

Jenkins v. Argentina

ABSTRACT*

This case is about preventive detention, pending trial, and its limits. Petitioner had been arrested under suspicion of drug trafficking. After more than three years of preventive detention, he was acquitted as the evidence against him turned out to be fabricated. Article 10 of Law No. 23.737, which allowed preventive detention for persons accused of drug trafficking to exceed the statutory limit of two years, was declared unconstitutional by the Argentinian Supreme Court. The Inter-American Court found Argentina in violation of several articles of the Convention.

I. FACTS

A. Chronology of Events

June 7, 1994: The Ninth Federal Criminal and Correctional Court issues a warrant authorizing the Federal Argentine Police to arrest Mr. Gabriel Óscar Jenkins for suspected drug trafficking after the State allegedly recorded a telephone conversation between Mr. Jenkins and Mr. Martinez, and orders the search of his home.

June 8, 1994: The Federal Argentine Police arrest Mr. Jenkins in Mar del Plata and transport him to the Federal Penitentiary in Devoto where he is detained and charged under criminal case no. 73, “Padilla Echeverry, José Gilbarado and others for violation of Law No. 23.737.”¹

June 29, 1994: The Sixth Oral Tribunal of the Federal Criminal Court of Buenos Aires reviews the Public Prosecutor’s evidence and orders the prosecution of Mr. Jenkins for drug trafficking, including the trading, transporting, distributing and storing of narcotics.² The Federal Criminal

*Sean Whitney, Author; Gabrielle Szlachta-McGinn, Chief IACHR Editor; Cesare Romano, Faculty Advisor.

1. Gabriel Oscar Jenkins v. Argentina, Admissibility Report, Report No. 50/04, Inter-Am. Comm’n H.R., Pet. No. 12.056, ¶ 16 (Oct. 13, 2004).

2. Jenkins v. Argentina, Preliminary Objections, Merits, Reparations, and Costs, ¶ 43; Gabriel Oscar Jenkins v. Argentina, Admissibility Report, ¶19.

Court of Buenos Aires orders his preventive detention.³ Under Law No. 24.390, preventive detention cannot exceed two years.⁴ However, under Article 10 of the same law, persons charged with drug trafficking offenses can be detained preventatively for more than two years.⁵

June 9, 1996: Mr. Jenkins moves for conditional release under Article 1 of Law No. 24.390 prohibiting preventative detention that exceeds two years.⁶ Mr. Jenkins argues Article 10 of Law No. 24.390 violates the principles of the reasonable period of preventive detention and of equality before the law.⁷

October 2, 1996: The Federal Criminal Court of Buenos Aires rejects the appeal.⁸ Mr. Jenkins appeals the decision to the National Court of Criminal Cassation.⁹

February 24, 1997: The National Court of Criminal Cassation denies Mr. Jenkins's request for release from preventive detention and reaffirms the decision of the Federal Criminal Court of Buenos Aires.¹⁰

April 28, 1997: Mr. Jenkins appeals to the Supreme Court of Justice of the Nation.¹¹

June 23, 1997: The Ombudsman of Buenos Aires urges the Federal Criminal Court to release Mr. Jenkins due to the State's failure to process his case within a reasonable time, which led to his unreasonably long detainment in an overcrowded prison facility.¹² The Ombudsman concludes the State's actions were clearly in violation of the American Convention on Human Rights and state procedural norms.¹³

September 25, 1997: The Supreme Court of Justice of the Nation dismisses Mr. Jenkins' appeal challenging the constitutionality of Article 10 and application for conditional release.¹⁴

3. Gabriel Oscar Jenkins v. Argentina, Admissibility Report, ¶ 19.

4. Jenkins v. Argentina, Preliminary Objections, Merits, Reparations, and Costs, ¶ 87.

5. *Id.* ¶ 44.

6. Gabriel Oscar Jenkins v. Argentina, Admissibility Report, ¶ 23.

7. Jenkins v. Argentina, Preliminary Objections, Merits, Reparations, and Costs, ¶ 44.

8. *Id.* ¶ 45.

9. *Id.* ¶ 47.

10. *Id.* ¶ 48.

11. *Id.* ¶ 50.

