

Ramírez Escobar et al. v. Guatemala

ABSTRACT¹

This case is about two children in Guatemala who were hastily taken from their family by child protection services because deemed abandoned. Although the mother fought in court to obtain again custody of her children, they were given up for international adoption even before the judicial process had run its course. Eventually, Guatemala partially admitted responsibility and the Court found it in violation of several articles of the American Convention. The case gave the Court the opportunity to analyze the due process requirements for the determination of child custody.

I. FACTS

A. Chronology of Events

December 18, 1996: The Juvenile Court of First Instance receives an anonymous tip about the alleged abandonment of two children: O.R. and J.R.² The tip claims that the children, ages seven and two years old, are in danger because their mother, Ms. Flor de Maria Ramírez Escobar, is a drug addict and an alcoholic.³

January 8, 1997: Judge Aida Rabasso of the Juvenile Court orders a child safety inspection at Ms. Ramírez Escobar's home to ensure the safety of the children.⁴ The order authorizes the removal of both children from their home if the Attorney General finds sufficient evidence of child abandonment.⁵

1. Brooke Bicher-Gershel, Author; Patricia Kim, Editor; Gabrielle Szlachta-McGinn, Chief IACHR Editor; Cesare Romano, Faculty Advisor.

2. Ramírez Brothers and Family v. Guatemala, Report on Admissibility, Report No. 8/13, Inter-Am. Comm'n H.R., Pet. No. 793-06, ¶ 9 (Mar. 19, 2013).

3. Ramírez Brothers and Family v. Guatemala, Report on the Merits, Report No. 72/15, Inter-Am. Comm'n H.R., Case No. 12.896, ¶¶ 53-54 (Oct. 28, 2015).

4. *Id.* ¶ 55.

5. *Id.*

January 9, 1997: State authorities conduct a child welfare visit at Ms. Ramírez Escobar's home.⁶ They allege to have found the children home alone without adult supervision.⁷ State authorities remove both children from Ms. Ramírez Escobar's home and take them to the *Asociación los Niños de Guatemala*, where they are institutionalized.⁸

Ms. Ramírez Escobar requests the Juvenile Court of First Instance to release her children from institutionalized care and return them to her.⁹ She explains to the court that she was at work when State authorities arrived to conduct a child safety visit.¹⁰ However, her neighbor was babysitting the children while she was at work.¹¹ Ms. Ramírez Escobar claims also that State authorities refuse to tell Ms. Ramírez Escobar where her children are, and she is not allowed to see them.¹²

January 27, 1997: The Juvenile Court of First Instance rejects Ms. Ramírez Escobar's request to release her children, upholds the institutionalized placement of both children at the *Asociación los Niños de Guatemala*, and authorizes the institution to conduct an investigation (a "social study") on them.¹³

The *Asociación los Niños de Guatemala* interviews Ms. Ramírez Escobar's neighbors, who claim that Ms. Ramírez Escobar neglected her children by leaving them home alone without food and alleged she often-times drunkenly physically abused them.¹⁴

February 3, 1997: The *Asociación los Niños de Guatemala* concludes its investigation and submits a report to the Juvenile Court.¹⁵ The report notes both children arrived at the *Asociación los Niños de Guatemala* showing signs of physical abuse.¹⁶ However, the Attorney General who conducted the child welfare visit reported both children as showing no signs of physical abuse.¹⁷ The *Asociación los Niños de Guatemala* deems Ms. Ramírez Escobar unable to care for her children, and recommends

6. Ramírez Escobar et al. v. Guatemala, Report on the Merits, ¶ 56.

7. *Id.*

8. *Id.*

9. *Id.* ¶ 57.

10. *Id.*

11. *Id.*

12. Ramírez Escobar et al. v. Guatemala, Report on the Merits, 57.

13. *Id.* ¶ 58.

14. Ramírez Escobar et al. v. Guatemala, Merits, Preliminary Objections, Reparations and Costs, Judgment, Inter-Am Ct. H.R. (ser. C) No. 351, ¶ 91 (Mar. 9, 2018).

15. Ramírez Escobar et al. v. Guatemala, Report on the Merits, ¶ 59.

16. *Id.*

17. *Id.*

the children be placed in foster care so that, eventually, they can be adopted.¹⁸

May 14, 1997: The Attorney General reports that it conducted an investigation on several relatives, including Ms. Ramírez Escobar and the children's grandmother, who were seeking legal custody of her children.¹⁹ Based on evidence of familial financial insecurity and general instability, the Attorney General makes a recommendation to the Juvenile Court that Ms. Ramírez Escobar's relatives are unfit to care for her children and they should remain in the institutionalized care of the *Asociación los Niños de Guatemala*.²⁰

August 6, 1997: The Juvenile Court issues a declaration of abandonment, awards legal custody of both children to the *Asociación los Niños de Guatemala* and orders their placement in the institution's adoption program.²¹

