international human rights law, was to be applied.<sup>35</sup> "Under international humanitarian law, the State argued that the laws of the four Geneva Conventions of 1949 and the Additional Protocols of 1977 rule, meaning that the Court did not have jurisdiction.<sup>36</sup> In response to the second preliminary objection, the Court points out that it can use international humanitarian law, ratified by the State, to give context to the American Convention.<sup>37</sup> However, since the Court already held that it would not rule on the issue of forced disappearance, the Court dismisses this objection as well.<sup>38</sup>

Third, the State claims that there is ambiguity in the claims and body of the text submitted to the Court.<sup>39</sup> The Court also dismisses the third preliminary objection because the Court does not consider it to be a "true" preliminary objection.<sup>40</sup>

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31. *Id.* ¶¶ 77, 95.

32. *Id.* ¶ 84.

33. *Id.* ¶¶ 105-06.

34. *Id.* ¶ 108(f).

35. *Id.* ¶ 108(b).

36. *Id.* ¶ 108(d).

37. *Id.* ¶ 119.

38. *Id.*

39. *Id.* ¶ 124.

40. *Id.* ¶ 127.

Finally, the State asserts that domestic remedies were not exhausted and thus it was improper to submit the case to the Court.<sup>41</sup> The Court dismisses the fourth preliminary objection finding no reason to re-evaluate the Commission's finding that the case was admissible since domestic remedies had been exhausted.<sup>42</sup>

### III. MERITS

#### A. *Composition of the Court*<sup>43</sup>

Sergio García Ramírez, President  
Alirio Abreu Burelli, Vice President  
Oliver Jackman, Judge  
Antônio Augusto Cançado Trindade, Judge  
Cecilia Medina Quiroga, Judge  
Manuel E. Ventura Robles, Judge  
Alejandro Montiel Argüello, Judge *ad hoc*

Pablo Saavedra Alessandri, Secretary  
Emilia Segares Rodríguez, Deputy Secretary

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

**March 1, 2005:** The Court issues its Judgment on Merits, Reparations and Costs.<sup>44</sup>

The Court found by six votes to one that El Salvador had violated:<sup>45</sup>

Articles 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal) and 25 (Right to Judicial Protection), in relation to Article 1(1) of the Convention, to the detriment of Ms. Ernestina Serrano Cruz and Ms. Erlinda Serrano Cruz,<sup>46</sup> because:

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41. *Id.* ¶ 129.

42. *Id.* ¶¶ 140-41.

43. Judge Diego García Sayán excused himself in accordance with Articles 19(2) of the Court's Statute and 19 of its Rules of Procedure.

44. *Serrano Cruz Sisters v. El Salvador*, Merits, Reparations, Costs.

45. *Id.* ¶ 218(1).

46. *Id.* ¶ 49.

*The State did not process the case with a proper hearing within a reasonable time, nor did it provide the victims and their next of kin with prompt recourse.<sup>47</sup> Since the Court could not hear the facts or the acts that happened before El Salvador accepted the jurisdiction of the Court, it could only look to consider whether the domestic proceedings were carried out according to the standards of the American Convention.<sup>48</sup> The habeas corpus and criminal proceedings in the domestic courts did not comply with the standards of access to justice and due process.<sup>49</sup> The proceedings were done in an inefficient manner in regards to both time and effectiveness.<sup>50</sup> The State has had almost eight years to conduct its investigation, yet no one has been indicted.<sup>51</sup> The State has acknowledged that this failure is not due to the complexity of the case, but due to the inaction of the judicial body.<sup>52</sup> The State failed to fulfill its duty to provide the next of kin relief by letting them know what happened to the victims.<sup>53</sup> Further, the domestic proceedings have failed to produce information as to what happened to the sisters or who is responsible and should be punished.<sup>54</sup> Therefore, the Court found that the State was in violation of these articles.*

The Court found by six votes to one that El Salvador had violated:<sup>55</sup>

Article 5 (Right to Humane Treatment), in relation to Article 1(1) of the Convention, to the detriment of Ms. Ernestina Serrano Cruz and Ms. Erlinda Serrano Cruz,<sup>56</sup> because:

*The State did not uphold its duty to protect the physical and mental integrity of the Serrano Cruz sisters.<sup>57</sup> Further, the next of kin of the Serrano Cruz sisters endured an immense amount of mental suffering due to the State's failure to investigate the case.<sup>58</sup> Over the years, the next of kin has seen other families reunited with their family members*

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47. *Id.* ¶¶ 52-53.

