

Zambrano Vélez et al. v. Ecuador

ABSTRACT¹

This case is about the extrajudicial killing of three Ecuadorians by Ecuador's Armed Forces during the 1992-1993 emergency regime. The State admitted partial responsibility for the actions of its agents and the Court found a violation of several articles of the American Convention.

I. FACTS

A. Chronology of Events

September 3, 1992: Ecuador's Navy, Air Force, and Army carry out an operation under a state of emergency during a period of high delinquency and activity of terrorist groups.² Delinquent acts against citizens' physical integrity, as well as public and private property,³ lead to instability and insecurity in some of the main cities of Ecuador.⁴ In response, the State adopts Decree-Law No. 86 to deal with these issues, and in essence, declares a state of emergency.⁵ The operation's goal is to detain drug traffickers, criminals, and terrorists.⁶

March 6, 1993: An operation occurs in the city of Guayaquil and includes participation from three divisions of the armed forces: the Navy, the Air Force, and the Army.⁷ Approximately 1,200 agents participate and are supported by Army trucks, boats, and a helicopter.⁸ This operation is planned nearly three months in advance.⁹

The armed forces use explosives to break down the doors and enter

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

2. Zambrano Vélez et al. v. Ecuador, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 11.579, ¶¶ 5, 10 (July 4, 2007).

3. *Id.* ¶ 48.

4. *Id.* ¶ 44.

5. *Id.*

6. *Id.* ¶ 74.

7. *Id.* ¶ 73.

8. Zambrano Vélez et al. v. Ecuador, Merits, Reparations, and Costs, ¶ 73.

9. *Id.*

the houses of Mr. Wilmer Zambrano Vélez (“Mr. Zambrano Vélez”), Mr. Segundo Olmedo Caicedo Cobeña and Mr. José Miguel Caicedo Cobeña.¹⁰ The three alleged victims, some in front of their partners and children, are killed by the state agents’ gunfire.¹¹ A witness to the events, a neighbor who lived in front of Mr. Segundo Olmedo Caicedo Cobeña’s house, stated that he saw military officers bring Mr. Segundo Olmedo Cobeña out of his home alive and board him on an Army truck, but then remove him back to the house and allegedly murder him.¹²

After these events, the State does not take any action to start an investigation, identify and punish those responsible.¹³

B. Other Relevant Facts

The Court notes that some of the family members of the alleged victims refer to additional facts not mentioned in the application.¹⁴ They claim that the alleged victims were subjected to “ill-treatment” before the deprivation of their life, such as inflicting electric shocks, and detaining one of the victims’ partners for several days.¹⁵ However, the Commission does not consider these facts proven.¹⁶

The State, in its partial acknowledgment of responsibility, demonstrates its willingness to protect the rights guaranteed by the American Convention of Human Rights through the establishment of the Truth Commission, an Executive Decree issued by the President.¹⁷ The establishment of the Truth Commission¹⁸ arises from Ecuador’s history of widespread and “[a]rbitrary detentions, torture, extrajudicial killings and forced disappearances.”¹⁹ The Commission’s goal is to prevent impunity by investigating instances of human rights abuse.²⁰ The Truth Commission strives to make reparations, punishes perpetrators, and ensures investigations are properly carried out.²¹ The goal is to ensure strict monitoring and regulation of the state of emergency’s regime.²²

10. *Id.*

11. *Id.*

12. *Id.* ¶ 35.

13. *Id.* ¶ 2.

14. Zambrano Vélez et al. v. Ecuador, Merits, Reparations, and Costs, ¶ 20.

15. *Id.*

16. *Id.*

17. *Id.* ¶ 27.

18. *Id.*

19. *Truth Commission: Ecuador 07*, The U.S. Institute of Peace, <https://www.usip.org/publications/2007/05/truth-commission-ecuador-07> (May 3, 2007).

