

Ticona Estrada v. Bolivia

ABSTRACT¹

In this case, in 1980, State agents illegally detained and tortured brothers Hugo and Renato Ticona Estrada. Though Hugo Ticona Estrada was released, Renato Ticona Estrada disappeared. At the time of judgment, the State had not adequately investigated, prosecuted, or punished those responsible for either brother's detention and torture, or Renato Ticona Estrada's disappearance.

I. FACTS

A. Chronology of Events

July 17, 1980: General Luis García Meza, Commander of Bolivian Army, stages a military coup. He immediately outlaws all political parties, exiles opposition leaders, represses unions, disappears political opponents, and muzzles the press.² During General García Meza's rule, thousands of Bolivians are detained without regard to their constitutional rights. They are routinely beaten, given electric shocks, burned with cigarettes, sexually abused, and subjected to psychological duress.³

July 22, 1980: Mr. Renato Ticona Estrada and his oldest brother, Mr. Hugo Ticona Estrada, are detained by a military patrol near a control gate of Cala-Cala, Oruro, Bolivia, while they are heading to Sacaca, Potosí, Bolivia, to visit their sick grandfather. They are not informed of any charges against them or brought before any judicial authority.⁴ State agents remove both men's belongings, beat them, and torture them for several hours. They are transferred to a military post in

1. Olivia Scharrer, Author; Jennifer Barrera, Elise Cossart-Daly, Sarah Frost, Erika Green, Melissa Kurata, and Shamin Rostami, Editors; Laura Ybarra, Chief Articles Editor; Cesare Romano, Faculty Advisor.

2. *Ticona Estrada v. Bolivia*, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 191, ¶ 45 (Nov. 27, 2008).

3. *Id.* ¶¶ 46-48.

4. *Id.* ¶ 51.

Vinto, then to the Special Security Service office, then to the Division of Public Order. This is the last time Mr. Renato Ticona Estrada's family knows his whereabouts.⁵

At the time Mr. Renato Ticona Estrada is twenty-five years old. He has a diploma in humanities issued by the Technical University of Oruro, works as a music teacher at the Escuela Mariano Baptista, and is in his seventh semester of agricultural engineering studies at the School of Agricultural and Livestock Sciences of the Technical University of Oruro.⁶

When the Ticona Estradas' parents learn that their sons have been detained, they seek answers from numerous state agencies. Through these efforts, they learn that Mr. Renato and Mr. Hugo Ticona Estrada have been seriously injured and taken to a clinic.⁷

September 12, 1980: Mr. Hugo Ticona Estrada is transferred from a military hospital in La Paz to prison barracks in Puerto Cavinás, and is allowed to see his parents.⁸

November 4, 1980: Mr. Hugo Ticona Estrada is released from prison.⁹

January 22, 1981: Mr. Renato Ticona Estrada's parents go to La Paz to ask the Undersecretary of the Minister of Foreign Affairs and Worship to investigate his whereabouts.¹⁰

July 24, 1981: Mr. Renato Ticona Estrada's parents meet with General Luis García Meza Tejada and ask that he investigate the disappearance of Mr. Renato Ticona Estrada.¹¹

August 25, 1981: Mr. Renato Ticona Estrada's parents file a complaint with the Commanders Junta for the disappearance of Mr. Renato Ticona Estrada.¹²

September 1982: General García Meza's regime is overthrown. The new Bolivian government agrees to investigate the human rights violations that occurred under García Meza's rule and issues a

5. *Id.*

6. *Id.* ¶ 50.

7. *Id.* ¶ 52.

8. *Id.*

9. *Id.*

10. *Id.* at n.31.

