

Montesinos Mejía v. Ecuador

ABSTRACT*

This case stems from the faulty prosecution of a man accused of crimes. The Court found Ecuador in violation of several due process rights protected under the American Convention.

I. FACTS

A. Chronology of Events

June 19, 1992: The National Police’s Counter Narcotics Intelligence Service launches “Operation Cyclone” to dismantle a drug trafficking organization.¹ This operation results in multiple arrests and the seizure of weapons, ammunitions, and explosives.²

June 21, 1992: There are contrasting versions of the facts.³ According to the State, police officers pulled Mr. Mario Montesinos Mejía over as he is driving in Quito, Ecuador, and arrest him.⁴ The police tell Mr. Montesinos Mejía that they have an arrest warrant for him and a search warrant for his home.⁵ After the police search his property and find weapons, Mr. Montesinos Mejía is placed in a eleven square meter cell with thirteen other people.⁶ The case file indicates that on the day of his arrest, Mr. Montesinos Mejía was given a medical examination by the National Police’s Medical Department and the diagnosis indicates “without observations.”⁷

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1. Mario Montesinos Mejía v. Ecuador, Admissibility and Merits Report, Report No. 131/17, Inter-Am. Comm’n H.R., Pet. No. 11.678, ¶ 24 (Oct. 25, 2017).

2. *Id.* ¶ 25.

3. *Id.* ¶¶ 25-29.

4. *Id.* ¶ 26.

5. *Id.*

6. *Id.* ¶ 31.

7. Mario Montesinos Mejía v. Ecuador, Admissibility and Merits Report, ¶ 30.

According to Mr. Montesinos Mejía, the police was wearing camouflage and face coverings when he was arrested.⁸ He also claims that, after asking why he was being arrested, the police responded “because the police has the power to do so.”⁹ Mr. Montesinos Mejía remains in the police car for two hours as they searched his home.¹⁰ After completing the search, the police officers informed him that they had found weapons and that he needed to sign a record that indicates they found weapons.¹¹ He claims that they covered his head with a hood when he refused to sign.¹² After giving his preliminary statement, Mr. Montesinos Mejía was told to sign a document that he believes was later altered.¹³ He gave a second statement between 2:00AM – 4:00AM, while enduring continued threats and intimidation, and was forced to sign the document.¹⁴ Mr. Montesinos Mejía saw his cell mates be taken away, beaten, and interrogated.¹⁵ Later, when they return to the cell, they claim to have been electrocuted and gassed.¹⁶ Finally, Mr. Montesinos Mejía claims he received no medical examination on the day of his arrest.¹⁷

June 23, 1992: Mr. Montesinos Mejía notifies the prison guards that he has been in custody for more than a day without an explanation for his arrest and the guards do not respond.¹⁸

June 25, 1992: Mr. Montesinos Mejía makes a preliminary statement to police and prosecutors from the Public Prosecution Ministry without an attorney present.¹⁹ Mr. Montesinos Mejía explains that he supervises the property called “El Prado” and that he knows Mr. Jorge Reyes Torres.²⁰ Mr. Montesinos Mejía notes that a short while before his arrest, two individuals who claimed that they were acquaintances of Mr. Torres’ wife asked him to keep several weapons for a few days.²¹ Mr. Montesinos Mejía’s petition to the Commission claims that after he gave his preliminary statement to prosecutors and the police, the statements recorded in

8. Mario Montesinos Mejía v. Ecuador, Admissibility and Merits Report, ¶ 28.

9. *Id.*

10. *Id.* ¶ 29.

11. *Id.*

12. *Id.*

13. *Id.* ¶ 33.

14. Mario Montesinos Mejía v. Ecuador, Admissibility and Merits Report, ¶ 35.

15. *Id.* ¶ 31.

16. *Id.*

17. *Id.* ¶ 30.

18. *Id.* ¶ 31.

19. *Id.* ¶ 32.

20. Mario Montesinos Mejía v. Ecuador, Admissibility and Merits Report, ¶ 32.

21. *Id.*

the official document were altered in a manner inconsistent with his prior statements.²²

July 11, 1992: Mr. Fernando Almeida Gallardo, the Pichincha Police Commissioner, orders the Director of the Men’s Social Rehabilitation Center in Quito to keep Mr. Montesinos Mejía in custody.²³ The order explains that Mr. Montesinos Mejía is being charged with the crimes of converting and transferring assets, but does not indicate the reason for his pretrial detention.²⁴

July 12, 1992: Mr. Montesinos Mejía gives a second statement to police investigators and prosecutors again without an attorney present.²⁵ He claims that when he received the weapons from the individuals who claimed to be acquaintances of Mr. Torres’ wife, he had asked them to sign a liability waiver, but they did not do so.²⁶

July 17, 1992: The Operation Cyclone report is issued and states that Mr. Montesinos Mejía came into the weapons from strangers sent by Mr. Torres’ wife, who asked him to keep them as a favor.²⁷ The police concludes that Mr. Torres is a part of an international drug trafficking organization and the weapons were used to further that organization’s illegal acts.²⁸

July 23, 1992: While in the yard of the Men’s Social Rehabilitation Center No. 2 in Quito, Mr. Montesinos Mejía and other detainees are beaten by twenty-five members of the National Police Response and Rescue Group.²⁹ Following this incident, Mr. Montesinos Mejía is transferred to Men’s Social Rehabilitation Center No. 1 in Quito.³⁰ Once he arrives to the prison, he is held in solitary confinement for eight days and receives food under the door without access to utensils or toiletries.³¹

22. Mario Montesinos Mejía v. Ecuador, Admissibility and Merits Report, ¶ 33.

23. *Id.* ¶ 38.

24. *Id.*

25. *Id.* ¶ 34.

26. *Id.*

27. *Id.* ¶ 27, n. 14.

28. Mario Montesinos Mejía v. Ecuador, Admissibility and Merits Report, ¶ 27.

29. *Id.* ¶ 36.

