

# Vera Vera et al. v. Ecuador

## ABSTRACT<sup>1</sup>

*This case is about the death, while in custody, of a robber who had been shot and arrested by police. The State repeatedly failed to give the victim proper medical attention, resulting in his death. The Court found violations of the Convention.*

## I. FACTS

### A. Chronology of Events

**April 12, 1993:** Mr. Pedro Miguel Vera Vera (“Mr. Vera Vera”) is chased by a group of individuals who allegedly “caught him in the act of committing a robbery and were intent on lynching him or burning him alive.”<sup>2</sup> During this chase, Mr. Vera Vera is shot in the chest from a distance.<sup>3</sup> He is arrested by two officers of the Criminal Investigation Office (“OID”) in the city of Santo Domingo de los Colorados for armed robbery.<sup>4</sup> It is unclear as to whether he was shot by the group that was pursuing him or by the police officers.<sup>5</sup> Following his arrest, Mr. Vera Vera is taken to the police station for booking, and then is brought to Santo Domingo de los Colorados Public Hospital.<sup>6</sup> He is treated by two physicians in the Emergency Room.<sup>7</sup>

**April 13, 1993:** Mr. Vera Vera is discharged from the hospital after “specialist physicians” report that his condition improved and assert that his gunshot wound did not require hospitalization.<sup>8</sup> He is then transferred to

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1. Anne-Marie Rouche, Author; Emily Williams, Editor; Megan Venanzi, Chief IACHR Editor; Cesare Romano, Faculty Advisor.

2. Vera Vera et al. v. Ecuador, Petition to the Court, Inter-Am. Comm’n H.R., Case No. 11.535, ¶ 23 (Feb. 24, 2010).

3. *Id.*

4. *Id.* ¶¶ 21, 23-24.; Vera Vera et al. v. Ecuador, Preliminary Objections, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 226, ¶ 46 (May 19, 2011).

5. Vera Vera et al. V. Ecuador, Petition to the Court, ¶¶ 21, 23-24.

6. *Id.* ¶ 24.

7. *Id.*

8. *Id.* ¶¶ 25-26.

the Provisional Detention Center of Santo Domingo.<sup>9</sup> For four days, he is kept at the detention center and is not treated for his wound, despite the fact that the bullet is still in his chest.<sup>10</sup>

**April 14, 1993:** Mr. Vera Vera makes a statement concerning the events that led to his arrest to the Prosecutor of the 11<sup>th</sup> Criminal Court of Pichincha, Mr. Felipe Salvatierra Guerrero; Mr. Jaime Arévalo Azuero, an OID investigator, is also there.<sup>11</sup>

Additionally, Ms. Francisca Mercedes Vera Valdez (“Ms. Vera Valdez”), through an attorney, asks the Second National Police Commissioner to request a “medical-legal evaluation” for her son to evaluate his health and admit him into a hospital.<sup>12</sup> The Commissioner appoints two medical experts to examine him who advise that he undergo a radiograph in case there is permanent damage, surgery to remove the projectile, be monitored for complications, and granted disability for fifteen days.<sup>13</sup>

At the Provisional Detention Center, Mr. Vera Vera is treated by the medical officer in the Police Medical Unit, Dr. Fernando Lara.<sup>14</sup> The doctor assures that there are no complications from Mr. Vera Vera’s gunshot wound.<sup>15</sup> This same doctor monitors Mr. Vera Vera for the duration of his time at the Detention Center.<sup>16</sup>

At the request of the doctor treating him, Ms. Vera Valdez purchases some of Mr. Vera Vera’s medications, as well as a Gillette razor to remove the bullet.<sup>17</sup> Ms. Vera Valdez is permitted to see her son once she purchases the medication.<sup>18</sup> She finds him laying on a wet floor saying, “Mother, get me out of here, I can’t handle it anymore.”<sup>19</sup>

**April 16, 1993:** A court order is issued by Mr. Carlos Humberto Mejía, the Judge of the 11<sup>th</sup> Criminal Court of Pichincha to transfer Mr. Vera Vera to the Santo Domingo de los Colorados Public Hospital for surgery.<sup>20</sup> The Judge also begins criminal proceedings against Mr. Vera Vera and orders his preventive detention, and the issuance of the constitutional arrest warrant the order for his transfer to the Social Rehabilitation Center

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9. *Id.* ¶ 27.