12. Gabriel Oscar Jenkins v. Argentina, Merits Report, Report No. 53/16, Inter-Am. Comm'n H.R., Pet. No. 12.056, ¶ 74 (Dec. 6, 2016).

13. *Id.* ¶ 75.

14. Jenkins v. Argentina, Preliminary Objections, Merits, Reparations, and Costs, ¶ 50.

November 13, 1997: The Federal Criminal Court of Buenos Aires determines that the transcription of the alleged recorded conversation that led to Mr. Jenkins' arrest had been intentionally falsified to make it look like Mr. Jenkins was participating in a drug trafficking operation in Panama.¹⁵ The Federal Criminal Court of Buenos Aires orders Mr. Jenkins' immediate release from detention.¹⁶

December 23, 1997: The Federal Criminal Court of Buenos Aires accepts Mr. Jenkins' request for acquittal and orders a Federal Criminal Court, the National Federal Criminal and Correctional Chamber, and the Prosecutor General to investigate the facts surrounding the falsification of evidence in Mr. Jenkins's criminal trial.¹⁷

April 20, 1998: The Second National Federal Criminal and Correctional Court decides not to prosecute Mr. Eamon Mullen and Mr. José Barbaccia, the prosecutors in Jenkins' case, on the ground that their actions did not violate the law.¹⁸

September 6, 1999: The National Prosecutor's Office rejects administrative proceedings against Mr. Mullen and Mr. Barbaccia because criminal proceedings had been dismissed.¹⁹

December 27, 1999: Mr. Jenkins sues the State and the judge who issued his arrest warrant for damages²⁰ on grounds that: (1) the detention was excessively and unnecessarily prolonged; (2) the State denied him conditional release under the law; (3) the State failed to fully investigate the facts that led to his arrest; and (4) the State did not punish those responsible for illegally depriving him of liberty.²¹

June 8, 2000: The Federal Administrative Contentious Court No. 10 rejects Mr. Jenkins' complaint against the judge who ordered his detention due to lack of standing.²² However, his claim for damages against the State is allowed to proceed.²³

15. Gabriel Oscar Jenkins v. Argentina, Admissibility Report, ¶ 19-20.

16. *Id.* ¶ 20.

17. *Id.* ¶ 21.

18. *Id.* ¶¶ 22; 42.

19. *Id.* ¶¶ 22; 43.

20. Jenkins v. Argentina, Preliminary Objections, Merits, Reparations, and Costs, ¶ 54.

21. Gabriel Oscar Jenkins v. Argentina, Admissibility Report, ¶ 26.

22. Jenkins v. Argentina, Preliminary Objections, Merits, Reparations, and Costs, ¶ 55.

23. *Id.*

April 30, 2007: The Federal Administrative Contentious Court No. 10 rejects Mr. Jenkins' claim for damages against the State.²⁴ It declares that, in order to hold the State responsible for the damage Mr. Jenkins suffered, his innocence must have been apparent and preventive detention must have been unquestionably arbitrary.²⁵ The Court noted his acquittal was not due to manifest innocence, but rather it was due to lack of evidence.²⁶

March 25, 2008: The National Chamber of Appeals in Federal Administrative Litigation rejects Mr. Jenkins' appeal, finding the investigating judge who ordered Mr. Jenkins detained had sufficient evidence to justify a legitimate suspicion that Mr. Jenkins was a drug trafficker.²⁷

March 17, 2009: The Supreme Court of Justice denies Mr. Jenkins' appeal because he was requesting the court to examine and resolve issues unrelated to the object of the dispute.²⁸

B. Other Relevant Facts

June 15, 2010: The Supreme Court of Argentina declares Article 10 of Law No. 24.390 unconstitutional and in violation of the principles of "presumption of innocence, personal liberty, equality and the reasonable" duration of the process.²⁹

II. PROCEDURAL HISTORY

A. Before the Commission

September 9, 1997: Mr. Jenkins files a petition with the Inter-American Commission on Human Rights ("Commission").³⁰ The State argues the petition inadmissible based on Mr. Jenkins' failure to exhaust all available domestic remedies, and that the State did not violate his rights under the American Convention on Human Rights.³¹

24. *Jenkins v. Argentina*, Preliminary Objections, Merits, Reparations, and Costs, ¶ 55.