30. *Id.*

31. *Id.*

August 13, 1992: The First Judge of the Criminal Court orders Mr. Montesinos Mejía into pretrial detention in accordance with Article 177 of the Code of Criminal Procedure.³²

November 18, 1992: Mr. Montesinos Mejía is charged with being party of a front operation for a criminal organization, in violation of the September 1990 Law on Narcotics and Psychotropic Substances.³³

November 30, 1992: Mr. Montesinos Mejía is charged with the crimes of illicit enrichment, and conversion and transfer of assets, in accordance with the September 1990 Law on Narcotics and Psychotropic Substances.³⁴ The Quito Superior Court of Justice issues an order to proceed with the case against Mr. Montesinos Mejía based on indications that he participated as an accomplice to conceal or transfer assets.³⁵ The order also authorizes his pretrial detention and the seizure of his property.³⁶

November 17, 1994: Mr. Montesinos Mejía's defense counsel requests that the Quito Superior Court of Justice lift the pretrial detention, but receives no response.³⁷

November 30, 1994: Mr. Montesinos Mejía's defense counsel again requests the Quito Superior Court of Justice lift the pretrial detention, but receives no response.³⁸

October 13, 1995: Mr. Montesinos Mejía writes a letter to the Supreme Court of Justice seeking relief.³⁹ The letter challenges his criminal prosecution and the period of his pretrial detention, and alleges the conditions are dreadful at Social Rehabilitation Center No. 1 in Quito.⁴⁰

February 1996: Mr. Montesinos Mejía files a complaint with the Chief Judge of the Constitutional Rights Court to hold the Operation Cyclone police report from July 17, 1992 unconstitutional.⁴¹ He alleges the

32. Mario Montesinos Mejía v. Ecuador, Admissibility and Merits Report, ¶ 39.

33. *Id.* ¶¶ 43, 44.

34. *Id.*

35. Montesinos Mejía v. Ecuador, Preliminary Objections, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 398, ¶ 60 (Jan. 27, 2020).

36. *Id.*

37. Mario Montesinos Mejía v. Ecuador, Admissibility and Merits Report, ¶ 40.

38. *Id.*

39. *Id.* ¶ 41.

40. *Id.*

41. *Id.* ¶ 60.

report's release led to numerous cases against him.⁴² That is in violation of Article 160 of the Code of Criminal Procedure, which declares that an individual cannot be prosecuted more than once for the same act.⁴³ In addition, he alleges his pretrial detention period was unreasonable and that his property rights were violated because his home was under National Police administration for multiple years.⁴⁴ Finally, he challenges the constitutionality of certain Articles of the Law on Narcotics and Psychotropic Substances, including Articles 115, 121, and 122.⁴⁵

March 26, 1996: The Constitutional Rights Court rejects the appeal because Mr. Montesinos Mejía improperly joined two cases with different evidence and outcomes.⁴⁶

April 23, 1996: Mr. Montesinos Mejía files a new complaint with the Constitutional Rights Court, requesting to find his arrest, pretrial detention, and deprivation of property unconstitutional.⁴⁷ The court again rejects the complaint, citing that the March 26, 1996 decision had already settled the issue.⁴⁸

September 10, 1996: Mr. Montesinos Mejía files a habeas corpus appeal with the Mayor of the Metropolitan District of Quito.⁴⁹ The appeal alleges he was: (1) subject to an illegal arrest without a warrant; (2) not told why he was arrested; and (3) beaten and coerced to make statements without an attorney.⁵⁰ Further, the appeal claims he has been subject to inhuman treatment,⁵¹ and argues that his pretrial detention for more than 50 months is unreasonable.⁵²

September 12, 1996: The Public Prosecutor's Office of Pichincha delivers a decision, finding that Mr. Montesinos Mejía was a front man for a criminal organization because he supervised El Prado and signed blank checks.⁵³

42. Mario Montesinos Mejía v. Ecuador, Admissibility and Merits Report, ¶ 60.

43. *Id.*

44. *Id.*

45. *Id.* ¶ 61.

46. *Id.* ¶ 62.

47. *Id.* ¶ 63.

48. Mario Montesinos Mejía v. Ecuador, Admissibility and Merits Report, ¶ 63.

49. *Id.* ¶ 53.

50. *Id.*

51. *Id.* ¶ 54.

52. *Id.* ¶ 53.

53. Montesinos Mejía v. Ecuador, Preliminary Objections, Merits, Reparations, and Costs, ¶ 66.

September 16, 1996: The Chief Judge of the Quito Superior Court of Justice holds the habeas corpus appeal inadmissible because Mr. Montesinos Mejía is facing criminal prosecution in three proceedings.⁵⁴

September 30, 1996: The Quito Superior Court of Justice begins proceedings against Mr. Montesinos Mejía for the crime of conversion and transfer of assets, under Article 77 of the Law on Narcotics and Psychotropic Substances.⁵⁵ Chief Judge, Dr. Fausto Argudo, determines that the various items found in the residences constitute sufficient evidence of the crime.⁵⁶ The Chief Judge notes that Mr. Montesinos Mejía acknowledged in his statement to prosecutors in Pichincha that he held weapons on behalf of Mr. Jorge Reyes.⁵⁷ Finally, the Quito Superior Court of Justice upholds the defendants' pretrial detention, and orders the seizure of all property used to commit the crime.⁵⁸ Mr. Montesinos Mejía appeals this decision.⁵⁹

October 30, 1996: The Constitutional Rights Court accepts Mr. Montesinos Mejía's habeas corpus appeal.⁶⁰ The court determines the statutory timeframes set forth for issuing judgments in Mr. Montesinos Mejía's cases were exceeded, and orders the Director of Men's Social Rehabilitation Center No. 1 in Quito to release Mr. Montesinos Mejía immediately.⁶¹ The court explains that it lacks evidence to rule on the allegations of torture.⁶²

November 5, 1996: The Chief Judge of the Quito Superior Court begins proceedings against Mr. Montesinos Mejía for the crime of front operations, under Article 78 of the Law on Narcotics and Psychotropic Substances.⁶³

November 22, 1996: The Chief Judge of the Quito Superior Court of Justice orders a trial against Mr. Montesinos Mejía for the crime of illicit

54. Mario Montesinos Mejía v. Ecuador, Admissibility and Merits Report, ¶ 54.

55. *Id.* ¶ 46.