10. *Id.* ¶ 1.

11. Vera Vera et al. v. Ecuador, Petition to the Court, ¶ 29.

12. Vera Vera et al. v. Ecuador, Preliminary Objections, Merits, Reparations, and Costs, ¶ 58.

13. *Id.* ¶ 59.

14. Vera Vera et al. v. Ecuador, Petition to the Court, ¶ 27.

15. *Id.*

16. Vera Vera et al. v. Ecuador, Preliminary Objections, Merits, Reparations, and Costs, ¶ 55.

17. *Id.* ¶ 56.

18. *Id.* ¶ 57.

19. *Id.*

20. Vera Vera et al. v. Ecuador, Petition to the Court, ¶¶ 1, 31.

for Men of Quito.<sup>21</sup>

**April 17, 1993:** Mr. Vera Vera is taken back to Santo Domingo de los Colorados Public Hospital, after he begins exhibiting complications with his wound.<sup>22</sup> He is diagnosed with “an acute traumatic abdomen, a gunshot wound in the left thorax, and sepsis.”<sup>23</sup> The hospital refuses to operate until Monday when the doctor who is scheduled to operate on him arrives.<sup>24</sup> However, after examining Mr. Vera Vera, his doctor states that he will not operate because his condition has advanced significantly, and that he must be transferred to Quito.<sup>25</sup>

**April 22, 1993:** Following a request by the police, Mr. Vera Vera is transferred to Eugenio Espejo Public Hospital by ambulance.<sup>26</sup> Ms. Vera Valdez and her husband take out a loan to cover the cost of the ambulance transfer.<sup>27</sup>

Mr. Vera Vera is not seen until Ms. Vera Valdez obtains two of the four pints of blood the hospital requested.<sup>28</sup> Mr. Vera Vera undergoes an emergency exploratory laparotomy, which takes approximately four and a half hours, and he is diagnosed with “thoraco-abdominal trauma caused by a firearm,” and related complications.<sup>29</sup>

**April 23, 1993:** Several hours following the operation, Mr. Vera Vera dies.<sup>30</sup> The forensic medicine service’s report lists the cause of death as “peritonitis<sup>31</sup> and hemoperitoneum<sup>32</sup> caused by lacerations to the mesenteric vessels, the mesenterium and bowl loops,” as a result of the bullet

21. Vera Vera et al. v. Ecuador, Preliminary Objections, Merits, Reparations, and Costs, ¶ 60.

22. Vera Vera et al. v. Ecuador, Petition to the Court, ¶ 31; Vera Vera et al. v. Ecuador, Preliminary Objections, Merits, Reparations, and Costs, ¶ 62.

23. Vera Vera et al. v. Ecuador, Petition to the Court, ¶ 31.

24. Vera Vera et al. v. Ecuador, Preliminary Objections, Merits, Reparations, and Costs, ¶ 66.

25. *Id.*

26. Vera Vera et al. v. Ecuador, Petition to the Court, ¶ 31.

27. Vera Vera et al. v. Ecuador, Preliminary Objections, Merits, Reparations, and Costs, ¶ 69.

28. *Id.*

29. *Id.* ¶ 68.

30. Vera Vera et al. v. Ecuador, Petition to the Court, ¶¶ 1, 32.

31. Peritonitis is an inflammation of the peritoneum, which is “a silk-like membrane that lines [the] inner abdominal wall and covers the organs within [the] abdomen – that is usually due to a bacterial or fungal infection.” MAYO CLINIC, <http://www.mayoclinic.org/diseases-conditions/peritonitis/basics/definition/con-20032165> (last visited Nov. 12, 2016).