25. *Id.*

26. *Id.* ¶¶ 55-56.

27. *Id.* ¶ 56.

28. *Id.* ¶ 57.

29. *Id.* ¶ 53.

30. *Gabriel Oscar Jenkins v. Argentina*, Admissibility Report, ¶ 1.

31. *Id.* ¶ 3.

October 13, 2004: The Commission issues Admissibility Report No. 50/04, which declares the petition admissible.³² The Commission finds the State violated Mr. Jenkins' rights under Articles 7 (Right to Personal Liberty), 8 (Right to a Fair Trial), 24 (Right to Equal Protection), 25 (Right to Judicial Protection) of the American Convention, all in relation to Article 1(1) (Obligation of Non-Discrimination) and Article 2 (Obligation to Give Domestic Legal Effect to Rights) of the same instrument.³³

The Commission finds insufficient factual or legal bases to support Mr. Jenkins' claim that the State also violated rights provided in Articles 3 (Right to Juridical Personality), 5 (Right to Humane Treatment), 9 (Freedom from Ex Post Facto Laws), 11 (Right to Privacy), 13 (Freedom of Thought and Expression), 16 (Freedom of Association), 17 (Rights of the Family), 19 (Rights of the Child) and 22 (Freedom of Movement and Residence) of the American Convention.³⁴

December 6, 2016: The Commission issues the Merits Report No. 53/16.³⁵ It concludes the State is responsible for violating rights to judicial equality and personal liberty provided in Articles 7(1) (Right to Personal Liberty and Security), 7(3) (Prohibition of Arbitrary Arrest or Imprisonment), 7(5) (Right to Be Promptly Brought Before a Judge and Right to a Trial Within), 7(6) (Right to Have Recourse Before a Competent Court), 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal), 8(2) (Right to Be Presumed Innocent), 24 (Right to Equal Protection) and 25(1) (Right of Recourse Before a Competent Court) of the American Convention, in relation to Article 1(1) (Obligation of Non-Discrimination) and Article 2 (Obligation to Give Domestic Legal Effect to Rights) of the same instrument, to the detriment of Mr. Jenkins.³⁶

The Commission finds that, during the time the State deprived Mr. Jenkins of liberty, the State never reevaluated the necessity of his preventative detention.³⁷ Further, the judicial remedies Jenkins pursued failed to provide for a timely and effective review of either the purpose of the preventative detention or its duration.³⁸ Finally, the Commission concluded the civil action for damages filed by Mr. Jenkins was unreasonably prolonged.³⁹

32. Gabriel Oscar Jenkins v. Argentina, Admissibility Report, ¶ 4.

33. Jenkins v. Argentina, Preliminary Objections, Merits, Reparations, and Costs, ¶ 2 n.1.

34. Gabriel Oscar Jenkins v. Argentina, Admissibility Report, ¶ 54.

35. Gabriel Oscar Jenkins v. Argentina, Merits Report, ¶ 1.

36. Jenkins v. Argentina, Preliminary Objections, Merits, Reparations, and Costs, ¶ 2 n.1.

37. *Id.* ¶ 64.

38. *Id.* ¶ 68.

39. *Id.* ¶ 27.

In light of the foregoing violations, the Commission recommends the State: (1) make comprehensive and adequate reparation to Mr. Jenkins; (2) immediately provide free physical and mental health treatment to Mr. Jenkins; (3) reform the criminal code to ensure preventive detention is applied in only exceptional circumstances, and is limited and consistent with “principles of legality, presumption of innocence, necessity and proportionality;” and (4) annul the prohibition of conditional release in Law 24.390.⁴⁰

B. Before the Court

September 22, 2017: The Commission submits the case to the Court.⁴¹ The State raises four preliminary objections: (1) the Commission’s report on the merits and the brief of requests, arguments and evidence allege certain issues that have become moot; (2) domestic remedies have not been exhausted; (3) the Commission altered a procedural aspect of the case; and (4) the Court lacks jurisdiction over the case.⁴²

1. Violations Alleged by Commission⁴³

Article 7(1) (Right to Personal Liberty and Security)

Article 7(3) (Prohibition of Arbitrary Arrest or Imprisonment)

Article 7(5) (Right to Be Promptly Brought Before a Judge and Right to a Trial Within Reasonable Time)

Article 7(6) (Right to Have Recourse Before a Competent Court)

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

Article 8(2) (Right to Be Presumed Innocent)

Article 24 (Right to Equal Protection)

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

all in relation to:

Article 1(1) (Obligation of Non-Discrimination)

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

40. Gabriel Oscar Jenkins v. Argentina, Merits Report, “recommendations” ¶¶ 1-3.

41. Jenkins v. Argentina, Preliminary Objections, Merits, Reparations, and Costs, ¶¶ 1; 3.

42. *Id.* ¶¶ 15; 19; 24; 28.