11. *Id.*

12. *Id.*

condemnatory judgment containing a partial list of disappeared persons, which includes Mr. Renato Ticona Estrada.¹³

December 27, 1982: Mr. Renato Ticona Estrada's parents request that the Prefect of Oruro, Bolivia, investigate the disappearance of their son.¹⁴

February 18, 1983: The National Commission for Investigation of Forced Disappearances of Citizens files a criminal complaint with the Justice Department of Bolivia against Roberto Melean, Willy Valdivia Gumucio, René Veizaga Vargas and Gumersindo Espinosa Valdivieso, accusing them of the crime of political disappearance and presumed murder of Mr. Renato Ticona Estrada.¹⁵

October 28, 1983: Mr. Renato Ticona Estrada's parents request that the General Officer of the Armed Forces shed light on the disappearance of Mr. Renato Ticona Estrada.¹⁶

February 1, 1984: Gumersindo Espinosa Valdivieso is arrested in Oruro, Bolivia and appears in criminal court. Roberto Melean, Willy Valdivia Gumucio and René Veizaga Vargas do not appear.¹⁷

July 28, 1984: Mr. Renato Ticona Estrada's parents ask the Ministry of Interior, Migration and Justice of Bolivia to investigate the disappearance of Mr. Renato Ticona Estrada.¹⁸

July 5, 1985: Gumersindo Espinosa Valdivieso files a motion for dismissal based on lack of legal definition of the crime of forced disappearance. The court dismisses his case and closes his case file. The court closes the case against Roberto Melean, Willy Valdivia Gumucio and René Veizaga Vargas in the first quarter of 1986.¹⁹

February 28, 1985: Mr. Renato Ticona Estrada's parents bring charges with the District Prosecutor in Criminal Matters of Bolivia for the

13. *Id.* ¶ 49.

14. *Id.*

15. Ticona Estrada v. Bolivia, Admissibility Report, Report No. 45/05, Inter-Am. Comm'n H.R., Case No. 12.527, ¶ 14 (Oct. 12, 2005).

16. Ticona Estrada v. Bolivia, Merits, Reparations, and Costs, n.31.

17. Ticona Estrada v. Bolivia, Admissibility Report, ¶ 16.

18. Ticona Estrada v. Bolivia, Merits, Reparations, and Costs, n.31.

19. *Id.* ¶ 17.

crimes committed against Mr. Renato Ticona Estrada.²⁰

May 16, 1986: The Local University Federation of Oruro, Bolivia requests that the Commander in Chief of the Bolivian army investigate the disappearance of Mr. Renato Ticona Estrada, as well as locate and deliver his remains.²¹

November 19, 1986: Mr. Renato Ticona Estrada's parents visit the Commander in Chief of the Bolivian army and ask about Mr. Renato Ticona Estrada's whereabouts. They speak to a colonel who tells them that he had nothing to do with Mr. Renato Ticona Estrada's disappearance.²²

September 3, 1997: Raúl Araoz Velasco, a member of the Bolivian parliament, requests information from the Ministry of Government about Mr. Renato Ticona Estrada's disappearance.²³

January 3, 2003: Hugo Ticona Estrada requests that the Human Rights Commission of the Bolivian parliament investigate the disappearance of Mr. Renato Ticona Estrada.²⁴

April 15, 2004: Former General García Meza acknowledges that persons under his command are responsible for the detention of the Ticona Estrada brothers and the disappearance of Mr. Renato Ticona Estrada.²⁵ More than twenty-eight years after Mr. Renato Ticona Estrada's disappearance, his whereabouts and the location of his remains are still unknown.²⁶

B. Other Relevant Facts

[None]

20. *Id.* ¶ 74.

21. *Id.* at n.31.

22. *Id.*

23. *Id.*

24. *Id.*

25. *Id.* ¶ 51.

26. *Id.* ¶ 52.

II. PROCEDURAL HISTORY

A. Before the Commission

August 9, 2004: The Ombudsman of Bolivia presents a petition on behalf of Mr. Renato Ticona Estrada to the Inter-American Commission on Human Rights.²⁷

October 12, 2005: The Commission decides the case is admissible.²⁸ The State requests that the Commission declare the petition inadmissible because the victims failed to exhaust domestic remedies. The Commission decides that a domestic remedy has been effectively denied because the proceedings have lasted for twenty-two years with no result.²⁹

