

# Gonzales Lluy et al. v. Ecuador

## ABSTRACT<sup>1</sup>

*This case is about errors committed by doctors during a transfusion that resulted in a young girl contracting HIV. This case is remarkable because it is the first decided by the Inter-American Court regarding HIV/AIDS to date, and it is one of the few amongst international human rights bodies regarding Latin America. It is also noteworthy because it addressed the rights under the Protocol of San Salvador and the connection between the Convention and the Protocol. Eventually, the Court found the State in violation both of the Convention and the Protocol.*

## I. FACTS

### A. Chronology of Events

**January 8, 1995:** Talía Gabriela Gonzales Lluy (“Talía”) is born in Ecuador.<sup>2</sup>

**June 20, 1998:** Ms. Teresa Lluy, Talia’s mother, takes her three-year old daughter to the Catholic University Hospital for an incessant nosebleed.<sup>3</sup> After two days of hospitalization, she takes Talia to another clinic, the Pablo Jaramillo Foundation Humanitarian Clinic (“Humanitarian Clinic”).<sup>4</sup> Talía is diagnosed with “thrombocytopenic purpura,” a disorder that can lead to easy or excessive bruising and bleeding.<sup>5</sup> The mother is informed that Talia needs a blood transfusion,<sup>6</sup> and she is told to ask her acquaintances to donate blood. Several volunteer, including Mr. HSA.<sup>7</sup>

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1. Emma Samyan, Author; Milja Miric, Editor; Megan Venanzi, Chief IACHR Editor; Cesare Romano, Faculty Advisor.

2. Gonzales Lluy et al. v. Ecuador, Preliminary Objections, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 102/13, ¶ 64 (Sept. 1, 2015).

3. *Id.* ¶ 75.

4. *Id.*

5. *Id.* “Immune thrombocytopenic purpura (ITP), also called idiopathic thrombocytopenic purpura (ITP), is a hemorrhagic disorder characterized by the premature destruction of platelets.” *Id.* n.69. Symptoms of her condition include nasal, skin, and mucous membrane hemorrhages, paleness, and extremely weak vital signs, leaving her close to death. *Id.* n.70.

6. *Id.* ¶ 75.

7. *Id.* ¶ 76.

Talía is transferred to Azuay Red Cross Blood Bank (“Blood Bank”) to receive her transfusion.<sup>8</sup>

**June 22, 1998:** Given her precarious state, Talía is given the blood transfusions the same day her family acquaintances donate, including Mr. HSA.<sup>9</sup>

**June 23, 1998:** While Talía is still at the Humanitarian Clinic, the Blood Bank biochemist, Ms. EOQ, examines Mr. HSA’s blood sample and tests it for HIV.<sup>10</sup>

**June 29, 1998:** Talía is released from the Humanitarian Clinic.<sup>11</sup> She is advised by her doctor, Dr. PMT, to continue treatment at home for six months, in addition to monthly office visits for blood tests.<sup>12</sup> A few days following her release, Talía returns to the doctor’s office and is informed that everything is normal after ordering a blood test to “control her illness.”<sup>13</sup>

**July 22, 1998:** Talía returns to the doctor’s office for another blood test, but for the first time, the doctor tests her blood for HIV.<sup>14</sup>

**August 13, 1998:** Mr. HSA returns to Red Cross and undergoes several tests that confirm that he is infected with HIV.<sup>15</sup>

**January 15, 1999:** Subsequent blood tests performed confirm that Talía has HIV.<sup>16</sup>

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8. Gonzales Lluy et al. v. Ecuador, Preliminary Objections, Merits, Reparations and Costs, ¶ 76.

9. *Id.* ¶ 77.

10. *Id.* ¶¶ 65, 78. The World Health Organization (hereinafter “the WHO”) has stated, “the human immunodeficiency virus (HIV) is a retrovirus that infects cells of the immune system, destroying or impairing their function.” *Id.* ¶ 65.

11. *Id.* ¶ 78.

12. *Id.* ¶ 81.

13. *Id.* ¶ 81.

14. Gonzales Lluy et al. v. Ecuador, Preliminary Objections, Merits, Reparations and Costs, ¶ 82. The term AIDS, “applies to the most advanced stages of HIV infection, defined by the occurrence of any of more than 20 opportunistic infections or HIV-related cancers.” *Id.* ¶ 65.

15. *Id.* ¶ 80.

16. *Id.* ¶ 85.

**September 29, 1998:** Ms. Teresa Lluy files a criminal complaint against those responsible for Talía's blood transfusion and subsequent infection with HIV.<sup>17</sup>

**October 19, 1998:** The Fourth Criminal Court of Azuay ("Fourth Court") issues an order to investigate the allegations and identify the responsible parties.<sup>18</sup> Both Dr. PMT, the doctor at the Humanitarian Clinic who diagnosed Talía, and Ms. EOQ, the biochemist who performed the tests on Mr. HSA's blood, testify.<sup>19</sup> The following day, Mr. HSA himself testifies regarding the events.<sup>20</sup>

**November 18, 1998:** Mr. HSA testifies again and declares that when he was told he had HIV, the Red Cross assured him that his blood was not going to be used for Talía's transfusion.<sup>21</sup>

**December 14, 1998:** Ms. Teresa Lluy provides evidence to the court in the form of three negative HIV tests indicating that she, her husband, and her son do not have HIV.<sup>22</sup> She further provides a gynecological report, which indicates that Talía has not engaged in any sexual behavior that would otherwise explain her contracting the HIV infection.<sup>23</sup>

**September 8, 1999:** The Fourth Criminal Judge requests that the Fourth Prosecutor present a report to the Court at the conclusion of the preliminary investigation.<sup>24</sup>

**November 4, 1999:** The Fourth Court re-opens the preliminary investigation as requested by both Ms. Teresa Lluy and the Fourth Prosecutor.<sup>25</sup>

**December 22, 1999:** Ms. Teresa Lluy files private charges (*acusación particular*) against Dr. PMT, Ms. EOQ, and Ms. MRR, the Red Cross

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17. *Id.* ¶ 86.

18. *Id.* ¶ 87.

19. *Id.* ¶ 88.

20. Gonzales Lluy et al. v. Ecuador, Preliminary Objections, Merits, Reparations and Costs, ¶ 89.

21. *Id.* ¶ 90.

22. *Id.* ¶ 92.

23. *Id.*

24. *Id.* ¶ 96.