32. “Hemoperitoneum is the presence of blood in the peritoneal cavity. The blood accumulates in the space between the inner lining of the abdominal wall and the internal abdominal organs.” *Hemoperitoneum*, WIKIPEDIA, <https://en.wikipedia.org/wiki/Hemoperitoneum> (last visited Nov. 12, 2016).

wound.<sup>33</sup> No judicial action is taken to investigate the circumstances surrounding Mr. Vera Vera's shooting, or his subsequent death while in the State's custody.<sup>34</sup> Further, under Ecuadorian law, the statute of limitations for launching a criminal action has expired.<sup>35</sup>

By order of the Fifth National Commissioner, the Eugenio Espejo Hospital performs an autopsy.<sup>36</sup> The autopsy reveals that he also "had several surgical stitches in mesentery, necrotic bowel loops, with the presence of fibrin liquid and sero-purulent<sup>37</sup> material with hemoperitoneum remains [ ], kidneys in shock [ , and] an empty stomach with inflamed mucous."<sup>38</sup> The bullet is finally removed during the autopsy.<sup>39</sup>

**November 8, 1994:** The Ecumenical Human Rights Commission (*Comisión Ecuémica de Derechos Humanos*; "CEDHU") presents a petition to the Inter-American Commission on Human Rights ("the Commission").<sup>40</sup>

**November 15, 1995:** Dr. Fernando Lara, the medical officer at the Provisional Detention Center's Police Medical Unit, makes a statement to the National Police saying that, "the unit's medical service does not have a laboratory or an x-ray machine, making timely detection of complications in the aforementioned wound impossible."<sup>41</sup>

#### *B. Other Relevant Facts*

[None]

### II. PROCEDURAL HISTORY

#### *A. Before the Commission*

**November 8, 1994:** The Ecumenical Human Rights Commission

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33. Vera Vera et al. v. Ecuador, Petition to the Court, ¶ 32.

34. *Id.* ¶ 36.

35. *Id.*

36. Vera Vera et al. v. Ecuador, Preliminary Objections, Merits, Reparations, and Costs, ¶ 70.

37. Seropurulent means: "consisting of a mixture of serum and pus." MERRIAM-WEBSTER, <http://www.merriam-webster.com/dictionary/seropurulent> (last visited Nov. 12, 2016).

38. Vera Vera et al. v. Ecuador, Preliminary Objections, Merits, Reparations, and Costs, ¶ 70.

39. *Id.*

40. *Id.* ¶ 1.

41. Vera Vera et al. v. Ecuador, Petition to the Court, ¶ 27.

(*Comisión Ecuémica de Derechos Humanos*, “CEDHU”) presents a petition to the Commission.<sup>42</sup>

**September 27, 1999:** The State presents a brief with observations, alleging judicial proceedings are underway.<sup>43</sup>

**October 2, 2001:** The State presents a brief with observations, again alleging judicial proceedings are underway.<sup>44</sup>

**August 6, 2009:** The Commission issues Report on Admissibility and Merits No. 82/09, finding that the State violated Articles 5(1) (Right to Physical, Mental, and Moral Integrity), 5(2) (Prohibition of Torture, and Cruel, Inhumane or Degrading Treatment), 4(1) (Prohibition of Arbitrary Deprivation of Life), 1(1) (Obligation of Non-Discrimination), 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal), and 25 (Right to Judicial Protection) of the American Convention.<sup>45</sup> The Commission recommends that the State: 1) perform a meaningful and timely judicial investigation to identify, try, and punish those responsible for the violations, 2) adopt measures to compensate Mr. Vera Vera’s heirs, and 3) adopt measures to guarantee “that persons deprived of their liberty have access to timely medical attention appropriate to their state of health.”<sup>46</sup>

### B. Before the Court

**February 24, 2010:** The Commission submits the case to the Court, after the State failed to adopt its recommendations.<sup>47</sup>

#### 1. Violations Alleged by Commission<sup>48</sup>

Article 4(1) (Prohibition of Arbitrary Deprivation of Life)

Article 5(1) (Right to Physical, Mental, and Moral Integrity)

Article 5(2) (Prohibition of Torture, and Cruel, Inhumane or Degrading Treatment)

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

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42. Vera Vera et al. v. Ecuador, Preliminary Objections, Merits, Reparations, and Costs, ¶ 1.