October 26, 2006: The Commission issues the Report on the Merits No. 112/06. First, it finds Bolivia in violation of Articles 3 (Right to Juridical Personality), 4 (Right to Life), 5 (Right to Humane Treatment), 7 (Right to Personal Liberty), 8 (Right to a Fair Trial) and 25 (Right to Judicial Protection) of the American Convention and Articles 1 (Obligation to Adopt Measures), 3 (Obligation to Adopt Legislative Measures), 4 (Jurisdiction over Forced Disappearances), and 6 (Obligation to Submit Case to Competent Authorities When Extradition Not Granted) of the Inter-American Convention on Forced Disappearance of Persons to the detriment of Mr. Renato Ticona Estrada.³⁰ Second, the Commission finds the State responsible for the violation of Articles 5 (Right to Humane Treatment) and 7 (Right to Personal Liberty) to the detriment of Mr. Hugo Ticona Estrada.³¹ Third, the Commission determines that the State violated Articles 5 (Right to Humane Treatment), 8 (Right to a Fair Trial), and 25 (Right to Judicial Protection) of the American Convention to the detriment of Mr. Renato Ticona's next of kin.³² Finally, the Commission determines that the State failed to comply with Articles 1(1) (Obligation to Respect Rights) and Article 2 (Obligation to Give Domestic Legal Effect to Rights) of the American Convention.³³

27. Ticona Estrada v. Bolivia, Admissibility Report, Report No. 45/05, Inter-Am. Comm'n H.R., Case No. 12.527, ¶ 1 (Oct. 12, 2005).

28. Ticona Estrada v. Bolivia, Merits, Reparations, and Costs, ¶ 49.

29. Ticona Estrada v. Bolivia, Admissibility Report, ¶¶ 26, 35, 43 (Oct. 12, 2005).

30. Ticona Estrada v. Bolivia, Merits, Reparations, and Costs, n.2.

31. *Id.*

32. *Id.*

33. *Id.*

B. Before the Court

July 27, 2007: The Commission submits the case to the Court, after the State failed to adopt its recommendations.³⁴

1. Violations Alleged by Commission³⁵

To the detriment of Mr. Renato Ticona Estrada:

Article 3 (Right to Juridical Personality)

Article 4 (Right to Life)

Article 5 (Right to Humane Treatment)

Article 7 (Right to Personal Liberty)

Article 8 (Right to a Fair Trial)

Article 25 (Right to Judicial Protection)

all in relation to:

Article 1(1) (Obligation to Respect Rights)

Article 2 (Obligation to Give Domestic Legal Effect to Rights) of the American Convention.

Article 1 (Obligation to Adopt Measures)

Article 3 (Obligation to Adopt Legislative Measures)

Article 4 (Jurisdiction over Forced Disappearances)

Article 6 (Obligation to Submit Case to Competent Authorities When Extradition Not Granted) of the Inter-American Convention on Forced Disappearance of Persons.

To the detriment of Mr. Hugo Ticona Estrada:

Article 5 (Right to Humane Treatment)

Article 7 (Right to Personal Liberty)

all in relation to:

Article 1(1) (Obligation to Respect Rights)

Article 2 (Obligation to Give Domestic Legal Effect to Rights) of the American Convention.

To the detriment of Mr. Renato Ticona Estrada's next of kin:

34. *Id.* ¶ 3.

35. *Id.*

Article 5 (Right to Humane Treatment)

Article 8 (Right to a Fair Trial)

Article 25 (Right to Judicial Protection)

all in relation to:

Article 1(1) (Obligation to Respect Rights)

Article 2 (Obligation to Give Domestic Legal Effect to Rights) of the American Convention.

2. Violations Alleged by Representatives of the Victims³⁶

Same violations alleged by the Commission.

August 13, 2008: The State acknowledges international responsibility for the facts alleged by the Commission in a public hearing held in Montevideo, Uruguay.³⁷ As a result, the Court declares that there is no controversy over the States' violation of Articles 4 (Right to Life), 5 (Right to Humane Treatment), 7 (Right to Personal Liberty), 8 (Right to a Fair Trial), 25 (Right to Judicial Protection) and 1(1) (Obligation to Respect Rights) of the American Convention and Article 1 (Obligation to Adopt Measures) of the Inter-American Convention on Forced Disappearance of Persons, to the detriment of Mr. Renato Ticona Estrada, as well as Articles 5 (Right to Humane Treatment), 8 (Right to a Fair Trial), 25 (Right to Judicial Protection) and 1(1) (Obligation to Respect Rights) of the Convention, to the detriment of Mr. Renato Ticona Estrada's next of kin.³⁸

III. MERITS

A. *Composition of the Court*³⁹

Cecilia Medina Quiroga, President
Diego García-Sayán, Vice-President
Sergio García Ramírez, Judge
Manuel E. Ventura Robles, Judge
Leonardo A. Franco, Judge
Margarette May Macaulay, Judge
Rhadys Abreu Blondet, Judge

36. The victims are represented by Mr. Waldo Albarracín Sánchez, Ombudsman of Bolivia.

37. *Id.* ¶ 162.