25. *Id.* ¶ 97.

nursing assistant, alleging they are responsible for Talía's HIV infection.<sup>26</sup>

**January 5, 2000:** The Fourth Court does not accept the private charges in light of the re-opened preliminary investigation.<sup>27</sup>

**March 22, 2000:** The Fourth Court once again concludes the preliminary investigation and asks for a report.<sup>28</sup>

**May 5, 2000:** Ms. Teresa Lluy asks the Fourth Court to order a specialized test suggested by medical experts,<sup>29</sup> which could determine the cause of the HIV infection.<sup>30</sup> The Fourth Court re-opens the investigation and requires several actions to be taken.<sup>31</sup>

**August 31, 2000:** After ordering the experts to take blood samples from Talía, but before the performance of the specialized test, the Court once again concludes the preliminary investigation.<sup>32</sup>

**October 11, 2000:** The Fourth Prosecutor's report indicates that Talía's HIV infection was negligently transmitted to her during the transfusion, but cannot bring charges because no specific person has been accused as responsible.<sup>33</sup>

**January 15, 2001:** The Judge re-opens the preliminary investigation after reviewing the report of the specialized test, prepared on January 8, 2001,<sup>34</sup> which showed that Talía and Mr. HSA's blood samples were identical, but were different from a third sample that came from a HIV-positive volunteer.<sup>35</sup>

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26. Gonzales Lluy et al. v. Ecuador, Preliminary Objections, Merits, Reparations and Costs, ¶¶ 91, 99.

27. *Id.* ¶ 99.

28. *Id.* ¶ 100.

29. *Id.*

30. *Id.* ¶¶ 98, 100.

31. *Id.* ¶ 100.

32. Gonzales Lluy et al. v. Ecuador, Preliminary Objections, Merits, Reparations and Costs, ¶¶ 101-02.

33. *Id.* ¶ 103.

34. *Id.* ¶ 104. "[The report] indicated that the test was performed with four blood samples: sample 1, corresponded to Talía; sample 2, corresponding to HSA; and samples 3 and 4 corresponding to two HIV-positive volunteers. The report indicated that the four samples were "clearly positive"; that sample 4 could not be expanded, that only samples 1, 2 and 3 had sufficient "viral RNA" to perform a "nucleotide sequence," and that "samples 1 and 2 were identical," while "sample 3 was genetically different from the first two." *Id.*

35. *Id.* ¶¶ 104-05.

**March 9, 2001:** The medical experts conclude that Mr. HSA transmitted the HIV virus to Talía through the blood transfusion.<sup>36</sup>

**May 16, 2001:** Ms. Teresa Lluy again files private charges specifically alleging “transmission of a contagious disease” against Mr. PMT, Ms. EOQ, and Ms. MRR, and adds also Ms. BRR, a Red Cross intern, and Mr. CAA, President of the Red Cross.<sup>37</sup> The Court agrees to process these charges and extends the preliminary investigation.<sup>38</sup>

**July 25, 2011:** The Fourth Court dismisses the private charges because the statutes of limitations had run.<sup>39</sup> Ms. Teresa Lluy requests the decision to dismiss be revoked, but the Court deems her request inadmissible.<sup>40</sup>

**September 23, 2001:** The District Prosecutor brings charges against Ms. MRR, as the principal offender under Criminal Code article 436, and against Mr. PMT and Ms. EOQ for concealing their crime.<sup>41</sup> The District Prosecutor concluded that Ms. MRR had lied about performing the required HIV test before the transfusion, and that Mr. PMT and Ms. EOQ propagated this lie.<sup>42</sup> Charges are not brought against Mr. CAA and Ms. BRR.<sup>43</sup>

**October 29, 2001:** The Second Criminal Court of Azuay (“Second Court”) finds Ms. MRR principally responsible.<sup>44</sup> However, the Court dismisses the proceedings against Mr. PMT and Ms. EOQ because it finds that their acts do not constitute concealment as defined in the Criminal Code.<sup>45</sup>

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36. *Id.* ¶ 105.

37. *Id.* ¶¶ 77, 107.

38. Gonzales Lluy et al. v. Ecuador, Preliminary Objections, Merits, Reparations, and Costs, ¶ 107.

39. *Id.* ¶ 108.

40. *Id.*

41. *Id.* ¶ 110. “Criminal Code of Ecuador Article 436: Doctors, pharmacists, or anyone who, through lack of precaution or care, shall prescribe, dispense or provide medicines that seriously affect health shall be penalized with six months’ to one year’s imprisonment; if they have caused an illness that appears to be or is incurable, the prison term shall be from one to three years; and if it has resulted in death, the prison term shall be from three to five years.” *Id.* ¶ 110, n.119.

42. *Id.*

43. *Id.*

44. Gonzales Lluy et al. v. Ecuador, Preliminary Objections, Merits, Reparations, and Costs, ¶ 111.

45. *Id.*

**October 31, 2001:** The prosecutor appeals the dismissal of charges against Mr. PMT and Ms. EOQ.<sup>46</sup>

**December 18, 2001:** The First Chamber of the Superior Court confirms the dismissal in favor of Mr. CAA and Ms. BRR, and amends the dismissal against Mr. PMT and Ms. EOQ as a “temporary stay of proceedings.”<sup>47</sup>

**October 23, 2002:** The Second Court orders the police to arrest Ms. MRR. However, despite the issuance of a warrant, an arrest is not possible.<sup>48</sup>

**February 28, 2005:** Since Ms. MRR did not attend her trial after the failed arrest attempt, the Second Criminal Chamber of the Superior Court of Justice declares the action prescribed given the length of time elapsed since the order to investigate.<sup>49</sup>

**April 22, 2005:** The Second Criminal Chamber of the former Court of Justice of Cuenca affirms that the statute of limitations had run.<sup>50</sup>

#### *B. Other Relevant Facts*

The laws and decrees in force at the time of this case do not provide sufficient requirements for the enforcement of health regulations.<sup>51</sup> There are several laws that pass after Talía receives her blood transfusion which aim toward more stringent regulations.<sup>52</sup> For instance, in 1998, the same year of Talía’s blood transfusion, the Manual of Standards for Blood Banks and Deposits, and Transfusion Services (“The Manual”) is issued, which requires that all blood units undergo HIV screenings.<sup>53</sup>

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46. *Id.* ¶ 112.

47. *Id.*

48. *Id.* ¶ 113.

49. *Id.* ¶ 115.

50. Gonzales Lluy et al. v. Ecuador, Preliminary Objections, Merits, Reparations, and Costs, ¶ 116.

51. *Id.* ¶¶ 67-70.

52. *Id.* ¶¶ 67-74.

53. *Id.* ¶ 72.