56. *Id.*

57. *Id.*

58. *Id.*

59. Montesinos Mejía v. Ecuador, Preliminary Objections, Merits, Reparations, and Costs, ¶ 61.

60. Mario Montesinos Mejía v. Ecuador, Admissibility and Merits Report, ¶ 55.

61. *Id.*

62. Montesinos Mejía v. Ecuador, Preliminary Objections, Merits, Reparations, and Costs, ¶ 54.

63. Mario Montesinos Mejía v. Ecuador, Admissibility and Merits Report, ¶ 51.

enrichment, under Article 77 of the Law on Narcotics and Psychotropic Substances.⁶⁴ The Chief Judge determines that sufficient evidence has been presented, and the Pichincha Prosecutor alleges that the crime of illicit enrichment shifts the burden of proof to the defendants.⁶⁵ The defendants must prove that their revenue sources are not linked to crimes set forth under the Law on Narcotics and Psychotropic Substances.⁶⁶ Finally, the Chief Judge upholds the defendants' pretrial detention, and orders the seizure of all currency, goods, and valuables that were either used to commit or a result of the crime.⁶⁷

November 23, 1996: Mr. Montesinos Mejía files a complaint to hold the Director of the prison in contempt because he failed to comply with the October 30, 1996 order to release him.⁶⁸

December 3, 1996: Mr. Montesinos Mejía files an appeal against the Quito Superior Court's November 22, 1996 ruling.⁶⁹

March 23, 1998: The Subrogate Presidency of the Quito Superior Court of Justice opens the proceedings against Mr. Montesinos Mejía for operating as a front man for a criminal organization, and orders the seizure of all money, property, and other valuables used to commit the crime.⁷⁰

April 14, 1998: On behalf of Mr. Montesinos Mejía, Mr. Alejandro Ponce Villacís files a second habeas corpus appeal with the Mayor of the Metropolitan District of Quito.⁷¹ The appeal alleges that Mr. Montesinos Mejía's pretrial detention has lasted almost six years without any final decision on his pending criminal prosecutions.⁷² Further, the appeal notes that the October 30, 1996 judgment of the Constitutional Rights Court, which ordered Mr. Montesinos Mejía's immediate release, has not been carried out.⁷³

64. Mario Montesinos Mejía v. Ecuador, Admissibility and Merits Report, ¶ 48.

65. *Id.*

66. *Id.*

67. *Id.* ¶ 49.

68. *Id.* ¶ 56.

69. Montesinos Mejía v. Ecuador, Preliminary Objections, Merits, Reparations, and Costs, ¶ 58.

70. *Id.* ¶ 67.

71. Mario Montesinos Mejía v. Ecuador, Admissibility and Merits Report, ¶ 57.

72. *Id.*

73. *Id.*

April 21, 1998: The Mayor adopts the second habeas corpus appeal ruling, holding it inadmissible, noting the pretrial detention length is reasonable and that final decisions are still pending in the criminal prosecutions.⁷⁴ Mr. Montesinos Mejía appeals this decision.⁷⁵

April 29, 1998: The Fourth Chamber of the Quito Superior Court of Justice dismisses the criminal charges of conversion and transfer of assets against Mr. Montesinos Mejía for lack of evidence.⁷⁶

May 7, 1998: The Fourth Chamber of Joint Judges of the Quito Superior Court of Justice dismisses the criminal charges of illicit enrichment against Mr. Montesinos Mejía due to lack of evidence.⁷⁷

August 13, 1998: The Constitutional Court takes up the second habeas corpus appeal filed on April 21, 1998 and orders Mr. Montesinos Mejía's release without prejudice through his criminal proceedings.⁷⁸ The Court finds the pretrial detention period was unreasonably long.⁷⁹

September 9, 2003: The Surrogate Presidency of the Quito Superior Court of Justice acquits Mr. Montesinos Mejía, and both the State Attorney General's Office and the Public Prosecutor's Office appeal.⁸⁰

September 17, 2003: The Presidency of the Quito Superior Court of Justice grants both appeals from the State Attorney General's Office and the Public Prosecutor's Office.⁸¹

September 8, 2008: The First Specialized Criminal, Traffic and Collusion Chamber of the Quito Superior Court of Justice sentences Mr. Montesinos Mejía to prison for ten years and fines him the amount of six times the minimum wage for operating as a front man for a criminal organization.⁸²

74. Mario Montesinos Mejía v. Ecuador, Admissibility and Merits Report, ¶ 58.

75. Montesinos Mejía v. Ecuador, Preliminary Objections, Merits, Reparations, and Costs, ¶ 55.

76. Mario Montesinos Mejía v. Ecuador, Admissibility and Merits Report, ¶ 47.

77. *Id.* ¶ 50.

78. *Id.* ¶ 59.

79. *Id.*

80. Montesinos Mejía v. Ecuador, Preliminary Objections, Merits, Reparations, and Costs, ¶ 68.

81. *Id.*

82. *Id.* ¶ 68.

August 31, 2010: The First Chamber of the National Court of Justice rejects Mr. Montesinos Mejía's appeal, again finding that there was sufficient evidence to sustain the conviction against him and the other defendants for the crime of operating as a front man for a criminal organization.⁸³

September 29, 2010: Mr. Montesinos Mejía files an extraordinary appeal against the August 31, 2010 sentence.⁸⁴

October 28, 2010: The First Criminal Chamber of the National Court of Justice refers the case to the Constitutional Court.⁸⁵

January 18, 2011: The Constitutional Court holds the appeal inadmissible because the allegations concern a criminal matter, and the Court lacks jurisdiction on this subject matter.⁸⁶

B. Other Relevant Facts

December 24, 1997: Article 114 of the Criminal Code is ruled unconstitutional.⁸⁷ Article 114 generally governs pretrial detention and the admissibility of motions for release, however, excludes individuals charged with crimes set forth in the Law on Narcotics and Psychotropic Substances.⁸⁸ Practically, this provision excludes certain individuals from being released from pretrial detention based on the category of their criminal charge.⁸⁹

December 9, 1999: The Inter-American Convention to Prevent and Punish Torture takes effect in Ecuador.⁹⁰

83. Montesinos Mejía v. Ecuador, Preliminary Objections, Merits, Reparations, and Costs, ¶ 69.

84. *Id.* ¶ 70.

85. *Id.*

86. *Id.*

87. Mario Montesinos Mejía v. Ecuador, Admissibility and Merits Report, ¶ 87.

88. *Id.*

89. *Id.*

90. *Id.* ¶ 107.