38. *Id.* ¶¶ 22, 23.

39. The State did not appoint an *ad hoc* judge. *Id.* at n.4. Deputy Secretary, Emilia Segares Rodríguez, also did not participate. *Id.* n.*.

Pablo Saavedra Alessandri, Secretary

B. Decision on Merits

November 27, 2008: The Court issues its Judgment on Merits, Reparations and Costs.⁴⁰

The Court found unanimously that the State had violated:

Articles 4(1) (Prohibition of Arbitrary Deprivation of Life), 5(1) (Right to Physical, Mental, and Moral Integrity), 5(2) (Prohibition of Torture, and Cruel, Inhumane or Degrading Treatment), and 7 (Right to Personal Liberty), all in relation to Article 1(1) (Obligation to Respect Rights) of the American Convention and Article 1(a) (Prohibition of Practicing, Tolerating or Permitting Forced Disappearances) of the Inter-American Convention on Forced Disappearance of Persons to the detriment of Mr. Renato Ticona Estrada,⁴¹ because:

*The State acknowledged responsibility for violating Articles 4 (Right to Life), 5 (Right to Humane Treatment), 7 (Right to Personal Liberty), 8 (Right to a Fair Trial), and 25 (Right to Judicial Protection) to the detriment of Mr. Renato Ticona Estrada.*⁴²

*Nevertheless, the Court briefly analyzed why the State violated each Article.*⁴³ *First, the Court found that the State violated Article 7 (Right to Personal Liberty) because State agents illegally detained Mr. Renato Ticona Estrada, and did not provide information regarding his fate and whereabouts.*⁴⁴ *The Court determined that the State violated Articles 5(1) (Right to Physical, Mental, and Moral Integrity) and 5(2) (Prohibition of Torture, and Cruel, Inhumane or Degrading Treatment) because the State accepted responsibility for Mr. Renato Ticona Estrada's forced disappearance.*⁴⁵ *The Court found that the State violated Article 4(1) (Prohibition of Arbitrary Deprivation of Life) because Mr. Renato Ticona Estrada's forced disappearance put his life*

40. Ticona Estrada v. Bolivia, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 191 (Nov. 27, 2008).

41. *Id.* "Declares" ¶¶ 1-2.

42. *Id.* ¶¶ 23, 61, "Declares" ¶¶ 1-2.

43. *See id.* ¶¶ 61-65.

44. *Id.* ¶ 61.

45. *Id.* ¶ 62.

*in peril.*⁴⁶ Finally, the Court found that the State violated Article 1(a) (Prohibition of Practicing, Tolerating or Permitting Forced Disappearances) of the Inter-American Convention on Forced Disappearance of Persons because it accepted responsibility for Mr. Renato Ticona Estrada's forced disappearance.⁴⁷

Articles 8 (Right to a Fair Trial) and 25 (Right to Judicial Protection) in relation to Article 1(1) of the American Convention and Article 1(b) (Duty to Punish Forced Disappearances) of the American Convention on Forced Disappearance of Persons to the detriment of Mr. Renato Ticona Estrada's next of kin,⁴⁸ because:

*At the time of judgment, more than twenty-five years had passed since criminal procedures were initiated, and the State had not adequately searched for Mr. Renato Ticona Estrada or investigated his disappearance.*⁴⁹

*As a result, the Court found that the State violated the right to a fair trial and to judicial protection enshrined in Articles 8 (Right to a Fair Trial) and 25 (Right to Judicial Protection) of the American Convention.*⁵⁰ In addition, the Court found that the State failed to effectively punish those responsible for Mr. Renato Ticona Estrada's disappearance within a reasonable time in violation of Article 1(b) (Duty to Punish Forced Disappearances) of the American Convention on Forced Disappearance of Persons.⁵¹

Article 5(1) (Right to Physical, Mental, and Moral Integrity) in relation to Article 1(1) of the American Convention to the detriment of Mr. Renato Ticona Estrada's next of kin,⁵² because:

The State disappeared Mr. Renato Ticona Estrada and failed to effectively investigate or punish those responsible for his

46. *Id.* ¶ 63.