43. *Id.* ¶ 2 n.1.

2. Violations Alleged by Representatives of the Victims⁴⁴

Same Violations Alleged by the Commission, plus:

Article 8(2)(h) (Right to Appeal)

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

Article 8(2) (Right to Be Presumed Innocent)

all in relation to:

Article 1(1) (Obligation of Non-Discrimination)

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

III. MERITS

A. *Composition of the Court*⁴⁵

Eduardo Vio Grossi, President

Humberto Antonio Sierra Porto, Judge

Elizabeth Odio Benito, Judge

L. Patricio Pazmiño Freire, Judge

Ricardo Pérez Manrique, Judge

Pablo Saavedra Alessandri, Secretary

B. *Decision on the Merits*

November 26, 2019: The Court issues its Judgment on Merits, Reparations and Costs.⁴⁶

The Court found unanimously:

To dismiss all four of Argentina's preliminary objections,⁴⁷ because:

First, the State argued the facts relating to Mr. Jenkins' prolonged pre-trial detention and the violations of other judicial guarantees became

44. Jenkins v. Argentina, Preliminary Objections, Merits, Reparations, and Costs, ¶ 7.

45. Judge Eduardo Ferrer Mac-Gregor Poisot, for reasons of force majeure, did not participate in the deliberation of the Judgment. Judge Eugenio Raúl Zaffaroni, of Argentine nationality, did not participate in the case or the deliberation and signing of the Judgment, in accordance with Articles 19.1 and 19.2 of the Rules of the Court. *See generally id.* p. 1.

46. *Id.*

47. *Id.* "decide" ¶¶ 1-4.

irrelevant after his acquittal.⁴⁸ Further, the Supreme Court of Argentina already established that Article 10 was unconstitutional and thus, Mr. Jenkins' claim regarding the conventionality of Article 10 was exhausted.⁴⁹ The Court rejected the State's arguments because the object of its analysis was the facts surrounding Mr. Jenkins's arrest and detention, specifically the State's refusal to grant him conditional release.⁵⁰ Further, in determining the compatibility of Article 10 and the American Convention, the State failed to recognize the effects of its violation occurred before Article 10 was declared unconstitutional.⁵¹

Second, the State argued not all domestic remedies had been exhausted.⁵² The Court rejected this argument because the State did not meet the standards necessary to argue lack of exhaustion of domestic remedies, such as stating which remedies were not exhausted or in progress, and why those remedies are effective.⁵³

Third, the State argued the Commission exceeded its scope of review when it considered facts beyond Mr. Jenkins' pre-trial detention, including the State's failure to investigate and punish those responsible for submitting falsified evidence against Mr. Jenkins.⁵⁴ The Court rejected this argument and explained the State had many opportunities to present evidence in support of its position and to defend against the allegations made by Mr. Jenkins and the Commission.⁵⁵ Further, the State had ample time to search for the evidence it deemed pertinent in its defense, which the Court considered sufficient to support the principle of procedural fairness due the parties.⁵⁶

Finally, the State argued the Court lacked jurisdiction with respect to the alleged violations of international instruments other than the American Convention, such as the Universal Declaration of Human Rights.⁵⁷ The Court rejected this argument because Mr. Jenkins' complaint focused on violations of the American Convention.⁵⁸ Further, the Court has long held

48. Jenkins v. Argentina, Preliminary Objections, Merits, Reparations, and Costs, ¶ 15.

49. *Id.*

50. *Id.* ¶ 18.

51. *Id.*

52. *Id.* ¶ 19.

53. *Id.* ¶¶ 22-23.