43. *Id.* ¶¶ 11, 17.

44. *Id.*

45. Vera Vera et al. v. Ecuador, Petition to the Court, ¶ 13.

46. *Id.* ¶ 14.

47. *Id.* ¶ 1.

48. *Id.* ¶ 4.

and Independent Tribunal)

Article 25(1) (Right of Recourse Before a Competent Court)

*all in relation to:*

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

## 2. Violations Alleged by Representatives of the Victims<sup>49</sup>

Same Violations Alleged by the Commission, plus:

Article 4 (Right to Life)

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 of Non-Discrimination) of the American Convention.

**October 11, 2010:** The State files a brief with its preliminary objection.<sup>50</sup> The State contends that domestic remedies were not exhausted.<sup>51</sup> Although the State acknowledges that the appropriate remedy was launching an investigation, it argues that the issue at hand is complex since it involves a death that occurred during surgery and medical care from numerous doctors.<sup>52</sup> Therefore, the State claims it was never able to determine with absolute certainty which crime was to be prosecuted.<sup>53</sup> Furthermore, it states that the victims should have brought the violations to the attention of the State.<sup>54</sup> However, the Court points out that the objection of lacking exhaustion of domestic remedies must be made during the proceeding's admissibility stage,<sup>55</sup> and that the State failed to present its arguments in the requisite timely fashion.<sup>56</sup> Furthermore, the Court points out that the State contradicted itself by earlier arguing to the Commission on September 27, 1999 and October 2, 2001 that there was a "supposed judicial proceeding . . . underway," and now arguing that no

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49. Vera Vera et al. v. Ecuador, Preliminary Objections, Merits, Reparations, and Costs, ¶ 4. Mr. César Duque served as representative of Mr. Vera Vera's next of kin. *Id.*

50. *Id.* ¶ 5.

51. *Id.*

52. *Id.* ¶¶ 5, 10.

53. *Id.* ¶ 5.

54. *Id.* ¶ 10.

55. Vera Vera et al. V. Ecuador, Preliminary Objections, Merits, Reparations, and Costs, ¶ 14.

56. *Id.* ¶ 16.

such proceeding has begun on the grounds that the representatives did not bring the violations to the attention of the State.<sup>57</sup> Therefore, the State's preliminary objection is rejected.<sup>58</sup>

### III. MERITS

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

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

Pablo Saavedra Alessandri, Secretary  
Emilia Segares Rodríguez, Deputy Secretary

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

**May 19, 2011:** The Court issues its Judgment on Preliminary Objections, Merits, Reparations and Costs.<sup>59</sup>

The Court found unanimously that Ecuador had violated:

Articles 5(1) (Right to Physical, Mental, and Moral Integrity), 5(2) (Prohibition of Torture, and Cruel, Inhumane or Degrading Treatment), and 4(1) (Prohibition of Arbitrary Deprivation of Life), in relation to Article 1(1) of the Convention, to the detriment of Mr. Vera Vera,<sup>60</sup> because:

*The State's medical treatment provided to Mr. Vera Vera while in custody constituted medical negligence, thus violating Mr. Vera Vera's right to life and personal integrity.<sup>61</sup> The State is required to respect and do everything in its power to uphold these rights.<sup>62</sup> Articles 5(1) (Right to Physical, Mental, and Moral Integrity) and 5(2) (Prohibition of Torture, and*

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57. *Id.*

58. *Id.* ¶¶ 11, 17.

59. *Id.* ¶ 4.

60. *Id.* "Operative Paragraphs" ¶ 2.

61. Vera Vera et al. v. Ecuador, Preliminary Objections, Merits, Reparations, and Costs, ¶ 79.

62. *Id.* ¶ 41.