47. *Id.* ¶ 65.

48. *Id.* "Declares" ¶ 5. Mr. Renato Ticona Estrada's next of kin include Honoria Estrada de Ticona, César Ticona Olivares, Hugo Ticona Estrada, Betzy Ticona Estrada, and Rodo Ticona Estrada.

49. *Id.* ¶¶ 82, 83.

50. *Id.* ¶ 85. The Court noted that the State accepted responsibility for the violation of Articles 8 (Right to a Fair Trial) and 25 (Right to Judicial Protection). *See id.* "Declares" ¶¶ 1, 23.

51. *Id.*

52. *Id.* "Declares" ¶ 6.

disappearance.⁵³ As a result, the Court found that the State violated Mr. Renato Ticona Estrada's next of kin's right to physical, mental, and moral integrity enshrined in Article 5(1) (Right to Physical, Mental, and Moral Integrity).⁵⁴

Articles 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal) and 25(1) (Right of Recourse Before a Competent Court) in relation to Article 1(1) of the American Convention to the detriment of Mr. Hugo Ticona Estrada,⁵⁵ because:

The State learned that Mr. Hugo Ticona Estrada was allegedly tortured, but did not investigate on several occasions following the State's acceptance of the Court's jurisdiction.⁵⁶ As the State did not investigate, prosecute, or punish those responsible for torturing Mr. Hugo Ticona Estrada or provide Mr. Hugo Ticona Estrada with reparations, the Court found that the State violated Articles 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal) and 25(1) (Right of Recourse Before a Competent Court).⁵⁷

Articles 1(d) (Duty to Take Measures) and 3 (Obligation to Adopt Legislative Measures) of the American Convention on Forced Disappearance of Persons,⁵⁸ because:

Articles 1(d) (Duty to Take Measures) and 3 (Obligation to Adopt Legislative Measures) of the American Convention on Forced Disappearance of Persons requires states to define forced disappearance as a domestic criminal offense.⁵⁹ The State ratified the American Convention on Forced Disappearance of Persons on May 5, 1999, but did not make forced disappearance a domestic crime until January 18, 2006.⁶⁰ As a result, the Court found that the State had violated Articles 1(d) (Duty to Take Measures) and 3 (Obligation to Adopt Legislative Measures) of the American Convention on Forced

53. *Id.* ¶ 88.

54. *Id.* The Court noted that the State accepted responsibility for the violation of Article 5(1) (Right to Physical, Mental, and Moral Integrity) to the detriment of Mr. Renato Ticona Estrada's next of kin. *See id.*

55. *Id.* "Declares" ¶ 7.

56. *Id.* ¶¶ 96, 97.

57. *Id.* ¶ 98.

58. *Id.* "Declares" ¶ 8. The Court did not indicate that the State violated Articles 1(d) (Duty to Take Measures) and 3 (Obligation to Adopt Legislative Measures) of the American Convention on Forced Disappearance of Persons to the detriment of a particular victim.

59. *Id.* ¶ 105.

60. *Id.*

*Disappearance of Persons.*⁶¹

The Court found unanimously that the State had not violated:

Article 3 (Right to Juridical Personality) in relation to Article 1(1) of the American Convention to the detriment of Mr. Renato Ticona Estrada,⁶² because:

The Inter-American Convention on Forced Disappearances does not state that forced disappearances necessarily deny a victim's Right to Juridical Personality.⁶³ Furthermore, in order for a state to violate a victim's right to Juridical Personality, a state must completely strip an individual of their legal rights and obligations.⁶⁴ The Court found that, given the facts of this case, the State had not violated Mr. Renato Ticona Estrada's Article 3 Right to Juridical Personality.⁶⁵

Article 6 (Obligation to Submit Case to Competent Authorities When Extradition Not Granted) of the American Convention on Forced Disappearance of Persons,⁶⁶ because:

Article 6 (Obligation to Submit Case to Competent Authorities When Extradition Not Granted) of the American Convention on Forced Disappearance of Persons provides that States place an individual in custody in an officially recognized detention center and promptly bring him or her before a judicial authority.⁶⁷

The Court found that the obligation to place an individual in custody in an officially recognized detention center and promptly bring him or her before a judicial authority is not an element of forced disappearance.⁶⁸ Therefore, though forced disappearances may constitute a continuing violation of a victim's human rights, the failure to place an individual in an officially recognized detention center and promptly bring him or her before a judicial authority is not.⁶⁹ As the American Convention on

61. *Id.*

62. *Id.* "Declares" ¶ 3, ¶ 69.

63. *Id.* ¶ 69.

64. *Id.*

65. *Id.* "Declares" ¶ 3, ¶ 69.

66. *Id.* "Declares" ¶ 4. The Court did not indicate that these Articles were violated to the detriment of a particular victim.

67. *Id.* ¶ 66.

68. *Id.*

69. *Id.*

*Forced Disappearance of Persons entered into force on June 5, 1999, and the State detained Mr. Renato Ticona Estrada and Mr. Hugo Ticona Estrada in 1980, the Court found that the State did not fail to comply with Article 6 (Obligation to Submit Case to Competent Authorities When Extradition Not Granted) of the American Convention on Forced Disappearance of Persons.*⁷⁰

C. Dissenting and Concurring Opinions

1. Concurring Opinion of Judges Diego García-Sayán and Sergio García Ramírez

In a separate opinion, Judge Diego García-Sayán and Judge Sergio García Ramírez opined that forced disappearance, such as that experienced by Mr. Renato Ticona Estrada, is a serious violation of human rights. While this violation is continuous, it can be committed as a systematic violation or in isolation.⁷¹ International law does not recognize the distinction between systematic and isolated violations, but the existence of disappearance does not depend on the context in which it occurs.⁷² Courts at both the international and Inter-American level that process forced disappearance cases in this manner do recognize the distinction between systematic and isolated violations, allowing for increased protection of human rights.⁷³ To recognize forced disappearance only in the context of systematic violations would be to decrease international protection of possible victims of these unlawful acts.⁷⁴ The Judges also suggested that the Court overstepped its jurisdiction *ratione temporis* in considering facts from events that occurred before the Court acquired jurisdiction over Bolivia.⁷⁵

IV. REPARATIONS

The Court ruled that the State had the following obligations:

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

70. *See id.* ¶¶ 50, 52, 66.

71. *Ticona Estrada v. Bolivia, Merits, Reparations, and Costs, Separate Concurring Opinion of Diego García-Sayán and Sergio García Ramírez, Inter-Am. Ct. H.R. (ser. C) No. 191, ¶ 49 (Nov. 27, 2008).*

72. *Id.* ¶ 5.

73. *Id.* ¶ 6.

74. *Id.* ¶ 7.

75. *Id.* ¶¶ 8-13.

1. Judgment as a Form of Reparation

The Court indicated that the Judgment itself should be understood as a form of reparation that recognized that the State violated Mr. Renato Ticona Estrada's rights.⁷⁶

2. Determine the Whereabouts of the Remains of Mr. Renato Ticona Estrada

The State must search for Mr. Renato Ticona Estrada's remains.⁷⁷

3. Investigate Mr. Renato Ticona Estrada's Disappearance

The State must investigate Mr. Renato Ticona Estrada's disappearance.⁷⁸ The State must also identify and punish those responsible for his disappearance.⁷⁹

4. Publish Pertinent Parts of the Judgment

The State must publish at least one statement containing pertinent excerpts of the judgment in two nationally circulated newspapers within six months of the notice of judgment.⁸⁰

5. Aid Mr. Renato Ticona Estrada's Family Members

The State must provide the necessary medical and psychological treatment to Mr. Renato Ticona Estrada's parents and siblings.⁸¹ The State must also build a house for Mr. Renato Ticona Estrada's parents.⁸²

6. Present a Plan of Action for Compliance

The State must provide the Inter-Institutional Council for the Clarification of Forced Disappearance ("CIEDEF") with resources

76. *Ticona Estrada v. Bolivia*, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 191, ¶ 188 (Nov. 27, 2008).