20. *Id.*

21. *Id.*

22. Zambrano Vélez et al. v. Ecuador, Merits, Reparations, and Costs, ¶ 27.

II. PROCEDURAL HISTORY

A. Before the Commission

November 8, 1994: The Ecumenical Commission of Human Rights (*Comisión Ecuménica de Derechos Humanos*; “CEDHU”) submits a petition to the Inter-American Commission on Human Rights (“the Commission”).²³

February 28, 2006: The Commission adopts Admissibility and Merits Report No. 8/06.²⁴

The Commission finds the State violated Article 27 (Suspension of Guarantees), Article 4 (Right to Life), Article 8 (Right to a Fair Trial), and Article 25 (Right to Judicial Protection), in relation to Article 1(1) (Obligation of Non-Discrimination) and Article 2 (Obligation to Give Domestic Legal Effect to Rights) of the American Convention.²⁵

February 28, 2006: The State denies responsibility for the alleged violations.²⁶ Further, the State argues that it cannot be held liable for the actions of state agents committed in self-defense.²⁷ The State alleges that the alleged victims were being arrested for weapons and drug-dealing materials found in their homes.²⁸

B. Before the Court

July 18, 2006: The Commission submits the case to the Court after the State failed to adopt its recommendations.²⁹

1. Violations Alleged by Commission³⁰

Article 4 (Right to Life)
 Article 8 (Right to a Fair Trial)
 Article 25 (Right to Judicial Protection)
 Article 27 (Suspension of Guarantees)

all in relation to:

23. *Id.* ¶ 1.

24. *Id.*

25. *Id.* ¶ 3.

26. *Id.* ¶ 5.

27. *Id.*

28. Zambrano Vélez et al. v. Ecuador, Merits, Reparations, and Costs, ¶ 99.

29. *Id.* ¶ 1.

30. *Id.* ¶ 3.

Article 1(1) (Obligation of Non-Discrimination)
Article 2 (Obligation to Adopt Domestic Measures) of the American Convention.

2. Violations Alleged by Representatives of the Victims³¹

Same Violations Alleged by Commission.

III. MERITS

A. *Composition of the Court*

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

Pablo Saavedra Alessandri, Secretary
Emilia Segares Rodríguez, Deputy Secretary

B. *Decision on the Merits*

July 4, 2007: The Court issues its Judgment on Merits, Reparations and Costs.³²

The Court found unanimously that the State had violated:

Article 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal), Article 25 (Right to Judicial Protection), and Article 27, in relation to Articles 1(1) (Obligation of Non-Discrimination) and 2 (Obligation to Give Domestic Legal Effect to Rights)³³

31. *Id.* ¶4. The Ecumenical Commission of Human Rights (*Comisión Ecuménica de Derechos Humanos*; “CEDHU”) served as representatives of the victims. *Id.*

32. *Id.*

33. *Id.* “Operative Paragraphs,” ¶ 14.

of the Convention, to the detriment of the family members of Mr. Zambrano Vélez,³⁴ Mr. Segundo Olmedo Caicedo Cobeña,³⁵ and Mr. José Miguel Caicedo Cobeña^{36, 37} because:

The Court recognized the State's partial acknowledgement of responsibility for Articles 8 (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal), 25 (Right to Judicial Protection), and 27 (Suspension of Guarantees).³⁸ Although the State partially acknowledged responsibility, it omitted any acknowledgement of its failed compliance with Article 1(1) (Obligation of Non-Discrimination) and 2 (Obligation to Give Domestic Legal Effects to Rights) obligations in relation to the listed provisions.³⁹ The State has failed to conduct any criminal proceedings since the facts of this case have occurred.⁴⁰ The State's establishment of The Truth Commission further demonstrated the State's responsibility in failing to protect fundamental rights.⁴¹

The Court accepted and favorably viewed the State's acknowledgment that its agents deprived the three alleged victims of their lives.⁴² Nonetheless, the Court still determined that the State did not fulfill its duty to prevent human rights violations and must continue to investigate human rights.⁴³

Article 27(1) (Conditions Under Which Rights Can Be Suspended),

34. Zambrano Vélez et al. v. Ecuador, Merits, Reparations, and Costs, ¶ 4. Mr. Zambrano Vélez' family members include: Ms. Alicia Marlene Rodríguez Villegas, Ms. Karen Lisette Zambrano Rodríguez, Ms. Johanna Elizabeth Zambrano Abad, Ms. Jennifer Karina Zambrano Abad, Mr. Ángel Homero Zambrano Abad, Ms. Jessica Marlene Baque Rodríguez, and Mr. Christian Eduardo Zambrano Ruales.