54. Jenkins v. Argentina, Preliminary Objections, Merits, Reparations, and Costs, ¶ 24.

55. *Id.* ¶ 27.

56. *Id.*

57. *Id.* ¶ 28.

58. *Id.* ¶ 32.

*it has inherent power to determine its own jurisdiction and that the Court may, without additional consent of the State, utilize other sources to interpret or apply the American Convention pursuant to Article 62(1) of the same.*⁵⁹

The Court found unanimously that Argentina had violated:

Article 7(1) (Right to Personal Liberty and Security), 7(3) (Prohibition of Arbitrary Arrest or Imprisonment), and 8(2) (Right to Be Presumed Innocent), in relation to Article 1(1) (Obligation of Non-Discrimination) of the Convention, to the detriment of Mr. Jenkins,⁶⁰ because:

Under Article 7 (Right to Personal Liberty and Security), deprivation of liberty cannot be arbitrary.⁶¹ The Court considers three factors to determine whether deprivation of liberty is arbitrary: unreasonableness; unpredictability; and proportionality.⁶² Further, if a pretrial detention period extends beyond the limits of law and reason, the release of a detainee is necessary notwithstanding the unresolved underlying matter.⁶³

Preventive detention is the most extreme measure that the State can apply to persons accused of a crime.⁶⁴ Thus, applying such a measure must be exceptional and "limited by the principles of legality, the presumption of innocence, necessity and proportionality."⁶⁵ A State may only order preventive deprivation of liberty if there is substantial risk the accused may obstruct the investigation, or the State cannot guarantee the accused's appearance at the trial unless it resorts to preventive detention.⁶⁶

Here, the State failed to show why Mr. Jenkins' preventive detention was necessary, suitable or proportional to the purposes the State was pursuing.⁶⁷ Instead, it focused only on potential evidence that could link Mr. Jenkins to the commission of drug trafficking.⁶⁸ Pursuant to the applicable standard, judicial authority may only impose preventive detention if it is suitable to achieve the end pursued, a less burdensome measure does

59. Jenkins v. Argentina, Preliminary Objections, Merits, Reparations, and Costs, ¶ 31.

60. *Id.* "declares" ¶ 5.

61. *Id.* ¶ 73.

62. *Id.*

63. *Id.* ¶ 83.

64. *Id.* ¶ 72.

65. Jenkins v. Argentina, Preliminary Objections, Merits, Reparations, and Costs, ¶ 72.

66. *Id.*

67. *Id.* ¶ 81.

68. *Id.*

not exist, and it is not excessive.⁶⁹ Thus, the Court held the preventive detention of Mr. Jenkins arbitrary and an unreasonable deprivation of his right to liberty.⁷⁰

Article 7(1) (Right to Personal Liberty and Security), 7(3) (Prohibition of Arbitrary Arrest or Imprisonment), 7(5) (Right to Be Promptly Brought Before a Judge and Right to a Trial Within Reasonable Time), 8(2) (Right to Be Presumed Innocent), and 24 (Right to Equal 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, to the detriment of Mr. Jenkins,⁷¹ because:

Article 7(5) (Right to Be Promptly Brought Before a Judge and Right to a Trial Within Reasonable Time) of the Convention imposes a temporal limit on the duration of pretrial detention.⁷² The Court explained State authorities are required to periodically assess the relevance of precautionary measures that they issue, and, at all times, must have sufficient grounds to justify the ongoing restriction of liberty.⁷³ Thus, each time a detainee petitions for conditional release, the judge must ensure there are still valid reasons for preventive detention.⁷⁴

Pursuant to Law No. 24.390, there is a maximum term of two years for preventive detention, unless a person was charged for drug trafficking.⁷⁵ This exception caused unequal treatment between persons accused of drug trafficking and those accused of other crimes.⁷⁶

Here, the Court found one reasonable justification for the discriminatory law was the State's interest in prosecuting criminal organizations for drug trafficking, as evidenced by the State's signing of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.⁷⁷ Nevertheless, the State did not specify its purpose for denying Mr. Jenkins' request for release and maintained his detention solely based on the title of his charge.⁷⁸ The Court noted that even Article 10, which excluded the maximum duration of pretrial detention, did not

69. Jenkins v. Argentina, Preliminary Objections, Merits, Reparations, and Costs, ¶ 76.

70. *Id.* ¶ 82.