77. *Id.* ¶ 169.

78. *Id.*

79. *Id.* ¶¶ 150, 151.

80. *Id.* ¶ 160.

81. *Id.* ¶¶ 167-69.

82. *Id.* ¶ 132.

necessary to effectively exercise its power and present a plan of action for compliance within one year of the notice of judgment.⁸³

B. Compensation

The Court awarded the following amounts:

1. Pecuniary Damages

The Court ordered the State to pay \$85,000 to Mr. Renato Ticona Estrada's parents, as his successors, for his lost earnings,⁸⁴ and \$85,000 to Mr. Renato Ticona Estrada's siblings, as his successors, for his lost earnings.⁸⁵ In addition, the State must pay \$4,500 to Mr. Renato Ticona Estrada's mother,⁸⁶ \$4,500 to Mr. Renato Ticona Estrada's father,⁸⁷ \$1,500 to Mr. Hugo Ticona Estrada,⁸⁸ \$500 to Mr. Renato Ticona Estrada's brother, Mr. Rodo Ticona,⁸⁹ and \$500 to Mr. Renato Ticona Estrada's sister, Ms. Betzy Ticona, for expenses incurred in searching for the victim.⁹⁰

2. Non-Pecuniary Damages

The Court ordered the State to compensate Mr. Renato Ticona Estrada's family \$80,000 for his pain and suffering.⁹¹ The State must distribute fifty percent of this amount evenly between Mr. Renato Ticona Estrada's parents and fifty percent evenly between Mr. Renato Ticona Estrada's siblings.⁹²

The Court also ordered the State to pay \$52,000 to Mr. Renato Ticona Estrada's mother; \$50,000 to Mr. Renato Ticona Estrada's father; \$15,000 to Mr. Renato Ticona Estrada's brother, Mr. Rodo Ticona; \$15,000 to Mr. Renato Ticona Estrada's sister, Ms. Betzy Ticona; and \$60,000 to Mr. Hugo Ticona Estrada for the suffering they incurred due to the lack of justice and uncertainty about Mr. Renato

83. *Id.* ¶ 173.

84. *Id.* ¶¶ 115-117.

85. *Id.*

86. *Id.* ¶¶ 121, 125.

87. *Id.*

88. *Id.* ¶¶ 122, 125.

89. *Id.*

90. *Id.*

91. *Id.* ¶ 134.

92. *Id.*

Ticona Estrada's fate.⁹³

3. Costs and Expenses

The Court ordered the State to pay \$1,500 to Mr. Hugo Ticona Estrada for costs and expenses.⁹⁴ The Court ordered Mr. Hugo Ticona Estrada to reimburse the victims' representatives as he sees fit.⁹⁵

4. Total Compensation (including costs and expenses ordered):

\$419,000⁹⁶

C. Deadlines

The State must to pay pecuniary damages within one year of the notice of judgment.⁹⁷ The Court ordered the State to complete the measures of specific performance within one year of the notice of judgment.

V. INTERPRETATION AND REVISION OF JUDGMENT

March 19, 2009: The State requests a revision of the judgment on merits for several reasons. First, when the case came before the Court, the State had not yet classified forced disappearance as a crime as required by the Inter-American Convention on Forced Disappearance of Persons. The State had already remedied this non-compliance by the time the Court issued its Judgment on the Merits.⁹⁸

Second, the State requested that the Court interpret paragraph 136 of the Judgment, which ordered that the State must pay the compensatory amounts ordered and inform the National Commission of Compensation to the Victims of Political Violence ("CONREVIP") of the payments.⁹⁹

Third, the State requested that the value of the land on which the

93. *Id.* ¶¶ 138-141.

94. *Id.* ¶ 181.

95. *Id.*

96. The Court indicated that an amount equal to the value of property purchased by the State for the Ticona Estrada family will be deducted from the total amount determined by the Court. *Id.* ¶ 131.

97. *Id.* ¶¶ 115-25.

98. Ticona Estrada v. Bolivia, Interpretation of the Judgment on Merits Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 199, ¶ 9 (July 1, 2009).