35. *Id.* Mr. Segundo Olmedo Caicedo Cobeña's family members include: Ms. Silvia Liza Macías Acosta, Mr. Vanner Omar Caicedo Macías, Mr. Olmedo Germán Caicedo Macías, Ms. Marjuri Narcisa Caicedo Rodríguez, Ms. Gardenia Marianela Caicedo Rodríguez, Ms. Elkis Mariela Caicedo Rodríguez, Mr. Richard Olmedo Caicedo Rodríguez, Ms. Iris Estrella Caicedo Chamorro, and Ms. Mayerlin Chamorro.

36. *Id.* "Operative Paragraphs," ¶ 4. Mr. José Miguel Caicedo Cobeña's family members include: Ms. Teresa María Susana Cedeño Paz, Ms. María Magdalena Caicedo Cedeño, Ms. Jessica Soraya Vera Cedeño, Manuel Abelardo Vera Cedeño, Brimer Ramón Vera Cedeño, Kleber Miguel Caicedo Ponce, Ms. Mariuxi Mariela Caicedo Ponce, Mr. José Kelvin Caicedo Ponce, Ms. Cira Seneida Caicedo Ponce, and Ms. Gina Loyobrigida Caicedo Ponce.

37. *Id.* "Operative Paragraphs," ¶ 1.

38. *Id.*

39. *Id.* ¶ 14.

40. Zambrano Vélez et al. v. Ecuador, Merits, Reparations, and Costs, ¶ 116.

41. *Id.* ¶ 127.

42. *Id.* ¶ 15.

43. *Id.* ¶ 129.

Article 27(2) (Non-Derogable Rights), and Article 27(3) (Procedural Requirements to Suspend Rights), in relation to Article 1(1), 2, 4, 8(1) and 25 of the Convention, to the detriment of the victims and their family members,⁴⁴ because:

The Court found the State failed to adhere to the strict requirements of suspending fundamental individual rights.⁴⁵ Article 27(1) (Conditions Under Which Rights Can Be Suspended) solely applies in exceptional situations,⁴⁶ and suspended rights that may be permitted in one situation, may not be permitted in another.⁴⁷ It permits certain rights and freedoms to be suspended for a reasonable period in light of exigent circumstances.⁴⁸ The Court noted that the United Nations Human Rights Committee has recognized that the following three requirements must be met in order for a state of emergency to be permissible: (1) length of time, (2) geographical coverage, and (3) scope.⁴⁹

Article 27(2) (Non-Derogable Rights) describes that States have the duty to ensure that certain rights and freedoms remain secure, even during times of emergency.⁵⁰ Within these rights are essential judicial proceedings used to guarantee rights and freedoms.⁵¹ Article 2 (Obligation to Give Domestic Legal Effect to Rights) requires each State Party to establish domestic laws that guarantee said rights.⁵² Although it does not specify which measures to adopt with regard to such domestic rights, the Court stated that two measures assist with such task.⁵³ First, States should repeal any rules or practices that permit violating the rights protected by the Convention, and second, States should adopt necessary rules and practices for ensuring them.⁵⁴

Article 27(3) (Procedural Requirements to Suspend Rights) requires States to prevent the abuse of the suspension of guarantees and to ensure it is consistent with the Convention.⁵⁵ The Court found that the State

44. *Id.* “Operative Paragraphs,” ¶ 2.

45. *Id.*

46. Zambrano Vélez et al. v. Ecuador, Merits, Reparations, and Costs, ¶ 43.

47. *Id.* ¶ 44.

48. *Id.* ¶ 43.

49. *Id.* ¶ 48.

50. *Id.* ¶ 54.

51. *Id.*

52. Zambrano Vélez et al. v. Ecuador, Merits, Reparations, and Costs, ¶ 56.

53. *Id.* ¶ 57.