## II. PROCEDURAL HISTORY

## A. Before the Commission

**June 26, 2006:** Mr. Iván Patricio Durazno Campoverde files a petition with the Inter-American Commission (“the Commission”) on behalf of Talía and her family.<sup>54</sup>

**August 7, 2009:** The Commission adopts Report on Admissibility No. 89/09.<sup>55</sup>

The State argues that the petition is not admissible.<sup>56</sup> First, it argues that it cannot be held responsible for the Talía’s infection with HIV based on the actions of different institutions or agencies.<sup>57</sup> Second, the State argues that the Court lacks competence in examining facts since the petitioners did not exhaust domestic remedies.<sup>58</sup>

The Commission rebuts both arguments and asserts first, that the State was put on notice regarding Talía’s infection with HIV when proceedings commenced, and second, that the State could have provided a remedy during the proceedings, but failed to do so.<sup>59</sup>

**November 5, 2013:** The Commission adopts Merits Report No. 102/13.<sup>60</sup>

The Commission finds the State responsible for the violations of Article 4 (Right to Life), 5 (Right to Humane Treatment), 8 (Right to a Fair Trial), and 25 (Right to Judicial Protection) of the American Convention, in relation to Article 1(1) (Obligation of Non-Discrimination) and Article 19 (Rights of the Child).<sup>61</sup> The Commission also finds the State in violation of Articles 5 (Right to Humane Treatment), 8 (Right to a Fair Trial), and 25 (Right to Judicial Protection) of the American Convention in relation to Article 1(1) (Obligation of Non-Discrimination) to the detriment of Ms. Teresa Lluy and Talía’s brother, Iván Lluy.<sup>62</sup>

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54. *Id.* ¶ 2(a).

55. *Id.* ¶ 2(b).

56. Gonzales Lluy et al. v. Ecuador, Admissibility Report, Report No. 89/09, Inter-Am. Comm’n H.R., Case No. TGGL, ¶ 13 (Aug. 7, 2009).

57. *Id.*

58. *Id.* ¶ 15.

59. Gonzales Lluy et al. v. Ecuador, Preliminary Objections, Merits, Reparations, and Costs, ¶ 25.

60. *Id.* ¶ 2(c).

61. *Id.*

62. *Id.*

The Commission recommends the State do the following: award reparations to Talía and her mother through pecuniary and non-pecuniary damages; provide Talía with her required medical treatments; fund Talía's education; fully and effectively investigate the alleged human rights violations; and ensure mechanisms of non-repetition are established.<sup>63</sup>

### *B. Before the Court*

**March 18, 2014:** The Commission submits the case to the Court after the State fails to adopt its recommendations.<sup>64</sup>

**September 2, 2014:** The State submits two preliminary objections to the Court.<sup>65</sup> First, the State argues that the Court lacks competence to hear the case.<sup>66</sup> Second, the State argues that the petitioners have failed to exhaust domestic remedies since the appellate process was an appropriate remedy not used.<sup>67</sup>

#### 1. Violations Alleged by Commission<sup>68</sup>

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)

Article 19 (Rights of the Child) of the American Convention

#### 2. Violations Alleged by Representatives of the Victims<sup>69</sup>

Same Violations Alleged by Commission, plus:

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

Article 24 (Right to Equal Protection)

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63. *Id.*

64. *Id.* ¶ 1.

65. Gonzales Lluy et al. v. Ecuador, Preliminary Objections, Merits, Reparations, and Costs, ¶ 7.

66. *Id.* ¶ 17.

67. *Id.* ¶¶ 17, 22.

68. *Id.* ¶ 2.

69. *Id.* ¶ 39. Mr. Ramiro Ávila Santamaría and Mr. Gustavo Quito Mendieta served as representatives of the victims. *Id.* n.2.



Article 26 (Duty to Progressively Develop Economic, Social, and Cultural Rights) of the American Convention.

**April 2015:** The Court receives seventeen *amicus curiae* briefs.<sup>70</sup>

**July 16, 2015:** The victims’ representatives ask the Court to order provisional measures ensuring health care for Talía, potentially including private medical treatment with the required medications, with since her condition was deteriorating.<sup>71</sup>

**September 2, 2015:** The President of the Court orders the provisional measures requested by Talía’s representatives regarding her health care to be implemented.<sup>72</sup>

### III. MERITS

#### A. Composition of the Court

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

Pablo Saavedra Alessandri, Secretary,  
 Emilia Segares Rodríguez, Deputy Secretary

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70. *Id.* ¶ 11. The *amicus curiae* briefs are presented by: 1) José Paul Heraldito Gallardo Echeverría; 2) the Latin American Consortium against Unsafe Abortion (*Consortio Latinoamericano Contra el Aborto Inseguro*; “CLACAI”); 3) *Centro de Estudios de Derecho, Justicia and Sociedad* (“Dejusticia”); 4) *Fundación Regional de Asesoría en Derechos Humanos* (“INREDH”); 5) Judith Salgado Álvarez; 6) Programa de Acción por la Igualdad and la Inclusión Social; 7) María Dolores Miño Buitrón; 8) Natalia Torres Zuñiga; 9) Víctor Abramovich and Julieta Rossi; 10) Mónica Arango Olaya, and Catalina Martínez Coral; 11) Public Interest Legal Clinic of the Law School of the Universidad de Palermo; 12) ELEMENTA Consultoría en Derechos; 13) Laura Pautassi, Laura Elisa Pérez and Flavia Piovesan; 14) *Asociación Civil por la Igualdad and la Justicia* (“ACIJ”); 15) the Pontificia Universidad Católica de Ecuador, Ambato campus, School of Jurisprudence; 16) the Office of the Ombudsman of Ecuador, and 17) Siro L. De Martini and Ludovic Hennebel. *Id.*

71. *Gonzales Lluy et al. v. Ecuador*, Preliminary Objections, Merits, Reparations, and Costs, ¶ 14.

72. *Gonzales Lluy et al. v. Ecuador*, Provisional Measures, Order of the President, Inter-Am. Ct. H.R. (ser. E), “Considerando Que,” ¶ 28 (Sept. 2, 2015) (Available only in Spanish).