II. PROCEDURAL HISTORY

A. *Before the Commission*

August 30, 1996: Mr. Alejandro Ponce Villacís files a petition against Ecuador for its treatment of Mr. Montesinos Mejía with the Inter-American Commission on Human Rights (“the Commission”).⁹¹

December 10, 1996: The State responds with observations on the admissibility of the petition.⁹²

February 9, 2004: The Commission informs the parties that it is joining admissibility and merits, in accordance with Article 37.3 of its Regulations in force at the time.⁹³

October 25, 2017: The Commission approves Admissibility and Merits Report No. 131/17.⁹⁴ It concludes that the State violated Mr. Montesinos Mejía’s right to a fair trial, humane treatment, judicial protection, and personal liberty.⁹⁵ It holds the State violated Articles 5(1) (Right to Physical, Mental, and Moral Integrity), 5(2) (Prohibition of Torture, and Cruel, Inhumane or Degrading Treatment), 7(1) (Right to Personal Liberty and Security), 7(2) (Prohibition of Deprivation of Liberty Unless for Reasons and Conditions Previously Established by Law), 7(3) (Prohibition of Arbitrary Arrest or Imprisonment), 7(4) (Right to Be Informed of Reasons of Arrest and Charges), 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), 8(2) (Right to Be Presumed Innocent), 8(2)(d) (Right to Self-Defense or Legal Assistance and to Communicate Freely with Counsel), 8(3) (A Confession is Valid Only if Not Coerced), 24 (Right to Equal Protection), 25(1) (Right of Recourse Before a Competent Court), and 25(2)(c) (Remedies Must Be Enforced) of the American Convention on Human Rights, in connection with Articles 1(1) and 2.⁹⁶ Moreover, the Commission finds that the State violated Articles 1 (Obligation to Prevent and Punish Torture), 6 (Obligation to Take Effective Measures and Punish Torture and Cruel, Inhuman, and

91. *Montesinos Mejía v. Ecuador*, Preliminary Objections, Merits, Reparations, and Costs, ¶ 2(a).

92. *Id.* ¶ 2(b).

93. *Id.*

94. *Id.*

95. *Mario Montesinos Mejía v. Ecuador*, Admissibility and Merits Report, ¶ 129.

96. *Id.*

Degrading Treatment), and 8 (Obligation to Investigate and Prosecute) of the Inter-American Convention to Prevent and Punish Torture.⁹⁷

The Commission recommends the State: (1) compensate the victim; (2) furnish appropriate physical and mental health care to the victim; (3) initiate a criminal investigation to identify and punish those responsible for the victim's treatment; and (4) adopt measures to prevent similar issues in the future.⁹⁸ These measures should ensure that: (1) police, judges, and prosecutors are trained on the prohibited forms of treatment; (2) the proper authorities are prepared to pursue criminal investigations should the State pursue prohibited forms of treatment; and (3) those in charge implement such provisions with more accountability.⁹⁹

January 18, 2018: The Commission notifies the State of the Merits Report and gives the State two months to report on its compliance with the recommendations.¹⁰⁰

B. Before the Court

April 18, 2018: The Commission submits the case to the Court after the State failed to adopt its recommendations.¹⁰¹

September 6, 2018: The State presents its response and files four preliminary objections.¹⁰² The State's preliminary objections include (1) lack of jurisdiction due to time; (2) failure to exhaust domestic remedies; (3) lack of subject matter jurisdiction; and (4) lack of the Commission's control of legality of the actions and violation of Article 48.1.b (the State's right to defense).¹⁰³

1. Violations Alleged by Commission¹⁰⁴

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

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

Article 7(1) Right to Personal Liberty and Security

97. Mario Montesinos Mejía v. Ecuador, Admissibility and Merits Report, ¶ 129.

98. *Id.* "Recommends", ¶¶ 1-4.

99. *Id.* "Recommends", ¶ 4.

100. Montesinos Mejía v. Ecuador, Preliminary Objections, Merits, Reparations, and Costs, ¶ 2(c).

101. *Id.* ¶ 3.

102. *Id.* ¶ 6.

103. *Id.* ¶ 14.

104. Mario Montesinos Mejía v. Ecuador, Admissibility and Merits Report, ¶ 129.

Article 7(2) Prohibition of Deprivation of Liberty Unless for Reasons and Conditions Previously Established by Law

Article 7(3) Prohibition of Arbitrary Arrest or Imprisonment

Article 7(4) Right to Be Informed of Reasons of Arrest and Charges

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 8(2)(d) Right to Self-Defense or Legal Assistance and to Communicate Freely with Counsel

Article 8(3) A Confession is Valid Only if Not Coerced

Article 24 Right to Equal Protection

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

Article 25(2)(c) Remedies Must Be Enforced

all in relation to:

Article 1(1) Obligation of Non-Discrimination

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

Article 1 Obligation to Prevent and Punish Torture

Article 6 Obligation to Take Effective Measures and Punish Torture and Cruel, Inhuman, and Degrading Treatment

Article 8 Obligation to Investigate and Prosecute

all in relation to:

The Inter-American Convention to Prevent and Punish Torture

2. Violations Alleged by Representatives of the Victims¹⁰⁵

Same Violations Alleged by Commission, plus:

Article 5(3) Punish Only Criminals

Article 7(4) Right to Be Informed of Reasons of Arrest and Charges

Article 11 Right to Privacy

Article 21 Right to Property

all in relation to:

Article 1(1) Obligation of Non-Discrimination

Article 2 Obligation to Give Domestic Legal Effect to Rights

Article 3 Right to Juridical Personality of the American Convention

105. *Montesinos Mejía v. Ecuador*, Preliminary Objections, Merits, Reparations, and Costs, ¶ 5. Mr. Alejandro Ponce Villacís served as representatives of Mr. Mario Montesinos Mejía and his wife.

III. MERITS

A. *Composition of the Court*¹⁰⁶

Elizabeth Odio Benito, President
Eduardo Vio Grossi, Judge
Humberto Antonio Sierra Porto, Judge
Eduardo Ferrer Mac-Gregor Poisot, Judge
Eugenio Raúl Zaffaroni, Judge
Ricardo Pérez Manrique, Judge

Pablo Saavedra Alessandri, Secretary

B. *Decision on the Merits*

January 27, 2020: The Court issues its Judgment on Preliminary Objections, Merits, Reparations, and Costs.¹⁰⁷

The Court found unanimously:

To dismiss all four of Ecuador’s preliminary objections,¹⁰⁸ because:

First, the State argued the Court lacked jurisdiction to rule on alleged violations within conventions and treaties that the State ratified after the alleged wrongdoing.¹⁰⁹ In addition, the State argued it could not be held retroactively liable for the alleged acts of torture.¹¹⁰ The Court agreed with the State that, based on the principle of non-retroactivity in Article 28 of the Vienna Convention on the Law of Treaties, it could only rule on alleged human rights violations after the State ratified the conventions and treaties.¹¹¹ However, the Court held it could rule on the allegations of torture as a potential violation of Article 5 of the Convention.¹¹² Furthermore, the Court reaffirmed it had the power to review the alleged

106. Judge L. Patricio Pazmiño, of Ecuadorian nationality, did not participate in the deliberation of this Judgment, in accordance with the provisions of Articles 19.2 of the Statute and 19.1 of the Rules of the Court. *Montesinos Mejía v. Ecuador, Preliminary Objections, Merits, Reparations, and Costs*, n.*.

107. *Id.* ¶ 12.

108. *Id.* “Decide” ¶¶ 1-4.