48. *Id.* ¶ 55.

49. *Id.* ¶ 106.

50. Serrano Cruz Sisters v. El Salvador, Merits, Reparations, and Costs, ¶¶ 70, 105.

51. *Id.* ¶ 68.

52. *Id.*

53. *Id.* ¶ 62.

54. *Id.* ¶¶ 105-06.

55. *Id.* ¶ 218(2).

56. *Id.* ¶ 108.

57. *Id.* ¶ 115.

58. *Id.* ¶ 114.

who disappeared during the armed conflict.<sup>59</sup> The Serrano Cruz family lived in constant lingering hope that there was a chance that they too could be reunited with Ernestina and Erlinda, or at least know the fate of the two girls.<sup>60</sup> However, the State did not conduct a proper investigation and the next of kin has continued to live with feelings of family disintegration, insecurity, frustration, anguish, and impotence.<sup>61</sup>

The Court found, by five votes to two,<sup>62</sup> that the State had not violated:

Articles 17 (Rights of the Family), 18 (Right to a Name and Surname of Parents), and 19 (Rights of the Child), in relation to Article 1(1) of the Convention, to the detriment of Ms. Ernestina Serrano Cruz and Ms. Erlinda Serrano Cruz,<sup>63</sup> because:

*The Court does not have jurisdiction to rule on violations that arose from facts that occurred before the date the State accepted the Court's jurisdiction.*<sup>64</sup>

The Court found by six votes to one that the State did not violate.<sup>65</sup>

Article 4 (Right to Life), in relation to Article 1(1) of the Convention, to the detriment of Ms. Ernestina Serrano Cruz and Ms. Erlinda Serrano Cruz,<sup>66</sup> because:

*The Court does not have jurisdiction to rule on these violations because they occurred before the date that the State accepted the Court's jurisdiction.*<sup>67</sup> Further, the Court acknowledges that the Serrano Cruz sisters may still be alive because there is no evidence to show otherwise.<sup>68</sup> There have been other cases where disappeared children were found alive years later.<sup>69</sup> With this as a possibility, the Court cannot hold the State to have arbitrarily denied the Serrano Cruz sisters

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59. *Id.* ¶ 112.

60. *Id.* ¶ 113.

61. *Id.* ¶ 112.

62. *Id.* ¶ 218(3).

63. *Id.* ¶ 116.

64. *Id.* ¶ 55.

65. *Id.* ¶ 218(4).

66. *Id.* ¶ 126.

67. *Id.* ¶ 130.

68. *Id.* ¶ 131.

69. *Id.*



of their right to life.<sup>70</sup>

### C. Dissenting and Concurring Opinions

#### 1. Dissenting Opinion of Judge Antônio Augusto Cançado Trindade

Judge Cançado Trindade states that the Court incorrectly based its decision on its previous preliminary objections judgment and therefore did not properly evaluate the case.<sup>71</sup> Furthermore, he believes that the Court erred in failing to find that the State violated Article 4 (Right to Life), Article 17 (Rights of the Family), Article 18 (Right to a Name and Surname of Parents), and Article 19 (Rights of the Child).<sup>72</sup> Judge Cançado Trindade first explains that this case provided the Court with the opportunity to develop case law on the right to identity because the two girls remain missing.<sup>73</sup> The Court should have looked at Article 18 (Right to a Name and Surname of Parents) and Article 17 (Rights of the Family) together because they both relate to the right to identity.<sup>74</sup> Next, he emphasizes his disagreement with the Court's decision not to rule on Article 19 (Rights of the Child) because the Serrano Cruz sisters were both under the age of 18 at the time of their disappearance.<sup>75</sup> Finally, Judge Cançado Trindade maintains that the Court erred in not ruling on Article 4 (Right to Life).<sup>76</sup> The Court cannot reasonably say that the Serrano Cruz sisters' right to life was preserved because the two young girls disappeared during a raging armed conflict.<sup>77</sup>

#### 2. Dissenting Opinion of Judge Manuel E. Ventura Robles

Judge Ventura Robles asserts that the Court incorrectly held that the State was not in violation of Article 17 (Rights of the Family), Article 18 (Right to a Name and Surname of Parents) and Article 19 (Rights of the Child).<sup>78</sup> He argues that the Court was mistaken in

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70. *Id.* ¶ 130.