*B. Decision on the Merits*

**September 1, 2015:** The Court issues its Judgment on Merits, Reparations and Costs.<sup>73</sup>

The Court decided unanimously:

To reject the State's preliminary objections,<sup>74</sup> because:

*The Court dismissed the State's first objection on lack of competence, and found that it is not related to a matter of admissibility since it first requires an examination of the merits of the case.*<sup>75</sup>

*The Court dismisses the State's second objection regarding exhaustion of domestic remedies.*<sup>76</sup> *The Court states that this objection must be presented during the admissibility procedure before the Commission.*<sup>77</sup> *The State must show what remedies remain for the petitioners.*<sup>78</sup> *Further, the arguments filed before the Commission must be the same as those submitted to the Court.*<sup>79</sup> *The State failed to bring forth these remedies at the appropriate procedural moment, and thus suggested constitutional proceedings are time-barred.*<sup>80</sup> *The Court further determines that the other remedies alleged by the State must not only be specified, but also "available and adequate, appropriate and effective."*<sup>81</sup> *The remedies suggested by the State did not meet these criteria for determining who was responsible for Talía's infection with HIV, nor to assess reparations.*<sup>82</sup>

The Court found unanimously that the State had violated:

Article 4 (Right to Life) and Article 5 (Right to Humane Treatment), in relation to Article 1(1) of the Convention, to the detriment of Talía,<sup>83</sup> because:

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73. See *Gonzales Lluy et al. v. Ecuador, Preliminary Objections, Merits, Reparations, and Costs*.

74. *Id.* ¶ 15.

75. *Id.* ¶ 18.

76. *Id.* ¶ 33.

77. *Id.* ¶ 27.

78. *Id.* ¶ 28.

79. *Gonzales Lluy et al. v. Ecuador, Preliminary Objections, Merits, Reparations, and Costs*, ¶ 28.

80. *Id.* ¶ 30.

81. *Id.* ¶ 31.

82. *Id.*

83. *Id.* "Operative Paragraphs," ¶ 3.

*The State must refrain not only from violating human rights, but must also take the necessary measures to ensure the protection of its citizens.<sup>84</sup> The Court considered whether the acts of private individuals in the present case could be attributed to the State.<sup>85</sup>*

*Article 4 (Right to Life) includes both the right of every individual to not be arbitrarily deprived of life and the duty of the State to take the necessary steps to ensure this right.<sup>86</sup> This includes monitoring the private sphere for violations of legally protected rights.<sup>87</sup> Further, the right to personal integrity is directly connected to healthcare, and that failure to ensure adequate medical care could violate Article 5(1) (Right to Physical, Mental, and Moral Integrity) of the Convention.<sup>88</sup> This requires the State to ensure that health care regulations are effectively and protected.<sup>89</sup> The State ratified the Convention on the Rights of the Child in 1990, which states that children should have access to “the highest attainable standard of health” and to medical and rehabilitation facilities for treatment.<sup>90</sup> The State must take necessary steps to ensure this right.<sup>91</sup>*

*The violations of Article 4 (Right to Life) and Article 5(1) (Prohibition of Arbitrary Deprivation of Life) resulted from the actions of private third parties, namely the private health care institution and blood bank.<sup>92</sup> Previous Court decisions indicate that the consequences of private health care providers’ actions are attributable to the State.<sup>93</sup> States not only have an obligation to regulate and supervise the conduct of public health care entities, but also any private institutions that provide health care services.<sup>94</sup> States must implement procedures to investigate complaints against medical institutions and to discipline professional misconduct that may violate patients’ rights.<sup>95</sup>*

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84. *Id.* ¶ 168.

85. Gonzales Lluy et al. v. Ecuador, Preliminary Objections, Merits, Reparations, and Costs, ¶ 170.

86. *Id.* ¶ 169.

87. *Id.* ¶ 170.

88. *Id.* ¶ 171.

89. *Id.*

90. *Id.* ¶ 174.

91. Gonzales Lluy et al. v. Ecuador, Preliminary Objections, Merits, Reparations, and Costs, ¶ 174.

92. *Id.* ¶ 175.

93. *Id.*

94. *Id.*

95. *Id.* ¶ 177.

*The Court found that the serious risks associated with certain activities, such as the operation of blood banks, call for exceptional supervision and monitoring.<sup>96</sup> Several regulations and sanctions were established to ensure proper execution of blood banks.<sup>97</sup> Up until 2006, the Red Cross was in charge of managing the blood banks.<sup>98</sup> Thereafter, the enactment of the Organic Health Act<sup>99</sup> delegated this power to the State.<sup>100</sup> The State is responsible for supervising health care services provided to public,<sup>101</sup> and should be held liable when it fails to do so.<sup>102</sup>*

*In the present case, the State's delegation of supervision to the National Blood Secretariat was problematic.<sup>103</sup> The facts presented led the Court to believe that Talía's infection resulted from the Red Cross Blood Bank's blood, which had not been properly tested.<sup>104</sup> The failure of the State to properly monitor and supervise the operations of the Red Cross Blood Bank resulted in the endangerment of "health, life and integrity of the community," particularly with regard to Talía.<sup>105</sup>*

*The Court held that due to the State's negligence, and the dangers and risks faced by Talía, resulting from the blood contamination by a private entity, the State is responsible for violating Article 4 (Right to Life) and Article 5 (Right to Human Treatment) in relation to Article 1(1) of the American Convention.<sup>106</sup>*

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96. *Id.* ¶ 178.

97. *Gonzales Lluy et al. v. Ecuador, Preliminary Objections, Merits, Reparations, and Costs*, ¶¶ 179-80.

98. *Id.* ¶ 182.

99. *Id.* ¶ 145. Article 27 states: "The Ministry of Education and Culture, in coordination with the national health authorities, with the State agency specialized in gender, and other competent agencies, shall formulate educational policies and programs, the implementation of which shall be mandatory in educational establishments throughout the nation to disseminate and provide guidance on sexual and reproductive health, in order to prevent adolescent pregnancies, HIV/AIDS, and other sexually transmitted diseases, to promote responsibility paternity and maternity, and to eliminate sexual exploitation; and shall allocate sufficient resources to this." *Id.* ¶ 145, n.167.

100. *Id.* ¶ 182.

101. *Id.*

102. *Id.* ¶ 184.

103. *Gonzales Lluy et al. v. Ecuador, Preliminary Objections, Merits, Reparations, and Costs*, ¶ 186.

104. *Id.* ¶ 187.

105. *Id.* ¶ 189.

106. *Id.* ¶¶ 190-91.