54. *Id.*

55. *Id.* ¶ 70.

failed to comply with this duty.⁵⁶

The facts of this case occurred in cities facing national security concerns.⁵⁷ Such concerns led to the issuance of Decree-Law No. 86,⁵⁸ which established two articles permitting the intervention of armed forces.⁵⁹ In the instant case, the Court observed that the aforementioned decree failed to establish a territorial limit, and instead allowed for the intervention throughout the State.⁶⁰ The Court found that the State exceeded the powers attributed to it by the Convention due to such a wide scope of military intervention.⁶¹

The Court concluded that the State was in breach of its obligations established in Article 27(1) (Conditions Under Which Rights Can Be Suspended), Article 27(2) (Non-Derogable Rights), and Article 27(3) (Procedural Requirements to Suspend Rights) because the Decree failed to set a defined territorial limit, failed to fix a time limit for the military intervention; and failed to provide which rights would be suspended.⁶²

Article 4(1) (Prohibition of Arbitrary Deprivation of Life), in relation to Article 1(1) of the Convention, to the detriment of Mr. Zambrano Vélez, Mr. Segundo Olmedo Caicedo Conbeña, and Mr. José Miguel Caicedo Cobeña⁶³, because:

The State extrajudicially executed the victims without investigating the aftermath of the events.⁶⁴ The Court acknowledged that the right to life is amongst the most fundamental of rights and is necessary for access to all the other human rights.⁶⁵ It is the State's responsibility to ensure that such right is not restricted and during emergency situations that threaten security or independence.⁶⁶ States have both the duty to ensure that such violations do not occur, and the duty to prevent such violations by its

56. *Id.*

57. *Id.* ¶ 44.

58. Zambrano Vélez et al. v. Ecuador, Merits, Reparations, and Costs, n.26. "Decree-Law N° 86 of September 3rd, 1992, published that same day in the "Official Register," was signed by the President of the Republic, Sixto Durán Ballén, and by the Minister of National Defence, José Gallardo Román."

59. *Id.* ¶ 44.

60. *Id.* ¶ 48.

61. *Id.*

62. *Id.* ¶ 71.

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

64. Zambrano Vélez et al. v. Ecuador, Merits, Reparations, and Costs, ¶ 110.

65. *Id.* ¶ 78.

66. *Id.*

agents.⁶⁷ *The Court, in earlier decisions, has held that Article 4(1) (Prohibition of Arbitrary Deprivation of Life) not only presumes that no individual may be deprived of his life arbitrarily, but also requires States to adopt any necessary means to protect the right to life.*⁶⁸ *The use of force and lethal weapons must be reasonable, restricted, controlled and proportionate to any force of resistance.*⁶⁹ *The use of lethal force is only justified in extraordinary cases, determined by law, and should not exceed that which is required.*⁷⁰ *Any deprivation of life resulting from excessive force is deemed arbitrary.*⁷¹ *Additionally, the laws of the State must be clear enough to clearly define excessive force.*⁷²

*The Court considered the circumstances in which the alleged victims were deprived of their lives to determine the unreasonableness of the State's actions.*⁷³ *Although the State claimed it implemented the operation to apprehend criminals, the Court determined that whether or not the victims were innocent was irrelevant because the Decree was too vague.*⁷⁴ *The Court noted that because the State did not provide evidence demonstrating a legitimate use of force during the events of the operation, it did not justify the security forces' actions as necessary and proportional to the exigency of the circumstances.*⁷⁵ *Because the State illegitimately used force in the operation in Guayaquil, did not provide a satisfactory explanation for its lethal use of force, and failed to investigate the aftermath of the events, the Court determined that the State violated Article 4(1) (Prohibition of Arbitrary Deprivation of Life) of the Convention.*⁷⁶

Article 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal) and Article 25 (Right to Judicial Protection), in relation to Article 1(1) of the Convention, to the detriment of the family members of Mr. Zambrano Vélez, the family members of Mr. Segundo Olmedo Caicedo Cobeña, and the family members of Mr. José Miguel Caicedo Cobeña,⁷⁷ because:

67. *Id.* ¶ 79.

68. *Id.* ¶ 80.

69. *Id.* ¶ 76.