71. Serrano Cruz Sisters v. El Salvador, Interpretation of Merits, Separate Dissenting Opinion of Judge Antônio Augusto Cançado Trindade, Inter-Am. Ct. H.R. (ser. C) No. 131, ¶ 1 (Sept. 9, 2005).

72. *Id.* ¶¶ 41-42.

73. *Id.* ¶ 13.

74. *Id.*

75. *Id.* ¶ 42.

76. *Id.* ¶ 33.

77. *Id.*

78. Serrano Cruz Sisters v. El Salvador, Interpretation of Merits, Separate Dissenting Opinion of Judge Manuel E. Ventura Robles, Inter-Am. Ct. H.R. (ser. C) No. 131, ¶ 7 (Sept. 9,

limiting its jurisdiction, which adversely affected the victims.<sup>79</sup> He further argues that the Court missed an important opportunity to rule on violations on the rights to family, to a name, rights of the child, and most importantly, the right to an identity, since the facts of this case directly correlated with these issues.<sup>80</sup>

### 3. Dissenting Opinion of *ad hoc* Judge Montiel Argüello

Judge Montiel Argüello argues that the Court was mistaken in holding that the State was in violation of Articles 8 (Right to a Fair Trial) and 25 (Right to Judicial Protection).<sup>81</sup> Although the recourses provided by the State did not yield any results, this is not enough to find that the State actively violated Article 25 (Right to Judicial Protection).<sup>82</sup> He also disagrees with the Court's decisions on reparations because he does not believe any potential human rights violations fell within the Court's jurisdiction.<sup>83</sup> The Court interpreted the Convention too broadly in attempting to prevent future violations from occurring; instead, it should focus on promoting human rights.<sup>84</sup>

## IV. REPARATIONS

The Court ruled by six votes to one that the State had the following obligations:

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

#### 1. Investigate, Identify, and Punish Those Responsible

The Court observed that the State must guarantee that the domestic authorities investigate the case properly and punish those who committed the violations.<sup>85</sup> The Court also decided that the result of these proceedings should be published so that Salvadoran citizens may

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2005).

79. *Id.* ¶ 2.

80. *Id.*

81. *Serrano Cruz Sisters v. El Salvador, Interpretation of Merits, Separate Dissenting Opinion of Judge Montiel Argüello, Inter-Am. Ct. H.R. (ser. C) No. 131, ¶ 1 (Sept. 9, 2005).*

82. *Id.* ¶ 11.

83. *Id.* ¶ 13.

84. *Id.* ¶ 14.

85. *Serrano Cruz Sisters v. El Salvador, Merits, Reparations, Costs, ¶ 175.*

know the truth of what happened.<sup>86</sup>

## 2. Establish a National Commission to Trace Disappeared Young People

The Court required the State to adopt the necessary measures to investigate the whereabouts of the young people who disappeared during the armed conflict.<sup>87</sup>

## 3. Create a Website

The Court held that the State should create a database and webpage for tracing disappeared children.<sup>88</sup> The Court considered that the State should work with other authorities and States to collaborate in developing an international search network for these children.<sup>89</sup>

## 4. Create a Genetic Information System

The Court determined that the State must create a system of genetic information to help identify disappeared children and clarify relationships with their next of kin.<sup>90</sup>

## 5. Publically Acknowledge Responsibility

The Court considered it necessary that the State organize a public acknowledgment of its responsibility for the violations declared in the form of a public ceremony to be disseminated through the media and on the Internet.<sup>91</sup>

## 6. Publish the Judgment

The Court held that the State must publish portions of the Court's judgment in the official gazette and in another nationally circulated

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86. *Id.*

87. *Id.* ¶ 185.

88. *Id.* ¶ 189.

89. *Id.* ¶ 191.

90. *Id.* ¶ 193.