*Cruel, Inhumane or Degrading Treatment*) grant detainees the right to live in conditions that uphold their personal dignity, thus placing the State in the position to guarantee these rights.<sup>63</sup> The Court also refers to Article 10 of the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social, and Cultural Rights, which confers upon the State a “duty to provide detainees with regular medical review and appropriate medical care and treatment when required,” thus making it a violation of Articles 5(1) (*Right to Physical, Mental, and Moral Integrity*) and 5(2) (*Prohibition of Torture, and Cruel, Inhumane or Degrading Treatment*) to not provide individuals in State custody with adequate medical care.<sup>64</sup>

The Court analyzed each action taken by the State in regards to Mr. Vera Vera’s detention and medical care in order to establish a violation of his rights.<sup>65</sup> First, the Court concluded there is insufficient information regarding Mr. Vera Vera’s detention, initial transport to the police station, and transfer to the Regional Hospital in Santo Domingo de los Colorados for it to rule on whether a violation existed in those instances.<sup>66</sup>

Next, the Court looked at the circumstances surrounding Mr. Vera Vera’s first admission to the public hospital.<sup>67</sup> The Court began its analysis by referring to both the United Nations Standard Minimum Rules for the Treatment of Prisoners and Principle 24 for the Protection of All Persons under Any Form of Detention or Imprisonment, which establish that an inmate has a right to a proper medical exam as soon as possible following his admission, and that treatment thereafter shall be provided as necessary.<sup>68</sup> The Court relied on expert reports in its conclusion that the doctors did not have sufficient information regarding Mr. Vera Vera’s condition, that he was not given an appropriate examination or diagnostic tests in light of his injuries, and that their medical evaluation did not justify his discharge from the hospital.<sup>69</sup> Thus, the Court finds his discharge constituted gross medical negligence.<sup>70</sup>

Third, the Court examined Mr. Vera Vera’s treatment while at the Santo

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63. *Id.* ¶ 42.

64. *Id.* ¶¶ 43-44.

65. *Id.* ¶¶ 38, 45.

66. *Id.* ¶ 47.

67. Vera Vera et al. v. Ecuador, Preliminary Objections, Merits, Reparations, and Costs., ¶ 48.

68. *Id.* ¶¶ 50-51.

69. *Id.* ¶¶ 52-54.

70. *Id.*



*Domingo detention center.*<sup>71</sup> The Court noted that had Mr. Vera Vera received a proper examination at the police medical unit, the doctor would have realized that his discharge from the hospital was not appropriate, and would have immediately ordered his return.<sup>72</sup> Furthermore, the Court noted the detention center was not equipped with the proper monitoring that his condition required, and he should have been immediately transferred to an accommodating facility.<sup>73</sup> Therefore, the Court held that the medical care Mr. Vera Vera received while at the detention center was negligent.<sup>74</sup>

Finally, the Court considered Mr. Vera Vera's second admission to the Public Hospital, his transfer to the Eugenio Espejo Hospital of Quito, and his subsequent death.<sup>75</sup> On account of the expert report, the Court concluded that given the period of ten days during which Mr. Vera Vera was not treated, his medical treatment prior to being operated on was unacceptable.<sup>76</sup> The Court found this treatment was only made worse by the fact that his mother was forced to push for her son's care and surgery.<sup>77</sup>

Therefore, the Court held that the actions and omissions of the State in regards to Mr. Vera Vera's medical care while in State custody constituted medical negligence.<sup>78</sup> The State is thus responsible for having violated Mr. Vera Vera's rights to life and personal integrity, as these facts rise to inhumane and degrading treatment.<sup>79</sup>

Articles 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal) and 25(1) (Right to Recourse Before a Competent Court), in relation to Article 1(1) of the Convention, to the detriment of Mr. Vera Vera and Ms. Francisca Mercedes Vera Valdez,<sup>80</sup> because:

*The State failed to meet its obligation to investigate the facts surrounding*

71. *Id.* ¶ 55.

72. *Id.* ¶ 64.

73. Vera Vera et al. v. Ecuador, Preliminary Objections, Merits, Reparations, and Costs, ¶¶ 64-65.

74. *Id.* ¶ 65.

75. *Id.* ¶ 62.

76. *Id.* ¶¶ 72-73.

77. *Id.*

78. *Id.* ¶ 75.