Article 5(1) (Right to Physical, Mental, and Moral Integrity), in relation to Article 1(1) of the Convention, to the detriment of Ms. Teresa Lluy and Iván Mauricio Lluy,<sup>107</sup> because:

*The Court has previously recognized that State actions or omissions with regard to victims of human rights violations can significantly impact the lives of those closest to the victims.<sup>108</sup> The Court examined the State's responsibility in relation to Talía's family, who were often stigmatized due to their relationship with someone infected with HIV.<sup>109</sup>*

*Ms. Teresa Lluy and Iván Mauricio Lluy were both affected by the isolation, social stigma, financial burdens, and health complications<sup>110</sup> that resulted from the discrimination stemming from Talía's contraction of HIV.<sup>111</sup> Ms. Teresa Lluy was fired from her job of ten years because of the social stigma that followed her daughter's disease, and could not thereafter find a steady job for the same reason.<sup>112</sup> She was forced to sell everything she had.<sup>113</sup> She also suffered severe emotional and physical harm due to the anxiety that resulted from the discrimination.<sup>114</sup> Iván Mauricio Lluy also experienced emotional and physical harm.<sup>115</sup> He stopped attending university and took on responsibilities that prevented him from enjoying his adolescence in order to work and help his family with their expenses, especially providing his sister with adequate food and treatment.<sup>116</sup>*

*The Court thus found that the State violated Article 5(1) (Right to Physical, Mental, and Moral Integrity) to the detriment of Ms. Teresa Lluy and Iván Mauricio Lluy.<sup>117</sup>*

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107. *Id.* "Operative Paragraphs," ¶ 4.

108. *Id.* ¶¶ 211-12.

109. Gonzales Lluy et al. v. Ecuador, Preliminary Objections, Merits, Reparations, and Costs, ¶ 213.

110. *Id.* ¶¶ 214-25.

111. *Id.* ¶ 226.

112. *Id.* ¶ 217.

113. *Id.* ¶ 218.

114. *Id.* ¶¶ 218-20.

115. Gonzales Lluy et al. v. Ecuador, Preliminary Objections, Merits, Reparations, and Costs, ¶ 222.

116. *Id.* ¶ 223.

117. *Id.* ¶ 228-29.

Article 13 (Right to Education) of the Protocol of San Salvador, in relation to Article 1(1) and Article 19 of the American Convention, to the detriment of Talía,<sup>118</sup> because:

*The Court examined the dispute over whether the State was in violation of the right to education with regard to Talía.<sup>119</sup> The Court, in doing so, considered the following two points: (1) how the right was implicated in this case, and (2) the inability to stay in the educational system free of discrimination, along with the system's adaptability.<sup>120</sup>*

*Article 13 of the Protocol of San Salvador establishes that every individual has a right to education; States party to this Protocol acknowledge the importance education in ensuring the exercise of a democratic society, which fosters tolerance and promotes peace; States to this Protocol accept that in order to achieve the full extent of this right, they must provide primary education at no cost, and make secondary and higher education available and accessible to all.<sup>121</sup>*

*The Court acknowledged that individuals living with HIV have experienced discrimination at different levels because of the stigma the illness bring, makes rights less accessible.<sup>122</sup> Living with HIV is not in and of itself a disability; however, the circumstances surrounding these individuals "place them in a situation of disability."<sup>123</sup>*

*The Court noted three obligations inherent in the right to education for persons living with HIV/AIDS: "(i) the right to have timely, prejudice-free information on HIV/AIDS; (ii) the prohibition to deny access to educational establishments to persons with HIV/AIDS, and (iii) the right that education should promote their inclusion and non-discrimination by their social milieu."<sup>124</sup> These obligations were used to determine whether the State was in violation of Talía's right to education when she was expelled and turned away from schools due to the presumption that she was a risk to other students.<sup>125</sup> The State's justification was that there was*

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118. *Id.* "Operative Paragraphs" ¶ 5.

119. *Id.* ¶ 233.

120. *Id.*

121. Gonzales Lluy et al. v. Ecuador, Preliminary Objections, Merits, Reparations, and Costs, ¶ 234, n.262.

122. *Id.* ¶ 236.

123. *Id.* ¶ 238.

124. *Id.* ¶ 241.

125. *Id.*

*conflict between balancing Talía's rights and those of the other students, and the other students' rights were prioritized.*<sup>126</sup>

*The director of the Zoila Aurora Palacios School, SA, argued that Talía was required to provide medical reports that indicated she was in good health that would not threaten the health of other children.*<sup>127</sup> *However, because she experienced some hemorrhages at the school, school officials found the risk of infecting other students had heightened, in addition to the fact that these grade students also had access to sharp objects.*<sup>128</sup> *Although Talía's doctor informed school officials that Talía's condition was under control and the risk of infecting other students was low, the school argued that the existence of any risk at all was sufficient to warrant their decision.*<sup>129</sup>

*The Court found Talía was treated differently due to her health status.*<sup>130</sup> *It is the State's responsibility to take the necessary measures in providing the proper education in order to dispel the discrimination against those suffering from HIV/AIDS.*<sup>131</sup> *After Talía was expelled, she attempted to register in different schools, and was continually discriminated against.*<sup>132</sup> *The Court found that the risk of infection to other students was too small to warrant the means of meeting the school's objective of protecting the other students.*<sup>133</sup> *There were several other measures that would have been more appropriate in this situation, instead of using stereotypes to justify an extreme, discriminatory decision.*<sup>134</sup>

*Talía's discrimination stemmed from a variety of factors, such as "being a woman, a person living with HIV, a person with disabilities, a minor, and also her socio-economic status," and left her more susceptible to discrimination.*<sup>135</sup> *The State was obligated to provide her more support by combating the stigma associated with these factors that led to greater*

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126. *Id.* ¶ 245.

127. Gonzales Lluy et al. v. Ecuador, Preliminary Objections, Merits, Reparations, and Costs, ¶ 248.

128. *Id.*

129. *Id.* ¶ 249.

130. *Id.* ¶ 252.

131. *Id.* ¶ 263.

132. *Id.* ¶ 273.