70. Zambrano Vélez et al. v. Ecuador, Merits, Reparations, and Costs, ¶ 84.

71. *Id.*

72. *Id.* ¶ 86.

73. *Id.* ¶ 75.

74. *Id.* ¶ 94.

75. *Id.* ¶ 108.

76. Zambrano Vélez et al. v. Ecuador, Merits, Reparations, and Costs, ¶ 110.

77. *Id.* "Operative Paragraphs" ¶ 4.

The State failed to conduct the necessary procedures to ensure judicial protection and thereby violated Article 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal) and Article 25 (Right to Judicial Protection).⁷⁸

The Court has held that State parties have the obligation to provide effective judicial remedies in accordance with due process.⁷⁹ The State has the responsibility to provide, within a reasonable time, the necessary information about the events that led to the current cause of action to the alleged victims or their family members.⁸⁰ Although the Court acknowledged the State's admission that no criminal proceedings have been conducted with regard to the facts in this judgment, the State has still failed to indicate that any such proceeding is pending.⁸¹

The State was responsible for conducting, without delay, adequate procedures to investigate the death of the three alleged victims due to the lethal use of force.⁸² The investigation into the death of an individual must be diligently presented in the preliminary stages of the proceeding.⁸³ The Court has set forth the following five principles that must be considered an instance of unlawful deprivation of life has occurred: (a) identify the victim; (b) recover and preserve the evidence for the investigation; (c) find witnesses and take statements; (d) determine the facts surrounding the death, including relevant patterns and practices; and (e) distinguish the type of death.⁸⁴ Moreover, professionals must conduct the investigation of the crime scene and the bodies, which did not occur in this case.⁸⁵

The Court has established that competent officials, independent from officials involved in the case, must administer the investigation.⁸⁶ Although the State declared that the President intended to issue a decree establishing The Truth Commission, which would investigate, clarify, and prevent impunity related to the relevant situations of violence in the State, the

78. *Id.* ¶ 114.

79. *Id.*

80. *Id.* ¶ 115.

81. *Id.* ¶ 116.

82. Zambrano Vélez et al. v. Ecuador, Merits, Reparations, and Costs, ¶ 119.

83. *Id.* ¶ 121.

84. *Id.*

85. *Id.*

86. *Id.* ¶ 122.

*Court did not find this to substitute the State's obligation in ensuring access to justice in the instant case.*⁸⁷

Thus, since the time elapsed from the time of the facts of the case "excessively exceeds" the time in which the State was required to conduct a reasonable investigation, the Court found the State liable for violating the rights established in Article 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal).⁸⁸ Further, the failure to properly investigate constitutes a denial of justice for the victims and the family members of the victims, and thus, the State is found responsible for violating Article 25 (Right to Judicial Protection).⁸⁹

C. Dissenting and Concurring Opinions

1. Separate Opinion of Judge Manuel E. Ventura Robles

In a separate opinion, Judge Ventura Robles, while agreeing with the outcome of the present judgment, attempts to clarify the application of Article 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal) and Article 25 (Right to Judicial Protection) in relation to Article 1(1).⁹⁰ He argues that Article 1 of the Convention is a provision of a general nature, and other articles, including Article 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal) and Article 25 (Right to Judicial Protection) should hold independent force; while often analyzed in relation to general Articles, they ensure rights on their own.⁹¹

IV. REPARATIONS

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

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

87. *Id.* ¶¶ 127-28.

88. Zambrano Vélez et al. v. Ecuador, Merits, Reparations, and Costs, ¶ 126.

89. *Id.*

90. See Zambrano Vélez et al. v. Ecuador, Merits, Reparations, and Costs, Separate Opinion of Judge Manuel E. Ventura-Robles, Inter-Am. Ct. H.R. (ser. C) No. 11.579 (July 4, 2007).