79. Vera Vera et al. v. Ecuador, Preliminary Objections, Merits, Reparations, and Costs, ¶¶ 78-79.

80. *Id.* "Operative Paragraphs" ¶ 3.

*Mr. Vera Vera's inadequate medical care and his subsequent death while in state custody; in failing to comply with his right to life and humane treatment, the State violated his right to judicial guarantees and judicial protection.*<sup>81</sup> *Here, the State had been aware since Mr. Vera Vera's arrest that he was suffering from a gunshot wound, which ultimately led to his death, yet failed to launch an investigation.*<sup>82</sup> *This implicates both Article 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal) and Article 25(1) (Right to Recourse Before a Competent Court) since victims or their next of kin have the right to participate in their proceedings, specifically to investigate, prosecute and punish those responsible for the violation of human rights, and are to be granted effective judicial remedies.*<sup>83</sup> *Furthermore, the State is also found to have violated its duty and obligation under the Ecuadorian Criminal Code.*<sup>84</sup>

*The Court highlighted the importance of the State's duty to comply with its obligation to initiate a prompt, "serious, impartial, and effective investigation" ex officio, especially when a person dies while in State custody and when State agents may be involved.*<sup>85</sup> *The Court emphasized that the investigation should make use of all available legal means, with the purpose of establishing the truth of the facts.*<sup>86</sup> *Moreover, the Court stated that, following Mr. Vera Vera's death, the burden fell on the State to explain events that happened in State custody and prove it was not responsible.*<sup>87</sup> *The Court also noted the State's obligation to investigate Mr. Vera Vera's death ex officio existed under the Ecuadorian Criminal Code.*<sup>88</sup>

*Here, the Court found that, although the State conducted an investigation into the facts of Mr. Vera Vera's case, it was insufficient to meet the standards outlined in the Convention.*<sup>89</sup> *The investigation consisted of a police report made two years after the facts of the case occurred, and was prepared by the Ecuadorian state police themselves, thus not by an impartial body.*<sup>90</sup> *Furthermore, all available legal means were not employed*

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81. *Id.* ¶ 85.

82. *Id.* ¶ 91.

83. *Id.* ¶¶ 86, 99.

84. *Id.* ¶ 92.

85. Vera Vera et al. v. Ecuador, Preliminary Objections, Merits, Reparations, and Costs, ¶ 87.

86. *Id.*

87. *Id.* ¶ 88.

88. *Id.* ¶ 92.

89. *Id.* ¶ 89.

90. *Id.*

*and the investigation seemingly made no effort to establish the truth of the facts or to punish those responsible.<sup>91</sup> The Court also pointed to the fact that no investigation was launched into the circumstances surrounding Mr. Vera Vera's gunshot.<sup>92</sup> Accordingly, the Court found that the State should have initiated an investigation as soon as it was made aware of Mr. Vera Vera's gunshot wound, and was additionally obliged to provide a sufficient explanation following his death.<sup>93</sup> Therefore, the State violated Mr. Vera Vera and Ms. Vera Valdez's right under Article 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal) and Article 25(1) (Right to Recourse Before a Competent Court), since the right to access to justice was Mr. Vera Vera's right until his death, and upon his death, become his mother's.<sup>94</sup>*

Article 5(1) (Right to Physical, Mental, and Moral Integrity), in relation to Article 1(1) of the Convention, to the detriment of Ms. Francisca Mercedes Vera Valdez,<sup>95</sup> because:

*The Court determined that although neither the Commission nor the representatives alleged this violation to the detriment of Mr. Vera Vera's mother, Ms. Vera Valdez, her right to humane treatment was in fact violated.<sup>96</sup> The Court has previously acknowledged "a violation to the right to mental and moral integrity of some next of kin" on account of their suffering that results from the action or inaction of State authorities.<sup>97</sup> Here, the Court determined that, based on the facts, Ms. Vera Valdez had suffered after her efforts to get her son treated and hospitalized for his gunshot wound failed, and that failure to establish responsibility for his death also contributed to her pain and suffering.<sup>98</sup> Furthermore, in the public hearing, Ms. Vera Valdez expressed her heartbreak following the loss of her son, and explained that knowledge of her son's condition had negative consequences on her health.<sup>99</sup>*

*Accordingly, given the close familial relationship between mother and son, the State violated Ms. Vera Valdez's right under Article 5(1) (Right*

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91. Vera Vera et al. v. Ecuador, Preliminary Objections, Merits, Reparations and Costs, ¶ 89.