133. Gonzales Lluy et al. v. Ecuador, Preliminary Objections, Merits, Reparations, and Costs, ¶ 274.

134. *Id.*

135. *Id.* ¶ 285.

vulnerability.<sup>136</sup> Thus, the Court concluded that the State violated Article 13 (Right to Education) of the Protocol of San Salvador.<sup>137</sup>

Article 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal), with regard to the criminal proceedings, in relation to Article 1(1) and 19 of the Convention, to the detriment of Talía,<sup>138</sup> because:

*The Court examined whether the State was justified for the time lapse in the proceedings of this case, and whether or not the justification was reasonable.<sup>139</sup> The Court looked at (1) complexity, (2) procedure, (3) judicial conduct, and (4) the party's legal situation during proceedings.<sup>140</sup> First, in determining the complexity of the case, the Court considered the evidence, victims, time lapse since the incident, remedies under State laws, and the context.<sup>141</sup> Here, the necessity of obtaining the expert in blood led to complications in the resolution of the criminal proceedings.<sup>142</sup> Second, the Court notes that the procedural activity of the interested party did not obstruct or extend delays in the proceedings.<sup>143</sup>*

*Third, in examining the conduct of the judicial authorities, the Court argued that there was a delay.<sup>144</sup> The Judge continuously concluded, and subsequently was asked to re-open, the preliminary investigation several times prior to the performance of the specialized blood test.<sup>145</sup> After incorporating the specialized evidence and once again closing the preliminary investigation, it was re-opened to include Ms. MRR, Ms. BRR and Mr. PMT.<sup>146</sup> Subsequently, due to Ms. MRR's failure to appear at the hearing and her failed arrest, the State court declared that the statute of limitations applied.<sup>147</sup> The Court noted that, with regard to locating Ms. MRR, the State did not take all reasonable measures, nor in any way*

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136. *Id.* ¶ 290.

137. *Id.* ¶ 291.

138. *Id.* "Operative Paragraphs," ¶ 6.

139. Gonzales Lluy et al. v. Ecuador, Preliminary Objections, Merits, Reparations, and Costs, ¶ 298.

140. *Id.*

141. *Id.* ¶ 300.

142. *Id.* ¶ 301.

143. *Id.* ¶ 302.

144. *Id.* ¶ 304.

145. Gonzales Lluy et al. v. Ecuador, Preliminary Objections, Merits, Reparations, and Costs, ¶ 303.

146. *Id.*

147. *Id.*



attempted in advance the criminal proceedings.<sup>148</sup> Because the State authorities delayed investigation, prosecution and punishment, the Court found that the State failed to diligently carry out the criminal proceedings within a reasonable time, resulting in a denial of justice.<sup>149</sup>

Finally, the Court considered the effect the length of time it took to commence proceedings in Talía's legal case.<sup>150</sup> Due to Talía's health situation, the medical treatments she required, and her family's financial situation, the lack of a criminal judgment sufficiently impacted her life because it prevented her from receiving damages and prolonging her family's financial difficulties.<sup>151</sup> Further, the criminal judgment was required for the civil proceedings.<sup>152</sup> The Court held that the State must heighten the importance of promptness when a civil action is reliant upon criminal proceedings.<sup>153</sup> The Court therefore found that the State violated Article 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal).<sup>154</sup>

The Court found unanimously that the State had not violated:

Article 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal), with regard to the civil proceedings, in relation to Article 1(1) and 19 of the Convention, to the detriment of Talía,<sup>155</sup> because:

*The State law required a criminal conviction prior to issuing damages for a civil action resulting from a criminal offense, established in the 1983 Code of Criminal Procedure.<sup>156</sup> The Court concluded that this requirement does not, by itself, violate judicial guarantees and thus, did not attribute responsibility to the State.<sup>157</sup>*

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148. *Id.* ¶ 305.

149. *Id.* ¶ 304.

150. *Id.* ¶ 309.

151. Gonzales Lluy et al. v. Ecuador, Preliminary Objections, Merits, Reparations, and Costs, ¶ 310.

152. *Id.* ¶ 311.

153. *Id.* ¶ 312.

154. *Id.* ¶ 316.

155. *Id.* "Operative Paragraphs," ¶ 7.

156. *Id.* ¶ 326.

157. Gonzales Lluy et al. v. Ecuador, Preliminary Objections, Merits, Reparations, and Costs, ¶ 327.

Article 25(1) (Right of Recourse Before a Competent Court), in relation to Article 1(1) of the Convention, to the detriment of Talía,<sup>158</sup> because:

*The Court found that there was insufficient evidence to support the argument of the lack of judicial protection for Talía, and thus does not hold the State responsible for the violation of Article 25(1) (Right of Recourse Before a Competent Court).<sup>159</sup>*

### C. Dissenting and Concurring Opinions

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

In a separate opinion, Judge Sierra Porto agreed with the Court's Judgment and expanded on the reasons against asserting the violation of Article 26 (Duty to Progressively Develop Economic, Social, and Cultural Rights).<sup>160</sup> Judge Sierra Porto argued that attempting to make ESCR justiciable is more problematic than other approaches already utilized by the Court, such as protecting an individual's right to health by linking this right to the right to life and personal integrity.<sup>161</sup> Although Judge Sierra Porto acknowledged that all rights are interconnected, he did not find this to be a sufficient reason for the expansion.<sup>162</sup>

Judge Sierra Porto discussed Article 26 (Duty to Progressively Develop Economic, Social, and Cultural Rights) as it refers directly to the Charter of the Organization of American States ("OAS Charter"),<sup>163</sup> which depicts these rights imprecisely.<sup>164</sup> In order to affirm such rights, it is necessary to provide clarification through other international instruments without modifying the Charter.<sup>165</sup>

Judge Sierra Porto argues that the first problem is that Article 26 (Duty to Progressively Develop Economic, Social, and Cultural Rights) "does not contain a list of clearly established subjective rights."<sup>166</sup> Thus,

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158. *Id.* "Operative Paragraphs," ¶ 8.

159. *Id.* ¶¶ 331-33.

160. *Gonzales Lluy et al. v. Ecuador, Preliminary Objections, Merits, Reparations, and Costs, Separate Opinion of Judge Humberto Antonio Sierra Porto, Inter-Am. Ct. H.R. (ser. C) No. 102/13, ¶ 1 (Sept. 1, 2015).*

161. *Id.* ¶ 1.

162. *Id.* ¶ 4.

163. *Id.* ¶ 7.