91. *Id.*

1. Investigate, Identify, Prosecute, and Punish Responsible Parties

The State must use all reasonable means to investigate the facts of the case and, if applicable, prosecute and punish the perpetrators.⁹² Further, the State must provide full access to the investigation and proceedings to victims' family members.⁹³

2. Public Acknowledgement of Responsibility

The State must publicly acknowledge its responsibility for the unlawful acts committed by its agents.⁹⁴

3. Publication of the Judgment

The State must publish the foregoing judgment, at least once, in the Official Gazette and other national newspapers.⁹⁵

4. Adopt Adequate Legislation

The State is required to adopt all necessary measures to ensure its legislation protects human rights and prevents such acts as those committed in this case from reoccurring.⁹⁶ The State must modify its existing legislation regarding the suspension of guarantees in states of emergency to reflect the goals of the American Convention.⁹⁷

5. Implement Programs of Education in Human Rights

The State must provide training programs to educate members of the Military Forces and the National Police in human rights emphasizing the legitimate use of force in states of emergency.⁹⁸

B. Compensation

The Court awarded the following amounts:

92. Zambrano Vélez et al. v. Ecuador, Merits, Reparations, and Costs, ¶ 148.

93. *Id.* ¶ 149.

94. *Id.* ¶ 150.

95. *Id.* ¶ 151.

96. *Id.* ¶¶ 152-53.

97. *Id.* ¶ 154.

98. Zambrano Vélez et al. v. Ecuador, Merits, Reparations, and Costs, ¶¶ 155-57.

1. Pecuniary Damages

The Court finds it appropriate to award each of the three victims in the amount of \$2,000 dollars, to be divided between the family members of the victims.⁹⁹

The Court further awards the following amounts to each of the victims with regard to loss of income: \$42,000 for Mr. Zambrano Vélez; \$30,000 for Mr. Segundo Olmedo Caicedo Cobeña; and \$41,000 for Mr. José Miguel Caicedo Cobeña, with the foregoing amounts to be divided between the family members of the victims.¹⁰⁰

2. Non-Pecuniary Damages

The Court awards \$50,000 to each of the victims for the “suffering, anguish, fear, helplessness and insecurity” inflicted on them before death due to the extrajudicial execution.¹⁰¹ Further, the Court finds it reasonable to award in the amount of \$25,000 to each of the partners of the victims, and \$20,000 to each child of the victims.¹⁰² The compensation to the minors should be placed in trusts that are accessible when they reach the age of adulthood.¹⁰³

3. Costs and Expenses

The Court awarded the amount of \$10,000 to be paid to CEDHU for the incurred expenses to bring this case.¹⁰⁴

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

\$814,000

C. Deadlines

The Court orders the investigation and punishment of those responsible for the extrajudicial execution of the victims to occur within six months from the notification of the Judgment.¹⁰⁵

Similarly, the State must make the aforementioned publications of

99. *Id.* ¶ 139.

100. *Id.* ¶ 140.

101. *Id.* ¶ 143.

102. *Id.* ¶¶ 144-45.

103. *Id.* ¶ 163.

104. Zambrano Vélez et al. v. Ecuador, Merits, Reparations, and Costs, ¶ 160.

105. *Id.* ¶ 150.

acknowledgement within six months of the Judgment.¹⁰⁶ The implementation of education programs must be done within a reasonable time.¹⁰⁷

The State must pay the pecuniary and non-pecuniary damages within one year from the Judgment.¹⁰⁸

Lastly, the State must make its reimbursement to the CEDHU within one year of the judgment.¹⁰⁹

V. INTERPRETATION AND REVISION OF JUDGMENT

[None]

VI. COMPLIANCE AND FOLLOW-UP

May 2009: The State claimed to have filed a complaint with the Attorney General to open an investigation and prosecution into the perpetrators who committed the extrajudicial killings of Mr. Zambrano Vélez, Mr. José Caicedo Cobeña, and Mr. Segundo Caicedo Cobeña.¹¹⁰ Additionally, the State initiated an administrative proceeding against the Ninth Criminal Judge of Guayas because of the disappearance of the judicial case file.¹¹¹ The Court requested the State provide more information to determine whether the investigation complied with the judgment and provide the Court with any possibilities for reconstructing the lost file.¹¹²

The State's Minister of Justice and Human Rights addressed the nation on television and, on behalf of the State, apologized to the next of kin for the Armed Forces' extrajudicial killings of Mr. Zambrano Vélez, Mr. José Caicedo Cobeña, and Mr. Segundo Caicedo Cobeña.¹¹³ The Court requested the opinion of the representatives and the Commission to determine whether this address complied with the Court's order for public acknowledgement of the violations.¹¹⁴

Further, the State published the relevant paragraphs of the judgment in the Official Register (*El Registro Oficial*) Number 173 and in the newspaper *El Telégrafo*.¹¹⁵ Although the victims' representatives recognized

106. *Id.* ¶ 151.