92. *Id.* ¶ 90.

93. *Id.* ¶ 91.

94. *Id.* ¶¶ 98-99.

95. *Id.* "Operative Paragraphs" ¶ 4.

96. *Id.* ¶ 101.

97. Vera Vera et al. v. Ecuador, Preliminary Objections, Merits, Reparations, and Costs, ¶ 104.

98. *Id.* ¶¶ 102, 105.

99. *Id.* ¶ 103.

to Physical, Mental, and Moral Integrity).<sup>100</sup>

*C. Dissenting and Concurring Opinions*

[None]

IV. REPARATIONS

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

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

1. Judgment as a Form of Reparation

The Court explained that the Judgment itself was a *per se* form of reparation.<sup>101</sup>

2. Investigate Facts

The Court ordered the State to adopt measures to uncover what exactly happened to Mr. Vera Vera, such that his mother and family are made aware of the facts surrounding his gunshot wound and his subsequent death.<sup>102</sup> Following the receipt of these facts, the Court held it may order the State to publish the findings.<sup>103</sup>

3. Publish the Judgment

The State must publish the official summary of the Judgment in a nationally circulated newspaper, and must publish the complete Judgment on an appropriate website.<sup>104</sup> The State must also pertinent paragraphs of the

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100. *Id.* ¶ 105.

101. *Id.* “And Orders” ¶ 1.

102. Vera Vera et al. v. Ecuador, Preliminary Objections, Merits, Reparations, and Costs, ¶ 123.

103. *Id.*

104. *Id.* ¶ 125.

Judgment in the Official Gazette.<sup>105</sup> Further, the State is required to distribute the Judgment to the police, prison authorities, and medical personnel responsible for caring for prisoners.<sup>106</sup>

### *B. Compensation*

The Court awarded the following amounts:

#### 1. Pecuniary Damages

The Court awarded \$20,000 to Mr. Vera Vera, to be delivered to Ms. Vera Valdez, and \$2,000 to Ms. Vera Valdez, as pecuniary damages.<sup>107</sup>

#### 2. Non-Pecuniary Damages

The Court awarded \$10,000 to Mr. Vera Vera, to be distributed to Ms. Vera Valdez, and an additional \$20,000 to Ms. Vera Valdez, as non-pecuniary damages.<sup>108</sup>

#### 3. Costs and Expenses

The Court awarded \$10,000 to the representative as reimbursement for costs and expenses.<sup>109</sup> The Court also retained the right to order the State to reimburse the victims and their representatives for reasonable costs that are proven in its monitoring of compliance.<sup>110</sup>

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

\$ 62,000

### *C. Deadlines*

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105. *Id.*; Vera Vera et al. v. Ecuador, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. (Declares) ¶ 1(a) (Feb. 27, 2012).

106. Vera Vera et al. v. Ecuador, Preliminary Objections, Merits, Reparations, and Costs, ¶ 125.

107. *Id.* ¶¶ 131-32.

108. *Id.* ¶¶ 136-37.

109. *Id.* ¶ 145.

110. *Id.*

The State must uncover the facts regarding what happened to Mr. Vera Vera within a reasonable period of time.<sup>111</sup>

The State must publish the Judgment summary in a national newspaper within six months, the specific paragraphs in the Official Gazette within six months, and the complete Judgment on an appropriate website within two months.<sup>112</sup> The website should keep the Judgment available for one year.<sup>113</sup>

The State must provide the required compensation and reimbursements within one year of the Judgment.<sup>114</sup> Additionally, if the State is late on its payments, it should “pay interest on the amount owed, corresponding to the banking interest on arrears in Ecuador.”<sup>115</sup>

Within one year from the Judgment, the State should give the Court a report on compliance measures.<sup>116</sup>