91. *Id.* ¶ 194.

newspaper at least once.<sup>92</sup>

#### 7. Designate a Day for the Disappeared Children

The Court determined that the State should designate a day to recognize those children who disappeared during the armed conflict in order to encourage Salvadorans to work together to find the children.<sup>93</sup>

#### 8. Provide Medical and Psychological Care for the Victims' Next of Kin

The Court held that the State must provide free medical and psychological care for the victims' next of kin.<sup>94</sup>

### *B. Compensation*

The Court awarded the following amounts:

#### 1. Pecuniary Damages

The Court awarded \$555 to Suyapa Serrano Cruz, Erlinda and Ernestina's sister, for the expenses the next of kin incurred due to the girls' disappearance, particularly the family's medication and psychological care.<sup>95</sup> This award also covered the expenses incurred by the next of kin in trying to ascertain the whereabouts of Erlinda and Ernestina.<sup>96</sup> Because the Association for the Search for Missing Children assumed some of the expenses in trying to locate the Serrano Cruz sisters, Suyapa is to reimburse the Association for the Search for Missing Children accordingly.<sup>97</sup>

#### 2. Non-Pecuniary Damages

The Court awarded \$50,000 each in favor of Ernestina Serrano Cruz and Erlinda Serrano Cruz for non-pecuniary damages.<sup>98</sup> The Court awarded \$80,000 for non-pecuniary damages suffered by the victims'

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92. *Id.* ¶ 195.

93. *Id.* ¶ 196.

94. *Id.* ¶ 198.

95. *Id.* ¶ 152.

96. *Id.*

97. *Id.*

98. *Id.* ¶ 160(a).

mother, María Victoria Cruz Franco, and \$30,000 for the non-pecuniary damages suffered by the following siblings of the victims: Suyapa Serrano Cruz, José Fernando Serrano Cruz, and Oscar Serrano Cruz.<sup>99</sup> The Court awarded \$5,000 for non-pecuniary damages suffered by the following siblings of the victims: Martha Serrano Cruz, Arnulfo Serrano Cruz, and María Rosa Serrano Cruz.<sup>100</sup>

### 3. Costs and Expenses

The Court awarded \$38,000 to the Association for the Search for Missing Children for the expenses incurred in the proceedings before the domestic and international systems.<sup>101</sup> The Court awarded \$5,000 to CEJIL for expenses incurred in the international proceedings.<sup>102</sup>

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

\$208,555

### *C. Deadlines*

The State must carry out an effective investigation and create the genetic information system within a reasonable amount of time.<sup>103</sup> Additionally, the State must carry out the public ceremony acknowledging its responsibility within one year of notification of the judgment.<sup>104</sup> The State is required to publish the judgment and create the webpage within six months of notification of the judgment.<sup>105</sup> Moreover, the State must comply with the Court's ruling to designate a date dedicated to the disappeared children within six months.<sup>106</sup> Finally, within six months of the judgment, the State must inform the next of kin of the health establishments that will provide them with medical and psychological treatment.<sup>107</sup>

## V. INTERPRETATION OF MERITS, REPARATIONS AND COSTS

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99. *Id.* ¶ 160(b).

100. *Id.* ¶ 160(c).

101. *Id.* ¶ 207.

102. *Id.*

103. *Id.* ¶¶ 218.6, 193.

104. *Id.* ¶ 194.

105. *Id.* ¶¶ 195, 191.

106. *Id.* ¶ 196.

107. *Id.* ¶ 200.

**June 26, 2005:** The State requested an interpretation of the Judgment pursuant to Articles 67 of the Convention and 59 of the Rules.<sup>108</sup> The State asked the Court to examine the scope and its reasons for awarding compensation to María Victoria Cruz Franco, mother of Ernestina and Erlinda. It further asked the Court to consider this award given that María Victoria Cruz Franco passed away before the judgment was delivered.<sup>109</sup>

The Court found unanimously that the request for interpretation should be dismissed with regard to the Court's reasons for the amount of compensation it ordered the State to pay and the amount of compensation for non-pecuniary damages caused to Mrs. María Victoria Cruz Franco.<sup>110</sup> The Court reasoned that the request for interpretation regarding the Court's reasons for awarding certain amounts that the State must pay as compensation was inconsistent with the provisions of Articles 67 of the American Convention and 29(3) and 59 of the Rules.<sup>111</sup>

The Court also unanimously defined the meaning and scope of the ruling in paragraph 211 and resolution 20 of the Judgment, regarding the distribution of the compensation fixed by the Court for non-pecuniary damages suffered by the mother of Ernestina and Erlinda Serrano Cruz.<sup>112</sup> The Court explained that the distribution should be given to María Victoria Cruz Franco's children.<sup>113</sup>

## VI. COMPLIANCE AND FOLLOW-UP

**Feb. 3, 2010:** The State enters into dialogue with the representatives of the victims and the Association for the Search for Missing Children.<sup>114</sup>

**January 16, 2010:** The President of El Salvador acknowledges the State's responsibility for the serious human rights violations that took place during the armed conflict and apologizes to those who have not found their missing family members.<sup>115</sup>

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108. *Id.* ¶ 4.