164. *Id.*

165. *Id.*

166. *Gonzales Lluy et al. v. Ecuador, Preliminary Objections, Merits, Reparations, and Costs, Concurring Opinion of Judge Humberto Antonio Sierra Porto, ¶ 11.*

Judge Sierra Porto states that it is necessary to discuss the Protocol of San Salvador.<sup>167</sup> The existence of a protocol is dependent on the existence of a treaty.<sup>168</sup> States are obliged to comply with their decision in defining the ESCR.<sup>169</sup>

Making the ESCR more in line with justice under this Article is not favorable because there are better methods of providing protection.<sup>170</sup> This Court implemented this latter method by recognizing Articles 4 (Right to Life) and 5 (Right to Humane Treatment).<sup>171</sup>

## 2. Concurring Opinion of Judge Alberto Pérez Pérez

In a separate opinion, Judge Pérez Pérez, while agreeing with the outcome of the Judgment, discussed his concerns about the right to health examined as the main right violated by the State, since it is not among those rights recognized by the American Convention, but rather, by the Protocol of San Salvador.<sup>172</sup> Judge Pérez argued, “neither the specific recognition of the economic, social and cultural rights nor their inclusion in the system or protection established by the Convention can be inferred from Article 26 (Duty to Progressively Develop Economic, Social, and Cultural Rights).”<sup>173</sup>

The only way in which the Court can consider a violation of the right of health is by means of Articles 31, 76, 77 and 29 in the Protocol of San Salvador.<sup>174</sup> Articles 31, 76 and 77 govern how other rights can receive protection under the Convention and Article 29 (Interpretation of the Convention) acknowledges other rights without including them.<sup>175</sup> Judge Pérez stated, the Court is limited in the interpretation it can make when stating how a freedom or right is to be understood.<sup>176</sup>

## 3. Concurring Opinion of Judge Eduardo Ferrer Mac-Gregor Poisot

In a concurring opinion, Judge Mac-Gregor Poisot further examines the following three elements he believes to be fundamental: (1)

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167. *Id.* ¶ 12.

168. *Id.* ¶ 13.

169. *Id.* ¶ 14.

170. *Id.* ¶ 30.

171. *Id.* ¶ 31.

172. *Gonzales Lluy et al. v. Ecuador, Preliminary Objections, Merits, Reparations, and Costs, Separate Opinion of Judge Alberto Pérez Pérez, Inter-Am. Ct. H.R. (ser. C) No. 102/13, ¶ 1 (Sept. 1, 2015).*

173. *Id.* ¶ 22.

174. *Id.* ¶¶ 4, 13.

175. *Id.*

176. *Id.* ¶ 23.

“intersectionality” with discrimination; (2) handling the right to health under Article 26 (Duty to Progressively Develop Economic, Social, and Cultural Rights), and (3) incorporating economic, social, cultural and environmental rights into Inter-American system.<sup>177</sup> Judge Mac-Gregor Poisot stated that this was the first time the Court used the concept of intersectionality.<sup>178</sup>

The concept takes into account different factors through which discrimination occurs.<sup>179</sup> In the present case, for instance, he notes multiple factors that speak to the victim’s vulnerability and risk of discrimination, including her status as a female minor in poverty and a carrier of HIV.<sup>180</sup> The fact that she was living in poverty impacted her health, particularly in contracting the disease in the first place, and later in receiving the necessary care.<sup>181</sup> Her status as a female minor also impacted her because of the additional stigma associated with having HIV.<sup>182</sup> Intersectionality activates or underlines discrimination that only occurs when the many reasons are combined.”<sup>183</sup> This leads to a harm that is distinct from any discrimination faced by these factors alone.<sup>184</sup>

Further, Judge Mac-Gregor Poisot argues that the right to health should have been “approached directly and autonomously.”<sup>185</sup> In the present case, it was acknowledged in connection with the right to life and to personal integrity.<sup>186</sup> He argued that each right should be analyzed on its own and no hierarchy of rights should exist.<sup>187</sup> He states that analyzing the right to health individually would have allowed for a more thorough assessment of the issues regarding antiretroviral drug accessibility.<sup>188</sup>

Lastly, Judge Mac-Gregor Poisot states that there is a need to continue advancing interpretation of Article 26 (Duty to Progressively Develop Economic, Social, and Cultural Rights) and that the Court must

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177. *Gonzales Lluy et al. v. Ecuador, Preliminary Objections, Merits, Reparations, and Costs, Concurring Opinion of Judge Eduardo Ferrer Mac-Gregor Poisot, Inter-Am. Ct. H.R. (ser. C) No. 102/13, ¶ 4 (Sept. 1, 2015).*

178. *Id.* ¶ 6.

179. *Id.* ¶ 7.

180. *Id.* ¶¶ 6; 290.

181. *Id.* ¶ 290.001

182. *Id.*

183. *Gonzales Lluy et al. v. Ecuador, Preliminary Objections, Merits, Reparations, and Costs, Concurring Opinion of Judge Eduardo Ferrer Mac-Gregor Poisot, ¶ 12.*

184. *Id.*

185. *Id.*

186. *Id.* ¶ 14.

187. *Id.* ¶ 15(15).

188. *Id.* ¶ 17.

not limit the full extent of the right to health by connecting it to other rights.<sup>189</sup>

#### IV. REPARATIONS

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

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

###### 1. Judgment as a Form of Reparation

The Court stated that the publishing of the Judgment itself is a form of reparation.<sup>190</sup>

###### 2. Provide Free and Prompt Medical and Psychological or Psychiatric Treatment

The Court noted that Talía's contraction of the HIV virus was a direct result of the State's negligence with regard to supervising and inspecting the health care institutes of the State.<sup>191</sup> Accordingly, the Court ordered the State to provide Talía prompt and free medical and physiological or psychiatric treatments.<sup>192</sup> Additionally, the State must also provide, free of charge, any medication she requires for her illnesses.<sup>193</sup> The Court stated that if the State cannot provide this, it should look to private institutions.<sup>194</sup> These treatments must be provided in a center closest to Talía's home for as long as necessary.<sup>195</sup>

Furthermore, the Court ordered the State to provide the necessary recommendations given by the doctor of Talía's choice.<sup>196</sup> The State must provide the Court with a report indicating compliance with this measure every three months.<sup>197</sup>

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189. Gonzales Lluy et al. v. Ecuador, Preliminary Objections, Merits, Reparations, and Costs, ¶ 21.

190. *Id.* ¶ 412.

191. *Id.* ¶ 358.

192. *Id.* ¶ 359.

193. *Id.*

194. *Id.*

195. Gonzales Lluy et al. v. Ecuador, Preliminary Objections, Merits, Reparations, and Costs, ¶ 359.

196. *Id.* ¶ 360.