109. *Id.* ¶ 15.

110. *Id.*

111. *Id.* ¶ 18.

112. *Montesinos Mejía v. Ecuador, Preliminary Objections, Merits, Reparations, and Costs*, ¶ 19.

*failure to investigate events after December 9, 1999, of the certain violations of the Inter-American Convention to Prevent and Punish Torture.*¹¹³

*Second, the State argued Mr. Montesinos Mejía failed to exhaust all domestic remedies.*¹¹⁴ *The Court rejected this argument because the State did not meet the required standards necessary for exhausting domestic remedies, such as stating which remedies were exhausted or in progress and why those remedies are ineffective.*¹¹⁵

*Third, the State argued that international organizations, including the Court, do not have the power to investigate alleged errors in domestic courts, except for flagrant human rights violations.*¹¹⁶ *The Court rejected this argument and stated it has the inherent power to review judicial decisions that contravene the American Convention.*¹¹⁷ *The Court emphasized that the petitioners have not sought a review of the domestic court rulings, but instead have alleged violations of the victim's rights within the criminal justice system, including torture, solitary confinement, and arbitrary detention.*¹¹⁸

*Fourth, the State argued that the length of the Commission's proceedings violated its right to a defense.*¹¹⁹ *The Court rejected this argument and explained that the length of the proceeding alone does not equate to a serious error that has infringed the State's right to a defense.*¹²⁰ *In this case, the fact that the Commission's proceedings ran more than twenty-one years was an insufficient allegation to find the case inadmissible.*¹²¹

The Court found unanimously that Ecuador had violated:

Article 7(1) (Right to Personal Liberty and Security), Article 7(2) (Prohibition of Deprivation of Liberty Unless for Reasons and Conditions Previously Established by Law), Article 7(4) (Right to Be Informed of Reasons of Arrest and Charges), Article 7(5) (Right to Be Promptly

113. *Montesinos Mejía v. Ecuador, Preliminary Objections, Merits, Reparations, and Costs*, ¶ 19.

114. *Id.* ¶ 20.

115. *Id.* ¶¶ 25-28.

116. *Id.* ¶ 29.

117. *Id.* ¶ 33.

118. *Id.* ¶ 34.

119. *Montesinos Mejía v. Ecuador, Preliminary Objections, Merits, Reparations, and Costs*, ¶¶ 36, 39.

120. *Id.* ¶ 39.

121. *Id.*

Brought Before a Judge and Right to a Trial Within Reasonable Time), Article 8(2) (Right to Be Presumed Innocent), and Article 24 (Right to Equal Protection) in relation to Article 1(1) (Obligation of Non-Discrimination) of the Convention, as well as Article 7(1) (Right to Personal Liberty and Security), Article 7(3) (Prohibition of Arbitrary Arrest or Imprisonment), and Article 7(6) (Right to Have Recourse Before a Competent Court) in relation to Article 1(1) (Obligation of Non-Discrimination) and Article 2 (Obligation to Give Domestic Legal Effect to Rights) of the Convention, to the detriment of Mr. Montesinos Mejía,¹²² because:

First, the Court found that Mr. Montesinos Mejía's initial arrest and detention failed to comply with domestic legal requirements, violating his right to personal liberty.¹²³ Namely, at the time of the initial arrest, Article 19.17(g) of Ecuador's Constitution prohibited detaining an individual for more than 24 hours without a judgment unless there was a written order.¹²⁴ In addition, Article 172 of the State's Code of Criminal Procedure required a judge to sign a detention order stating the reasons for arrest.¹²⁵ The State's initial arrest and subsequent detention of Mr. Montesinos Mejía failed to comply with both requirements.¹²⁶ Moreover, upon his arrest, Mr. Montesinos Mejía was not informed of the reason for his arrest,¹²⁷ and it was not until close to three weeks into his pretrial detention that he was given a reason for his detention, violating Article 7(4).¹²⁸

Second, the State's pretrial detention orders were arbitrary and lacked appropriate review, violating Mr. Montesinos Mejía's right to personal liberty.¹²⁹ The Court emphasized that the essence of Article 7 is the requirement that pretrial detention is not arbitrary.¹³⁰ The Court explained that, in determining whether an arrest or imprisonment is arbitrary, Article 7(3) requires the Court to consider whether: (1) there is sufficient evidence of a crime; (2) the purpose of the State action is to prevent an accused from evading justice or impeding an investigation; (3) the

122. Montesinos Mejía v. Ecuador, Preliminary Objections, Merits, Reparations, and Costs, "Declares" ¶ 5.

123. *Id.* ¶¶ 103, 114.

124. *Id.* ¶ 102.

125. *Id.* ¶ 103.

126. *Id.* ¶ 105.

127. *Id.* ¶ 107.

128. Montesinos Mejía v. Ecuador, Preliminary Objections, Merits, Reparations, and Costs, ¶ 106.

129. *Id.* ¶ 114.

130. *Id.* ¶ 93.

*measures are necessary and proportional; and (4) the decision allows an evaluation of whether such conditions are met.*¹³¹

*Additionally, the Court considered the requirement to periodically review pretrial detention orders to ensure the original justification for the order remains.*¹³² *The Judge is ultimately responsible for analyzing the nature of the detention, and if the term exceeds reasonable or legal limits, the detainee must be freed while the underlying case continues.*¹³³ *In addition, the State carries the burden to demonstrate sufficient reasons for why the detention should continue: in order to comply with Article 7(3) of the Convention, this rationale must be based on the need to prevent an individual from evading or impeding justice.*¹³⁴ *The Judge must also give reasons to continue a detention order.*¹³⁵

*Here, the Court held the three pretrial detention orders were inadequate because they lacked the requisite rationale for continuing the detention and failed to consider if detention was necessary and proportional.*¹³⁶ *The Court also found that Mr. Montesinos Mejía's detention lacked judicial review for more than six years,*¹³⁷ *and was only reviewed after he filed habeas corpus claims, violating Article 7(3).*¹³⁸

*Third, the Court found the State's application of the exception within Article 114 of the Criminal Code violated Mr. Montesinos Mejía's right to equality under the law under Article 24.*¹³⁹ *The Court has previously made clear that states must not act in ways that directly or indirectly create legal or de facto discrimination, and a difference in treatment that lacks objective and reasonable justification is discriminatory.*¹⁴⁰

At the time of Mr. Montesinos Mejía's detention, an exception within Article 114 of the Penal Code prohibited anyone accused of a crime under the Law on Narcotic Drugs and Psychotropic Substances from requesting

131. *Montesinos Mejía v. Ecuador, Preliminary Objections, Merits, Reparations, and Costs*, ¶ 109.