71. *Id.* "declares" ¶ 6.

72. *Id.* ¶ 84.

73. *Id.* ¶ 85.

74. *Id.*

75. Jenkins v. Argentina, Preliminary Objections, Merits, Reparations, and Costs, ¶¶ 87-88.

76. *Id.* ¶ 90.

77. *Id.* ¶ 92.

78. *Id.*

exclude the obligation to provide justification for the detention.⁷⁹ Thus, the Court concluded the limit established by the legislation for unreasonable preventive detention constituted unequal treatment of persons in similar situations who had access to such benefit and was therefore a violation of the Convention.⁸⁰

Article 7(6) (Right to Have Recourse Before a Competent Court), in relation to Article 1(1) (Obligation of Non-Discrimination) of the American Convention, to the detriment of Mr. Jenkins,⁸¹ because:

Mr. Jenkins remained in preventive detention for over three years, and during that time, the State failed to justify its reason for depriving him of his right to liberty and prohibited him from exercising his right to appeal the legality of such detention without delay.⁸² Thus, by withholding effective remedies from the victim regarding his detention, coupled with the fact that the detention was itself arbitrary, the State violated Article 7(6) (Right to Have Recourse Before a Competent Court).⁸³

Article 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal), in relation to Article 1(1) (Obligation of Non-Discrimination) of the American Convention, to the detriment of Mr. Jenkins,⁸⁴ because:

In order to establish whether the State violated the guarantee of the reasonable period within the framework of the subsequent action for damages filed by Mr. Jenkins, the Court analyzed the following four elements: (1) the complexity of the case; (2) the interested party's procedural activity from the date of the first procedural act to the date a final judgment is issued; (3) any judicial authority's conduct; and (4) the impact on the alleged victim's legal situation.⁸⁵

The Court first considered the complexity of this matter.⁸⁶ Mr. Jenkins' request for compensation implied State authorities must conduct an analysis on whether a judicial error had occurred.⁸⁷ This did not require the

79. Jenkins v. Argentina, Preliminary Objections, Merits, Reparations, and Costs, ¶ 97.

80. *Id.* ¶¶ 94; 98.

81. *Id.* "declares" ¶ 7.

82. *Id.* ¶¶ 99-100.

83. *Id.* ¶ 100.

84. *Id.* "declares" ¶ 8.

85. Jenkins v. Argentina, Preliminary Objections, Merits, Reparations, and Costs, ¶ 106.

86. *Id.* ¶ 110.

87. *Id.* ¶ 113.

*State to conduct a multitude of checks that are difficult to assess, but rather, the State was required to examine the decisions that led to the preventive detention order and the subsequently rejected appeals.*⁸⁸

*Second, the State alleged multiple delays in Mr. Jenkins' civil action were due to Mr. Jenkins' own fault, including: not utilizing the proper procedures, failure to timely raise certain claims, and various evidentiary issues, among others.*⁸⁹ *The Court held that Mr. Jenkins' actions either had no relevance or minimal relevance as to the delay.*⁹⁰

*Third, judicial authorities are required to act diligently and without undue delay.*⁹¹ *Here, the State failed to provide any information as to the seven-year delay between the date authorities partially rejected Mr. Jenkins's claim and the date when the Federal Administrative Contentious Court definitively rejected his entire claim for damages.*⁹²

*Finally, in analyzing the final element, the Court explained when the duration has a significant impact on a person's legal situation, the courts should take proper actions to resolve the case quicker.*⁹³ *However, the Court ruled it did not have enough evidence to evaluate the impact of the duration on Mr. Jenkins' legal situation.*⁹⁴ *Thus, in looking at the totality of the circumstances, the Court concluded that the judicial authorities had exceeded the reasonable period of the process, which violated Mr. Jenkins' right to judicial guarantees.*⁹⁵

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

88. Jenkins v. Argentina, Preliminary Objections, Merits, Reparations, and Costs, ¶ 113.

89. *Id.* ¶ 114.

90. *Id.* ¶¶ 115-18.

91. *Id.* ¶ 119.

92. *Id.*

93. *Id.* ¶ 120.