## V. INTERPRETATION AND REVISION OF JUDGMENT

[None]

## VI. COMPLIANCE AND FOLLOW-UP

**February 27, 2012:** The State fully complied with its obligation to publish certain paragraphs of the Judgment in the Official Gazette, the official summary in a national newspaper, and the complete judgment on an appropriate website.<sup>117</sup>

The State fully complied with its obligation of compensation for pecuniary and non-pecuniary damages, and reimbursement of costs and expenses.<sup>118</sup>

The Court noted that it would defer ruling on the State’s compliance regarding the following matters until the State’s next report on compliance:<sup>119</sup> first, the State’s obligation to inform Ms. Vera Valdez about what happened to her son,<sup>120</sup> and second, the State’s compliance with its obligation to distribute the Judgment to the police and prison authorities, and

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111. *Id.* “And Orders” ¶ 2.

112. Vera Vera et al. v. Ecuador, Preliminary Objections, Merits, Reparations, and Costs, ¶ 125.

113. *Id.*

114. *Id.* ¶ 146.

115. *Id.* ¶ 151.

116. *Id.* “And Orders” ¶ 6.

117. Vera Vera et al. v. Ecuador, Monitoring Compliance with Judgment, Order of the Court, “Declares” ¶ 1(a).

118. *Id.* “Declares” ¶ 1(b).

119. *Id.* “Decides” ¶ 1.

120. *Id.* “Considering” ¶ 8.

to medical personnel responsible for caring for prisoners, since the judgment had only been disseminated among police authorities as of February 2012.<sup>121</sup>

**October 23, 2012:** The State partially complied with its obligation to distribute the Judgment to the police and prison authorities, and to medical personnel responsible for caring for prisoners.<sup>122</sup> The Court noted that compliance is still pending regarding the State's obligation to adopt measures to uncover what exactly happened to Mr. Vera Vera, such that it may inform Ms. Vera Valdez of the facts surrounding her son's case.<sup>123</sup>

The Court ordered the State to comply with and submit a report on the pending obligations.<sup>124</sup>

The Court requested that the victim's representative and the Commission provide any relevant information as to the State's report.<sup>125</sup>

The Court ordered the Secretariat of the Court to inform the State, the Commission, and the victims' representative of this order.<sup>126</sup>

## VII. LIST OF DOCUMENTS

### A. *Inter-American Court*

#### 1. Preliminary Objections

[None]

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

[Vera Vera et al. v. Ecuador, Preliminary Objections, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. \(ser. C\) No. 226 \(May 19, 2011\).](#)

#### 3. Provisional Measures

[None]

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121. *Id.* "Considering" ¶ 13.

122. Vera Vera et al. v. Ecuador, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. "Declares" ¶ 1 (Oct. 23, 2012).

123. *Id.* "Declares" ¶ 2.

124. *Id.* "Decides" ¶ 2. The State ordered that the report be submitted by February 15, 2012; however, this date is incorrect.

125. *Id.* "Decides" ¶ 3.

126. *Id.* "Decides" ¶ 4.

## 4. Compliance Monitoring

[Vera Vera et al. v. Ecuador, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. \(Feb. 27, 2012\).](#)

[Vera Vera et al. v. Ecuador, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. \(Oct. 23, 2012\).](#)

## 5. Review and Interpretation of Judgment

[None]

*B. Inter-American Commission*

## 1. Petition to the Commission

[Not Available]

## 2. Report on Admissibility

[Not Available]

## 3. Provisional Measures

[None]

## 4. Report on Merits

[Not Available]

## 5. Application to the Court

[Vera Vera et al. v. Ecuador, Petition to the Court, Inter-Am. Comm'n H.R., Case No. 11.535 \(Feb. 24, 2010\).](#)

## VIII. BIBLIOGRAPHY

[Susanna Y. Chung, Prison Overcrowding: Standards in Determining Eighth Amendment Violations, 68 Fordham L. Rev. 2351 \(2000\).](#)

[The Rights of Persons Deprived of Their Liberties, Advisory Opinion Inter-Am. Comm'n H.R. \(ser. A\) \(1999\).](#)