107. *Id.* ¶ 158.

108. *Id.* "Operative Paragraphs," ¶ 11.

109. *Id.* ¶ 162.

110. Zambrano Vélez et. al. v. Ecuador, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. "Considerando," ¶ 6 (May 22, 2009).

111. *Id.*

112. *Id.* "Considerando," ¶ 7.

113. *Id.* "Considerando," ¶ 8.

114. *Id.* "Considerando," ¶ 9.

115. *Id.* "Considerando," ¶ 10.

the State's efforts, the President of the Court referred this matter to the Court for further review to determine compliance with the judgment.¹¹⁶

The State provided no information on its progress to implement legal and administrative measures to comply with the Convention.¹¹⁷ The President of the Court requested the State provide information on the Armed Forces' human rights educational programs.¹¹⁸

The State satisfied its obligation to pay damages.¹¹⁹ It also satisfied its obligations to pay costs and fees to the Ecumenical Commission on Human Rights (*La Comisión Ecuménica de Derechos Humanos*).¹²⁰ The Court ordered the State to provide a detailed report on all ordered reparation measures because this current report did not include enough information.¹²¹

September 2009: The Court determined that the State had not complied with its obligation to thoroughly investigate what occurred.¹²² The Court ordered the State to provide a new report detailing either the beginning of a new investigation or progress on the continuing investigation and outline all steps taken to identify the perpetrators.¹²³

The State reported that, in addition to the steps detailed in its previous compliance report, it created a documentary about the violations, including testimony from the next of kin and it plans to show this film in major cities and at various international film festivals.¹²⁴ Even so, the Court determined the State complied with its obligation of public acknowledgment because the Minister of Justice's televised apology was broadcast nationally to a wide audience, performed by a Senior State official, and although a delay occurred, it did not make the acknowledgment ineffective.¹²⁵

The Court found the State satisfied its obligation to publish the judgment.¹²⁶ It also determined the State also satisfied its obligation to adopt legislation in conformity with the Convention.¹²⁷ Each of the three

116. Zambrano Vélez et. al. v. Ecuador, Monitoring and Compliance with Judgment, "Considerando," ¶ 11 (May 22, 2009).

117. *Id.* "Considerando," ¶ 12.

118. *Id.* "Considerando," ¶ 16.

119. *Id.* "Considerando," ¶ 18.

120. *Id.* ¶ 20.

121. *Id.* ¶ 21.

122. Zambrano Vélez et al. v. Ecuador, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R., "Considering" ¶¶ 9-14 (Sept. 21, 2009).

123. *Id.* ¶ 16.

124. *Id.* ¶ 17.

125. *Id.* ¶ 27.

126. *Id.* "Considering," ¶ 31.

127. *Id.* ¶ 49.

branches of government has either affirmatively changed the law or declared the previously existing laws unconstitutional.¹²⁸ Additionally, legislative reforms have modified the National Security Law regarding states of emergency to comply with international standards.¹²⁹

The Court reminded the State that human rights education for the Armed Forces and the judiciary is critical to ensure non-repetition.¹³⁰ The State provided evidence on hosting pilot programs on international standards for judicial protection directed at both law enforcement and judicial officers.¹³¹ Additionally, the State planned to revise the police human rights manual.¹³² However, the representatives indicated that although the State had training programs for police members, the mechanisms are unclear.¹³³ Additionally, at this time, the State had not established a permanent military training course.¹³⁴ The Court found that human rights training programs must be permanent to satisfy this obligation.¹³⁵