94. Jenkins v. Argentina, Preliminary Objections, Merits, Reparations, and Costs, ¶ 120.

95. *Id.* ¶ 121.

The Court noted that the Judgment itself is a form of reparation.⁹⁶

2. Provide Psychological Treatment

The Court ordered the State to immediately provide free psychological treatment to Mr. Jenkins, which included dispensing medications.⁹⁷

3. Publish and Disseminate the Judgment

The State must publish the judgment within six months and publish the official summary of the judgment in a newspaper of large national circulation and in the Official Gazette.⁹⁸ The Court required the judgment be published on an official State website for one year, and noted the State must immediately notify the Court once each publication is made available regardless of any time period restriction.⁹⁹

B. Compensation

The Court awarded the following amounts:

1. Pecuniary Damages

The Court awarded \$5,000 to Mr. Jenkins as compensation for all expenses due to his imprisonment, and \$10,000 for loss of income during the time he was imprisoned.¹⁰⁰

2. Non-Pecuniary Damages

The Court awarded \$20,000 to Mr. Jenkins for the violations of his rights to the recognition of legal personality, life, personal integrity, and personal freedom.¹⁰¹

96. Jenkins v. Argentina, Preliminary Objections, Merits, Reparations, and Costs, “and provides” ¶ 9.

97. *Id.* ¶ 130.

98. *Id.* ¶ 134.

99. *Id.*

100. *Id.* ¶¶ 150; 154.

101. *Id.* ¶¶ 158-59.

3. Costs and Expenses

The Court awarded \$10,000 to Mr. Jenkins for the costs and expenses for the work made in the litigation of the case internally.¹⁰² The State must also reimburse the Victims' Legal Assistance Fund of the Inter-American Court of Human Rights for its \$6,174.66 contribution.¹⁰³

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

\$51,174.66

C. Deadlines

Within one year from the Judgment, the State must provide the Court with a report on the measures it took to comply with the Judgment.¹⁰⁴

The State must immediately provide Mr. Jenkins with adequate psychological treatment, and give adequate treatment for the time that was necessary to deal with the conditions derived from the violations declared in the Judgment.¹⁰⁵

The State must publish the Official Summary and the Judgment within six months from the date of the Judgment.¹⁰⁶

The State must make all payments for material and immaterial damages and for the reimbursement of costs and expenses within one year from the date of the Judgment, and the State must reimburse the Court Assistance Fund within six months from the date of the Judgment.¹⁰⁷

V. INTERPRETATION AND REVISION OF JUDGMENT

[None]

VI. COMPLIANCE AND FOLLOW-UP

[None]

102. *Jenkins v. Argentina*, Preliminary Objections, Merits, Reparations, and Costs, ¶ 165.

103. *Id.* ¶ 168.

104. *Id.* "and provides" ¶ 14.

105. *Id.* ¶ 130.

106. *Id.* ¶ 134.

107. *Id.* ¶¶ 168-69.

VII. LIST OF DOCUMENTS

A. Inter-American Court

1. Preliminary Objections

[None]

2. Decisions on Merits, Reparations and Costs

Jenkins v. Argentina, Preliminary Objections, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 397, (Nov. 26, 2019).

3. Provisional Measures

Jenkins v. Argentina, Resolution of the President, Call for Hearing, Inter-Am. Ct. H.R. (ser. C) No. 397, (Dec. 19, 2018).

4. Compliance Monitoring

[None]

5. Review and Interpretation of Judgment

[None]

B. Inter-American Commission

1. Petition to the Commission

Gabriel Oscar Jenkins v. Argentina, Letter of Submission, Inter-Am. Comm'n H.R., Case No. 12.056, (Sept. 22, 2017).

2. Report on Admissibility

Gabriel Oscar Jenkins v. Argentina, Admissibility Report, Report No. 50/04, Inter-Am. Comm'n H.R., Pet. No. 12.056, (Oct. 13, 2004).

3. Provisional Measures

[None]

4. Report on Merits

Gabriel Oscar Jenkins v. Argentina, Merits Report, Report No. 53/16, Inter-Am. Comm'n H.R., Pet. No. 12.056, (Dec. 6, 2016).

5. Application to the Court

[None]

VIII. BIBLIOGRAPHY

[None]