132. *Id.* ¶ 116.

133. *Id.*

134. *Id.*

135. *Id.*

136. *Id.* ¶ 117.

137. *Montesinos Mejía v. Ecuador, Preliminary Objections, Merits, Reparations, and Costs*, ¶ 119.

138. *Id.* ¶ 118.

139. *Id.* ¶ 128.

140. *Id.* ¶ 125.

release.¹⁴¹ The Court has previously held this exception to be a *per se* violation of Article 2 of the Convention.¹⁴² Here, the exception within Article 114 was applied to Mr. Montesinos Mejía's detriment after his first successful habeas corpus appeal ordered his freedom on October 31, 1996.¹⁴³ In that ruling, the Constitutional Court confirmed he was free except for the crimes sanctioned by the Law on Narcotic Drugs and Psychotropic Substances which denied his release.¹⁴⁴ Practically, Article 114 diminished the effect of the writ of habeas corpus and automatically excluded Mr. Montesinos Mejía from the benefit of release based on the nature of his criminal charge, without an explanation for why the difference in treatment was necessary and proportional.¹⁴⁵ Therefore, the Court found that applying Article 114 treated Mr. Montesinos Mejía unequally simply because he faced criminal charges set forth in the Law on Narcotic and Psychotropic Substances, violating his right to equality under the law under Article 24.¹⁴⁶

Fourth, the Court determined that Mr. Montesinos Mejía's detention was excessive and unreasonable.¹⁴⁷ The Court explained that if detention exceeds a reasonable term, a state may still subject an accused to less harmful means to ensure they appear at trial.¹⁴⁸ However, the Court found that Mr. Montesinos Mejía was subject to detention from June 1992 to August 1998 without a conviction, which was disproportionate and unreasonable, violating Article 7(5).¹⁴⁹

Fifth, the Court found that the State violated Mr. Montesinos Mejía's right to appeal his pretrial detention without delay.¹⁵⁰ The Court emphasized that even after the Constitutional Rights Court granted his immediate release, the State continued to subject him to pretrial detention, violating Article 7(6).¹⁵¹ The Court noted that the State's habeas corpus process created unnecessary obstacles.¹⁵² The law required the Mayor to

141. Montesinos Mejía v. Ecuador, Preliminary Objections, Merits, Reparations, and Costs, ¶ 122.

142. *Id.* (Suárez Rosero v. Ecuador).

143. *Id.* ¶ 123.

144. *Id.*

145. *Id.* ¶ 126.

146. *Id.* ¶ 123.

147. Montesinos Mejía v. Ecuador, Preliminary Objections, Merits, Reparations, and Costs, ¶ 124.

148. *Id.* ¶ 120.

149. *Id.* ¶ 121.

150. *Id.* ¶ 133.

151. *Id.* ¶ 132.

152. *Id.* ¶ 131.

*resolve the habeas corpus appeal within 48 hours and then forward the decision within an additional 48 hours to the Constitutional Court, forcing detainees to wait up to four days before the Constitutional Court could hear their case.*¹⁵³ *In this case, the Mayor rejected the habeas corpus appeal six days after it was filed.*¹⁵⁴ *The Constitutional Court ordered Mr. Montesinos Mejía's immediate release on October 30, 1996, but he was still detained for close to an additional two years.*¹⁵⁵

Finally, the Court found that the State violated Mr. Montesinos Mejía's right to be presumed innocent,¹⁵⁶ and his prolonged unjustified pretrial detention was in essence a criminal sentence.¹⁵⁷ Article 8(2) grants an accused the right to be presumed innocent until they are proven guilty.¹⁵⁸ Moreover, it is the general rule that an accused is entitled to their freedom during the criminal proceedings, otherwise, imposing detention for a disproportional time period on an individual whose criminal responsibility has not yet been proven constitutes an injustice.¹⁵⁹ The Court reiterated that a judge must not presume a detention is legitimate but ensure that their decision is grounded in objective facts and legitimate purposes.¹⁶⁰ The Court determined the detention was illegal and the detention order was not justified, and therefore the detention until Mr. Montesinos Mejía's second writ of habeas corpus violated the presumption of innocence embodied in Article 8(2).¹⁶¹

Article 5(1) (Right to Physical, Mental, and Moral Integrity) and Article 5(2) (Prohibition of Torture, and Cruel, Inhumane or Degrading Treatment), in relation to Article 1(1) (Obligation of Non-Discrimination) of the Convention, as well as Article 1 (Obligation to Prevent and Punish Torture), Article 6 (Obligation to Take Effective Measures and Punish Torture and Cruel, Inhuman, and Degrading Treatment), and Article 8 (Obligation to Investigate and Prosecute) of the Inter-American

153. *Montesinos Mejía v. Ecuador, Preliminary Objections, Merits, Reparations, and Costs*, ¶ 131.

154. *Id.* ¶ 132.

155. *Id.*

156. *Id.* ¶ 139.

157. *Id.* ¶ 138.

158. *Id.* ¶ 135.

159. *Montesinos Mejía v. Ecuador, Preliminary Objections, Merits, Reparations, and Costs*, ¶ 137.

160. *Id.* ¶ 136.

161. *Id.* ¶ 138.

Convention to Prevent and Punish Torture, to the detriment of Mr. Montesinos Mejía,¹⁶² because:

The Court found that the State violated Mr. Montesinos Mejía's right to personal integrity.¹⁶³ The Court noted that Articles 5(1) and 5(2) of the American Convention ensure that those deprived of liberty have the right to live in detention conditions consistent with their personal dignity.¹⁶⁴ Further, Articles 5(1) and 5(2) imply a duty upon the State to investigate allegations of torture and other inhuman treatment.¹⁶⁵ The Court explained that states are responsible for detention facilities and have a duty to safeguard inmates' health and well-being, including medical assistance when appropriate.¹⁶⁶ As a steward of the detention facilities, the Court emphasized that the state's manner and means of deprivation should not exceed the level of suffering present already in detention.¹⁶⁷

Here, the State presented no evidence of Mr. Montesinos Mejía's health and detention conditions during his more than six years under the State's control.¹⁶⁸ Moreover, the factual and legal findings from Mr. Suárez Rosero's judgment illustrates the nature and extent of the inhumane treatment.¹⁶⁹ Mr. Suárez Rosero was detained alongside Mr. Montesinos Mejía in prison and testified to the Court about the various mistreatment and beatings that both experienced in prison.¹⁷⁰

In addition, the Court found that the State violated the Inter-American Convention to Prevent and Punish Torture because it failed to investigate the allegations of torture and mistreatment after December 9, 1999.¹⁷¹ If there is a complaint or a reason to suspect torture, it is the state's legal duty to investigate immediately.¹⁷² A state's failure to investigate disqualifies the state from disproving an allegation.¹⁷³

162. Montesinos Mejía v. Ecuador, Preliminary Objections, Merits, Reparations, and Costs, "Declares" ¶ 6.

163. *Id.* ¶ 159.