In respect to the obligation of compensation, the State paid the full amount required in the judgment, but still owes outstanding interest for overdue payments.¹³⁶ However, the representatives noted the Ministry of Economy and Finance was making a serious effort to secure the funds to make the payments.¹³⁷ Therefore, the Court found the State satisfied part of its obligation to compensate the next of kin.¹³⁸ The State paid the Ecumenical Human Rights Commission for costs and expenses incurred from the judgment.¹³⁹ Therefore, the Court found the State satisfied its obligation to pay legal costs and expenses.¹⁴⁰

November 2010: The representatives presented evidence indicating that the State's Public Prosecutor's Office had not yet begun an investigation that complied with that ordered in the judgment.¹⁴¹ The Prosecution Ministry had only recently initiated a preliminary investigation more than

128. Zambrano Vélez et. al. v. Ecuador, Monitoring and Compliance with Judgment, "Considering," ¶ 49 (Sept. 21, 2009).

129. *Id.*

130. *Id.* ¶ 62.

131. *Id.* ¶ 50.

132. *Id.* ¶¶ 51-52.

133. *Id.* ¶ 53.

134. Zambrano Vélez et. al. v. Ecuador, Monitoring and Compliance with Judgment, "Considering," ¶ 53 (Sept. 21, 2009).

135. *Id.* ¶ 60.

136. *Id.* ¶ 63.

137. *Id.* ¶ 64.

138. *Id.* "Considering," ¶ 70.

139. *Id.* ¶ 71.

140. Zambrano Vélez et. al. v. Ecuador, Monitoring and Compliance with Judgment, "Considering," ¶ 72 (Sept. 21, 2009).

141. Zambrano Vélez et. al. v. Ecuador, Monitoring Compliance with Judgment, Order of the

three years after the judgment and seventeen years after the events occurred.¹⁴² The Court ordered the State to increase its efforts the investigation.¹⁴³ In respect to the overdue interest, the State reported the amount was paid in full in April 2010.¹⁴⁴ Therefore, the Court found the State satisfied its obligation to compensate the victims.¹⁴⁵

September 2016: The Court concluded that the State had still not yet satisfied its obligation to conduct an expedient and detailed investigation into what occurred.¹⁴⁶ The State still reported only the 2010 preliminary investigation.¹⁴⁷ Additionally, the representatives argued that the information supplied by the State was not new and did not justify the delay.¹⁴⁸ Even the Commission noted its concern with the State's lack of progress.¹⁴⁹ Therefore, the Court requested the State take steps to complete this obligation diligently and quickly, and supply all information detailing the steps taken.¹⁵⁰

VII. LIST OF DOCUMENTS

A. *Inter-American Court*

1. Preliminary Objections

[None]

2. Decisions on Merits, Reparations and Costs

[Zambrano Vélez et al. v. Ecuador, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. \(ser. C\) No. 11.579 \(July 4, 2007\).](#)

[Zambrano Vélez et al. v. Ecuador, Preliminary Objections, Merits, Reparations, and Costs, Separate Opinion of Judge Manuel E. Ventura-Robles, Inter-Am. Ct. H.R. \(ser. C\) No. 11.579 \(July 4, 2007\).](#)

Court, Inter-Am. Ct. H.R. "Considering," ¶ 6 (November 23, 2010).

142. *Id.* ¶ 8.

143. *Id.* ¶ 9.

144. *Id.* ¶ 13.

145. *Id.* ¶ 17.

146. Zambrano Vélez et. al. v. Ecuador, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. "Considerando," ¶ 15 (Sept. 1, 2016).

147. *Id.* ¶ 10.

148. *Id.* ¶ 11.

149. *Id.*

150. *Id.* ¶ 14.

3. Provisional Measures

[None]

4. Compliance Monitoring

[Zambrano Vélez et al. v. Ecuador, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. \(May 22, 2009\).](#)

[Zambrano Vélez et al. v. Ecuador, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. \(Sept. 21, 2009\).](#)

[Zambrano Vélez et al. v. Ecuador, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. \(Nov. 23, 2010\).](#)

[Zambrano Vélez et al. v. Ecuador, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. \(Sept. 1, 2016\).](#)

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

[Not Available]

VIII. BIBLIOGRAPHY

[None]