99. *Id.* ¶ 14.

State was ordered to build a house for Mr. Ticona Estrada's family should be deducted from the total compensation to be paid.¹⁰⁰

Finally, the State requested that the Court positively consider the fact that the State entered into agreements with two public hospitals in order to provide medical and psychological care for Mr. Ticona Estrada's next of kin.¹⁰¹

July 1, 2009: The Court found unanimously that the application for revision was partially admissible.¹⁰²

The State's argument that it complied with its conventional obligations by classifying forced disappearance as a domestic crime before the judgment on the merits is inadmissible as an objection to the decision already issued by the Court.¹⁰³

The State must pay the entire amount ordered in the judgment and notify the CONREVIP when the payments are made.¹⁰⁴

Regarding compensation, the State must pay the entire amount of compensation ordered in the judgment without deducting the value of the land on which the State must build a house for Mr. Renato Ticona Estrada's family.¹⁰⁵

Regarding the agreements for medical care for Mr. Renato Ticona Estrada's next of kin, this fact will be assessed at the compliance monitoring state and is inadmissible.¹⁰⁶

VI. COMPLIANCE AND FOLLOW-UP

February 23, 2011: The Court found that the State fully complied with its obligation to publish the judgment; provide the CIEDEF with the material resources necessary to effectively exercise its power; present a plan of action for compliance within one year of the notice of judgment; investigate Mr. Renato Ticona Estrada's disappearance; and pay pecuniary and non-pecuniary damages to Mr. Renato Ticona Estrada's parents and siblings.¹⁰⁷

The Court decided to continue monitoring compliance with regard

100. *Id.* ¶ 18.

101. *Id.* ¶ 23.

102. *Id.* "Decides" ¶ 1. The judges that decided the case also decided the Interpretation of the Judgment on Merits Reparations, and Costs.

103. *Id.* ¶ 13.

104. *Id.* ¶ 17.

105. *Id.* ¶ 22.

106. *Id.* ¶ 26.

107. Ticona Estrada v. Bolivia, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. ¶¶ 2-3 (Feb. 23, 2011).

to the obligation to capture and punish those responsible for Mr. Renato Ticona Estrada's disappearance; investigate the disappearance of Mr. Hugo Ticona Estrada, and punish those responsible; search for Mr. Renato Ticona Estrada's remains; arrange an effective method for the medical and psychological treatment of Mr. Renato Ticona Estrada's parents and siblings; and build a house for Mr. Renato Ticona Estrada's family.¹⁰⁸

VII. LIST OF DOCUMENTS

A. *Inter-American Court*

1. Preliminary Objections

[None]

2. Decision on Merits, Reparations and Costs

[Ticona Estrada v. Bolivia, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. \(ser. C\) No. 191 \(Nov. 27, 2008\).](#)

[Ticona Estrada v. Bolivia, Merits, Reparations, and Costs, Separate Concurring Opinion of Diego García-Sayán and Sergio García Ramírez, Inter-Am. Ct. H.R. \(ser. C\) No. 191 \(Nov. 27, 2008\).](#)

3. Provisional Measures

[None]

4. Compliance Monitoring

[Ticona Estrada v. Bolivia, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. \(Feb. 23, 2011\).](#)

5. Review and Interpretation of Judgment

[Ticona Estrada v. Bolivia, Interpretation of Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. \(ser. C\) No. 199 \(July 1, 2009\).](#)

108. *Ticona Estrada v. Bolivia, Monitoring Compliance with Judgment*, ¶ 3.

B. Inter-American Commission

1. Petition to the Commission

Ticona Estrada v. Bolivia, Petition No. 712/04, Inter-Am. Comm'n H.R., (Aug. 9, 2004).

2. Report on Admissibility

[Ticona Estrada v. Bolivia, Admissibility Report, Report No. 45/05, Inter-Am. Comm'n H.R., Case No. 12.527 \(Oct. 12, 2005\).](#)

3. Provisional Measures

[None]

4. Report on Merits

[Not available]

5. Application to the Court

[Ticona Estrada v. Bolivia, Petition to the Court, Inter-Am. Comm'n H.R., Case No. 12.527 \(Aug. 8, 2007\) \(Available only in Spanish\).](#)

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