164. *Id.* ¶ 150.

165. *Id.*

166. *Id.*

167. *Id.*

168. Montesinos Mejía v. Ecuador, Preliminary Objections, Merits, Reparations, and Costs, ¶ 155.

169. *Id.*

170. *Id.* ¶ 154.

171. *Id.* ¶ 160.

172. *Id.* ¶ 151.

173. *Id.* ¶ 152.

Here, the State did not disprove the petitioner's allegations that Mr. Montesinos Mejía was held in an 11 square meter cell with 13 other people.¹⁷⁴ Instead, the State refuted the allegations that Mr. Montesinos Mejía was beaten by State agents and held in solitary confinement for eight days.¹⁷⁵ However, Mr. Suárez Rosero, held in the same conditions, confirmed the petitioner's claim.¹⁷⁶

Moreover, the State was aware of the acts of violence and did not act nor investigate them.¹⁷⁷ Mr. Montesinos Mejía raised the acts of torture and inhumane conditions in his writ of habeas corpus on September 10, 1996, yet the court stated it could not rule on the alleged inhumane treatment without beginning an investigation.¹⁷⁸ The Court noted that this was not the first time judicial authorities were warned of such treatment: the October 13, 1995 letter also described the mistreatment.¹⁷⁹ The State's awareness of the violence and failure to investigate further violated Articles 5(1) and 5(2).¹⁸⁰

Article 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal), Article 8(2)(b) (Right to Have Prior Notification of Charges), Article 8(2)(c) (Right to Adequate Time and Means to Prepare Defense), Article 8(2)(d) (Right to Self-Defense or Legal Assistance and to Communicate Freely with Counsel), Article 8(2)(e) (Right to Assistance by Counsel Provided by State), and Article 8(3) (A Confession is Valid Only if Not Coerced) in relation to Article 1(1) (Obligation of Non-Discrimination) of the Convention, to the detriment of Mr. Montesinos Mejía,¹⁸¹ because:

Here, the Court found that the State failed to act promptly and with due diligence with respect to Mr. Montesinos Mejía's pretrial detention, which caused the criminal proceedings to exceed reasonable time limits.¹⁸² Article 8(1) provides that criminal proceedings against an individual should not exceed reasonable periods of time.¹⁸³ The Court explained

174. Montesinos Mejía v. Ecuador, Preliminary Objections, Merits, Reparations, and Costs, ¶ 153.

175. *Id.*

176. *Id.* ¶ 154.

177. *Id.* ¶ 157.

178. *Id.* ¶ 156.

179. *Id.* ¶ 157.

180. Montesinos Mejía v. Ecuador, Preliminary Objections, Merits, Reparations, and Costs, ¶¶ 157-58.

181. *Id.* "Declares" ¶ 7.

182. *Id.* ¶ 188.

183. *Id.*

*that the reasonable time principle exists to prevent defendants from being subject to prosecution for extended periods of time, and a drawn-out delay can itself violate judicial guarantees.*¹⁸⁴

*When evaluating whether a time frame is reasonable for a particular case, the Court has considered four elements: (1) the complexity of the matter, (2) the petitioner's procedural activity, (3) the judicial authorities conduct, and (4) the impact the legal proceeding has had on the individual.*¹⁸⁵ *The state has the burden to justify why a time lapse was necessary.*¹⁸⁶ *When evaluating whether a reasonable period is consistent with Article 8(1), the Court compares the time period in light of the total length of process, and begins its review at the first apprehension.*¹⁸⁷

*Here, the Court considered Mr. Montesinos Mejía's arrest as the beginning of the process.*¹⁸⁸ *Following his arrest, Mr. Montesinos Mejía's conversion and illicit enrichment charges lasted six years without a conviction, and his front man charge took more than eighteen years to ultimately convict him.*¹⁸⁹ *The Court held that all three criminal matters were not complex.*¹⁹⁰ *The Court determined that the main delay in this case was not due to Mr. Montesinos Mejía filing appropriate appeals but rather due to the State's inactivity.*¹⁹¹ *For example, Mr. Montesinos Mejía filed an appeal on December 3, 1996 against a court order to open plenary proceedings, but it was not decided until 1 year and 5 months after the filing.*¹⁹² *The court had the duty to direct the judicial procedures to preserve justice and due process without favoring formalities.*¹⁹³ *Here, a period of 19 years pending a verdict could not be justified,*¹⁹⁴ *and the State did not provide a more speedy judicial process.*¹⁹⁵ *Therefore, the 6 years of detention and more than 18 years of criminal proceedings generated*

184. Montesinos Mejía v. Ecuador, Preliminary Objections, Merits, Reparations, and Costs, ¶ 178.

185. *Id.* ¶ 179.

186. *Id.*

187. *Id.* ¶ 180.

188. *Id.* ¶ 180.

189. *Id.* ¶ 182.

190. Montesinos Mejía v. Ecuador, Preliminary Objections, Merits, Reparations, and Costs, ¶¶ 182-83.

191. *Id.* ¶ 184.

192. *Id.*

193. *Id.* ¶ 185.

194. *Id.*

195. *Id.* ¶ 186.

significant uncertainty for Mr. Montesinos Mejía, violating Article 8(1).¹⁹⁶

Moreover, the Court found that the State violated Mr. Montesinos Mejía's right to a defense provided in Article 8(2)(c), (d), and (e).¹⁹⁷ The Court explained the right to a defense is central to due process, and must be exercisable from the moment one is accused until one is finally sentenced.¹⁹⁸ Here, there is no indication or documentation that proves Mr. Montesinos Mejía was informed of the reason for his arrest or of the charges against him, and he was deprived of this information before proceedings in November 1992.¹⁹⁹ Finally, it is undisputed that Mr. Montesinos Mejía gave his initial statements without a lawyer, and held in solitary confinement for 38 days which deprived him of preparing an adequate defense, in violation of Articles 8(2)(c), 8(2)(d), and 8(2)(e).²⁰⁰

The Court found unanimously that Ecuador had not violated:

Article 8(4) (Prohibition of Double Jeopardy) and Article 9 (Freedom from *Ex Post Facto* Laws) of the Convention, to the detriment of Mr. Montesinos Mejía,²⁰¹ because:

*Mr. Montesinos Mejía argued that all three of his criminal charges were based on the same factual allegations.*²⁰² He pointed to the November 16, 1992 and November 30, 1992 proceedings as two separate proceedings based on the same facts.²⁰³ However, the case on illicit enrichment and conversion and transfer of assets from November 30, 1996 did not establish specific conduct from Mr. Montesinos Mejía; instead they generally described a drug trafficking organization's operation without determining whether Mr. Montesinos Mejía committed a crime.²⁰⁴ For this, the Constitutional Court granted the first habeas corpus appeal because the case did not state charges against Mr. Montesinos Mejía.²⁰⁵ Yet, on the figurehead crime, the alleged conduct was specific and individualized,

196. Montesinos Mejía v. Ecuador, Preliminary Objections, Merits, Reparations, and Costs, ¶ 187.

197. *Id.* ¶ 195.