109. *Id.* ¶ 5.

110. *Id.* ¶ 51(1).

111. *Id.*

112. *Id.* ¶¶ 40, 48-50.

113. *Id.*

114. *Serrano Cruz Sisters v. El Salvador*, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. ¶ 8 (Feb. 3, 2010).

115. *Id.*

The Court points out that nearly five years have passed since the Judgment and the State's duty to prosecute and punish the perpetrators has still not been fulfilled.<sup>116</sup> The Court reiterates that the State must conduct proper investigations in order to properly punish those perpetrators.<sup>117</sup>

The Court declares it will continue to monitor compliance with a number of issues outlined in the Judgment.<sup>118</sup> The Court requests that the State submit updates regarding its progress and the steps it plans to take to effectively conduct investigations.<sup>119</sup> Additionally, the Court requests an update from the State regarding the establishment of a commission tasked with searching for children who disappeared during the internal conflict, regarding the information system, and the type of medical and psychological treatment that the State was required to provide the next of kin.<sup>120</sup>

The Court established that the website for missing children did not meet the requirements outlined in the Judgment, and ordered the State to comply with the Judgment's requirements.<sup>121</sup> The Court found that the State had fulfilled the requirement to publish the Judgment.<sup>122</sup>

## VII. LIST OF DOCUMENTS

### A. *Inter-American Court*

#### 1. Preliminary Objections

[Serrano Cruz Sisters v. El Salvador, Preliminary Objections, Judgment, Inter-Am. Ct. H.R. \(ser. C\) No. 118 \(Nov. 23, 2004\).](#)

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

[Serrano Cruz Sisters v. El Salvador, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. \(ser. C\) No. 120 \(Mar. 1, 2005\).](#)

[Serrano Cruz Sisters v. El Salvador, Merits, Reparations, and Costs,](#)

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116. *Id.* ¶ 18.

117. *Id.* ¶ 19.

118. *Id.* ¶ 2.

119. *Id.* ¶ 21.

120. *Serrano Cruz Sisters v. El Salvador, Monitoring Compliance with Judgment* (Feb. 3, 2010), ¶¶ 26-27.

121. *Id.* ¶¶ 38, 41.

122. *Id.* ¶ 45.

[Separate Dissenting Opinion of Judge Antônio Augusto Cançado Trindade, Inter-Am. Ct. H.R. \(ser. C\) No. 120 \(Mar. 1, 2005\).](#)

[Serrano Cruz Sisters v. El Salvador, Merits, Reparations, and Costs, Separate Dissenting Opinion of Judge Manuel E. Ventura Robles, Inter-Am. Ct. H.R. \(ser. C\) No. 120 \(Mar. 1, 2005\).](#)

### 3. Provisional Measures

Serrano Cruz Sisters v. El Salvador, Provisional Measures, Order of the Court, Inter-Am. Ct. H.R. (ser. E) (Apr. 6, 2006).

### 4. Compliance Monitoring

[Serrano Cruz Sisters v. El Salvador, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. \(Feb. 3, 2010\).](#)

[Serrano Cruz Sisters v. El Salvador, Monitoring Compliance with Judgment, Order of the President of the Court, Inter-Am. Ct. H.R. \(Dec. 8, 2009\) \(Available only in Spanish\).](#)

[Serrano Cruz Sisters v. El Salvador, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. \(July 3, 2007\).](#)

[Serrano Cruz Sisters v. El Salvador, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. \(Sept. 22, 2006\).](#)

### 5. Review and Interpretation of Judgment

[Serrano Cruz Sisters v. El Salvador, Interpretation of Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. \(ser. C\) No. 131 \(Sept. 9, 2005\).](#)

#### *B. Inter-American Commission*

##### 1. Petition to the Commission

[None]

##### 2. Report on Admissibility



[Serrano Cruz Sisters v. El Salvador, Admissibility Report, Report No. 31/01, Inter-Am. Comm'n H.R., Case No. 12.132 \(Feb. 23, 2001\).](#)

3. Provisional Measures

[None]

4. Report on Merits

[None]

5. Application to the Court

[None]

VIII. BIBLIOGRAPHY

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