197. *Id.*

### 3. Publish Judgment

The State is required to publish a summary of the Court's Judgment in the Official Gazette, in a national newspaper with widespread circulation, and on an official national website a for at least one year.<sup>198</sup>

### 4. Acknowledge International Responsibility

In order to prevent the reoccurrence of the harms suffered by the victims in this case, the Court found it necessary that the State acknowledge international responsibly.<sup>199</sup> The State must organize a public act, in which it refers to the human rights violations in this case in a public ceremony in front of both the senior State authorities and the victims.<sup>200</sup> This public act must be the result of an agreement between the State and the victims or their representatives, with regard to its organization and characteristics.<sup>201</sup>

### 5. Provide a Scholarship

The Court noted the State's willingness to provide Talía the opportunity for an academic excellence scholarship, but this type of scholarship is available to any student who is academically gifted, and it does not acknowledge Talía specifically.<sup>202</sup> Therefore, the Court required the State to award Talía a scholarship not conditional on her academic performance that covers her educational expenses until completing her education.<sup>203</sup>

### 6. Provide a Post-Graduate Study Grant

The Court indicated that the State must, in addition to Talía's undergraduate studies, award her a scholarship for her postgraduate studies for all academic and living costs.<sup>204</sup> This scholarship must not be conditional on her performance during her undergraduate studies.<sup>205</sup>

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198. *Id.* ¶ 364.

199. *Id.* ¶ 368.

200. *Id.*

201. Gonzales Lluy et al. v. Ecuador, Preliminary Objections, Merits, Reparations, and Costs, ¶ 368.

202. *Id.* ¶ 372.

203. *Id.*

204. *Id.* ¶ 373.

205. *Id.*

### 7. Provide Decent Housing

The Court noted the State's willingness to provide Talía with decent housing free of charge without the requirement of housing-related payments.<sup>206</sup>

### 8. Train Health Officials

The State must create a program to train health care officials on how to handle patients with HIV following the best practices in the Manual for the Comprehensive Care of Adults and Adolescents infected with HIV/AIDS and measures to eliminate discrimination, especially for children.<sup>207</sup>

#### *B. Compensation*

The Court awarded the following amounts:

#### 1. Pecuniary Damages

The Court awarded the sum of \$50,000 for Talía's required medical care to both Ms. Teresa Lluy and Iván Lluy.<sup>208</sup>

#### 2. Non-Pecuniary Damages

The Court awarded \$350,000 to Talía for the serious psychological and physical effects she experienced as a result of being infected and having to live with HIV.<sup>209</sup> Due to her illness, she has lived in constant depression, unable to establish normal relationships from the discrimination that follows the social stigma.<sup>210</sup>

The Court awarded Ms. Teresa Lluy the sum of \$30,000 from suffering anxiety and emotional disorders, such as emotional diabetes, as a result of the isolation and discrimination from her daughter's illness.<sup>211</sup>

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206. *Id.* ¶ 377.

207. *Gonzales Lluy et al. v. Ecuador*, Preliminary Objections, Merits, Reparations, and Costs, ¶ 386.

208. *Id.* ¶ 409.

209. *Id.* ¶¶ 413, 416.

210. *Id.*

211. *Id.* ¶¶ 414, 416.

The Court awarded Iván Lluy the sum of \$25,000 for his emotional sufferings resulting from giving up his adolescence to support his mother and sister.<sup>212</sup>

### 3. Costs and Expenses

The Court awarded \$10,000 to representatives Ramiro Ávila Santamaría and Gustavo Quito Mendieta for legal expenses.<sup>213</sup> The Court awarded \$4,649.54 to the Victims' Legal Assistance fund to cover litigation costs.<sup>214</sup>

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

\$519,649.54

### *C. Deadlines*

The Court required that the State provide a report on the compliance measures taken within one year of the Judgment.<sup>215</sup>

The reports related to medical and psychological or psychiatric treatments are required to be presented every three months.<sup>216</sup>

The State must publish the Judgment within six months of its notification.<sup>217</sup>

The State has one year from the notification of this Judgment to “organize a public act to acknowledge international responsibility in Ecuador, in relation to the fact of this case.”<sup>218</sup>

Additionally, the State must provide free housing and compensate for pecuniary and non-pecuniary damages within one year the Judgment.<sup>219</sup>

Lastly, the State must reimburse the Victims' Legal Assistance Fund no later than ninety days from the Judgment.<sup>220</sup>

212. *Id.* ¶¶ 415-16.

213. *Gonzales Lluy et al. v. Ecuador, Preliminary Objections, Merits, Reparations, and Costs*, ¶ 421.

214. *Id.* ¶ 422-23.

215. *Id.* “Operative Paragraphs,” ¶ 19.

216. *Id.* “Operative Paragraphs,” ¶ 10.

217. *Id.* ¶ 364.

218. *Id.* ¶ 368.

219. *Gonzales Lluy et al. v. Ecuador, Preliminary Objections, Merits, Reparations, and Costs*, ¶ 377.

220. *Id.* ¶ 423.



## V. INTERPRETATION AND REVISION OF JUDGMENT

[None]

## VI. COMPLIANCE AND FOLLOW-UP

[None]

## VII. LIST OF DOCUMENTS

*A. Inter-American Court*

## 1. Preliminary Objections

[None]

## 2. Decisions on Merits, Reparations and Costs

[Gonzales Lluy et al. v. Ecuador, Preliminary Objections, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. \(ser. C\) No. 102/13 \(Sept. 1, 2015\).](#)

[Gonzales Lluy et al. v. Ecuador, Preliminary Objections, Merits, Reparations, and Costs, Concurring Opinion of Judge Humberto Antonio Sierra Porto, Inter-Am. Ct. H.R. \(ser. C\) No. 102/13 \(Sept. 1, 2015\).](#)

[Gonzales Lluy et al. v. Ecuador, Preliminary Objections, Merits, Reparations, and Costs, Concurring Opinion of Judge Alberto Pérez Pérez, Inter-Am. Ct. H.R. \(ser. C\) No. 102/13 \(Sept. 1, 2015\).](#)

[Gonzales Lluy et al. v. Ecuador, Merits, Preliminary Objections, Reparations, and Costs, Concurring Opinion of Judge Eduardo Ferrer Mac-Gregor Poisot, Inter-Am. Ct. H.R. \(ser. C\) No. 102/13 \(Sept. 1, 2015\).](#)

## 3. Provisional Measures

[Gonzales Lluy et al. v. Ecuador, Provisional Measures, Order of the Court, Inter-Am. Ct. H.R. \(ser. E\) \(Sept. 2, 2015\).](#)

## 4. Compliance Monitoring

[None]

## 5. Review and Interpretation of Judgment

[None]

*B. Inter-American Commission*

## 1. Petition to the Commission

[Not Available]

## 2. Report on Admissibility

[Gonzales Lluy et al. v. Ecuador, Admissibility Report, Report No. 89/09, Inter-Am. Comm'n H.R., Case No. TGGL \(Aug. 7, 2009\).](#)

## 3. Provisional Measures

[None]

## 4. Report on Merits

[Not Available]

## 5. Application to the Court

[Not Available]

## VIII. BIBLIOGRAPHY

[None]