198. *Id.* ¶ 189.

199. *Id.* ¶ 192.

200. *Id.* ¶ 193.

201. *Id.* "Declares" ¶ 8.

202. Montesinos Mejía v. Ecuador, Preliminary Objections, Merits, Reparations, and Costs, ¶ 202.

203. *Id.*

204. *Id.* ¶ 203.

205. *Id.*

enabling Mr. Montesinos Mejía to defend himself.²⁰⁶ The Court found the State did not violate Article 8(4), because two of the three crimes were not individualized, and did not allow court to reach a similar conclusion between each of the November 1992 proceedings.²⁰⁷

Further, the Court found that the State did not violate Mr. Montesinos Mejía's right to not be criminally charged for acts that were legal when they were committed.²⁰⁸ Mr. Montesinos Mejía alleged that the State violated Article 9 because it charged him with the crime of front man retroactively; Ecuador enacted the criminal law on September 1990 and his arrest at the property occurred on June 27, 1990.²⁰⁹ However, Article 9 prohibits applying criminal law retroactively.²¹⁰ Mr. Montesinos Mejía also alleged that charging him because he signed blank checks violated the guarantee of legality since this act was not specified in the criminal code.²¹¹ The State, however, argued that its actions were lawful.²¹² The Court sided with the State and said that there were other facts that, when considered in their entirety, suggested Mr. Montesinos Mejía's involvement in the crime, and that the retroactive application of criminal law was not the only reason for acquiring the Santa Clara property.²¹³

C. Dissenting and Concurring Opinions

[None]

IV. REPARATIONS

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

206. Montesinos Mejía v. Ecuador, Preliminary Objections, Merits, Reparations, and Costs, ¶ 205.

207. *Id.* ¶ 206.

208. *Id.* ¶ 213.

209. *Id.* ¶ 207.

210. *Id.* ¶ 213.

211. *Id.* ¶ 207.

212. Montesinos Mejía v. Ecuador, Preliminary Objections, Merits, Reparations, and Costs, ¶ 210.

213. *Id.* ¶ 213.

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

1. Judgment as a Form of Reparation

The Court noted that the Judgment itself is a form of reparation.²¹⁴

2. Provide Psychological Treatment

The Court ordered the State to provide free and immediate psychological treatment to Mr. Montesinos Mejía along with any necessary medication.²¹⁵

3. Publish and Disseminate the Judgment

The State must publish the Judgment and the Official Summary of the Judgment in a newspaper of large national circulation and in the Official Gazette.²¹⁶ 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 available.²¹⁷

4. Adopt Necessary Measures to Nullify the Consequences from the Criminal Proceedings

The State must adopt all necessary measures in domestic law to nullify any consequences that stemmed from the criminal, judicial, and administrative process.²¹⁸

5. Adopt Necessary Measures for Investigation

The Court ordered the State to begin an investigation to identify, judge, and punish those responsible for the inhuman treatment and torture.²¹⁹

B. Compensation

214. Montesinos Mejía v. Ecuador, Preliminary Objections, Merits, Reparations, and Costs, “Provides” ¶ 9.

215. *Id.* “Provides” ¶ 14.

216. *Id.* ¶ 226.

217. *Id.*

218. *Id.* ¶¶ “Provides” 11, 227.

219. *Id.* ¶¶ “Provides” 12, 229.

The Court awarded the following amounts:

1. Pecuniary Damages

The Court did not award any pecuniary damages to Mr. Montesinos Mejía because he did not present evidence to illustrate a loss of income from the facts.²²⁰

2. Non-Pecuniary Damages

The Court awarded \$50,000 to Mr. Montesinos Mejía for the State's violation of his rights.²²¹

3. Costs and Expenses

The Court awarded \$15,000 to Mr. Montesinos Mejía for the costs and expenses of litigating the case.²²² The State must also reimburse the Victims' Legal Assistance Fund for the Inter-American Court of Human Rights for its \$176 contribution.²²³

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

\$ 65,176

C. Deadlines

Within six months from the judgment, the State must publish the Judgment and the Official Summary of the Judgment in a newspaper of large national circulation and in the Official Gazette.²²⁴ Within six months from notification of the Judgment, the State must adopt all necessary measures in domestic law to nullify any consequences that stemmed from the criminal, judicial, and administrative process.²²⁵ 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.²²⁶

220. *Montesinos Mejía v. Ecuador*, Preliminary Objections, Merits, Reparations, and Costs, ¶ 237.

221. *Id.* ¶ 238.

222. *Id.* ¶ 246.

223. *Id.* ¶ 249.

224. *Id.* ¶ 226.

225. *Id.* ¶¶ "Provides" 11, 227.

226. *Montesinos Mejía v. Ecuador*, Preliminary Objections, Merits, Reparations, and Costs, "Provides" ¶ 16.

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

Montesinos Mejía v. Ecuador, Preliminary Objections, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 398, (Jan. 27, 2020).

3. Provisional Measures

Montesinos Mejía v. Ecuador, Resolution of the President, Call for Hearing, Inter-Am. Ct. H.R. (ser. C) No. 398, (June 25, 2019).

4. Compliance Monitoring

[None]

5. Review and Interpretation of Judgment

[None]

B. Inter-American Commission

1. Petition to the Commission

[TBD]

2. Report on Admissibility

Mario Montesinos Mejía v. Ecuador, Admissibility and Merits Report, Report No. 131/17, Inter-Am. Comm'n H.R., Pet. No. 11.678, (Oct. 25, 2017).

3. Provisional Measures

[None]

4. Report on Merits

[None]

5. Application to the Court

[None]

VIII. BIBLIOGRAPHY

[None]