August 25, 1997: Ms. Ramírez Escobar files an appeal for review against the Juvenile Court's declaration of abandonment her children and challenges the evidence that the court relied on when analyzing the case.²² Specifically, Ms. Ramírez Escobar notes the *Asociación los Niños de Guatemala* alleged that she neglected her children.²³ However, they failed to provide a forensic medical report proving that her children were malnourished.²⁴ Further, she argues that the neighbors that were allegedly interviewed regarding her fitness as a parent were not identified, and questioned the State's failure to ensure that the investigations were conducted by independent social workers rather than the *Asociación los Niños de Guatemala*.²⁵ Finally, Ms. Ramírez Escobar alleges the neighbor she hired to care for her children during the day intentionally and maliciously left them home alone as part of a scheme with several adoption lawyers.²⁶

The Juvenile Court accepts Ms. Ramírez Escobar's appeal for review and orders a hearing with the Attorney General.²⁷

18. Ramírez Escobar et al. v. Guatemala, Report on the Merits, ¶ 59.

19. *Id.* ¶ 61.

20. *Id.*

21. *Id.* ¶ 67.

22. Ramírez Escobar et al. v. Guatemala, Preliminary Objections, Merits Reparations, and Costs, ¶ 102.

23. *Id.*

24. *Id.*

25. *Id.*

26. Ramírez Escobar et al. v. Guatemala, Report on the Merits, ¶ 76.

27. Ramírez Escobar et al. v. Guatemala, Preliminary Objections, Merits Reparations, and Costs, ¶ 103.

September 23, 1997: The Juvenile Court denies Ms. Ramírez Escobar's appeal for review because it lacks merit.²⁸

September 26, 1997: Ms. Ramírez Escobar files a motion for reconsideration and alleges the State violated her right to due process when it failed to serve her with timely notice of the court's decision.²⁹ Additionally, she emphasizes the court's failure to comply with Article 46 of the Juvenile Code and Article 138 of the Judiciary Law during the adjudication of her motion for review.³⁰

September 30, 1997: The court orders all proceedings after August 25 be set aside and acknowledges that it erred by depriving Ms. Ramírez Escobar of her rights to due process and to be heard before a competent court.³¹

October 2, 1997: Ms. Ramírez Escobar submits four briefs to the Juvenile Court and argues the following: (1) Judge Rabasso must recuse herself from further adjudicating this case; (2) the *Asociación los Niños de Guatemala* lacked due independence and impartiality to conduct the socioeconomic studies of Ms. Ramírez Escobar and her family during the abandonment process; (3) the court must revoke its prior abandonment order and reopen the case based on the lack of impartial investigation; and (4) the court must process her case in compliance with proper procedural law.³²

The court accepts Ms. Ramírez Escobar's challenge against Judge Rabasso and appoints Judge Judith Flores de Morales of the Third Juvenile Trial Court to hear her appeal.³³ However, the court denies Ms. Ramírez Escobar's request to present evidence regarding the *Asociación los Niños de Guatemala's* lack of due independence and impartiality.³⁴ Further, Judge Flores de Morales steps down due to a personal relationship with one of Ms. Ramírez Escobar's attorneys.³⁵

28. Ramírez Escobar et al. v. Guatemala, Report on the Merits, ¶ 79.

29. *Id.* ¶ 80.

30. *Id.*

31. *Id.* ¶ 81.

32. Ramírez Escobar et al. v. Guatemala, Preliminary Objections, Merits, Reparations, and Costs, ¶ 105.

33. *Id.*

34. *Id.*

35. Ramírez Escobar et al. v. Guatemala, Report on the Merits, ¶¶ 83-84.

October 24, 1997: A family in Illinois initiates proceedings to adopt J.R.³⁶ Several months later, another family in Pennsylvania initiates proceedings to adopt O.R..³⁷

State law authorizes two types of adoption procedures, adoption by judicial approval and extrajudicial adoption before a notary public.³⁸ Adoption by judicial approval is reserved for cases where juvenile judges find evidence of child abandonment, while extrajudicial adoption is reserved for instances where a child's biological mother voluntarily surrenders her child for adoption.³⁹ The procedure for notarial adoption requires the person seeking to adopt a child to present to the notary: (1) a certified birth certificate; (2) two "honorable" witnesses proving the adopter is of good moral character and economically stable; and (3) a favorable report, under oath, by a social worker appointed by the juvenile court.⁴⁰ If all three requirements are met and the Attorney General's office does not object to the adoption, the juvenile court may proceed by granting a public deed of adoption.⁴¹

In this case, the State conducts both adoptions of O.R. and J.R. out of court.⁴²

January 6, 1998: The Third Juvenile Trial Court dismisses Ms. Ramírez Escobar's appeal for review and reasons that it considered the best interest of the children, established by the Convention on the Rights of the Child, and finds their removal from the home necessary.⁴³

May 4, 1998: Judge Mildred Celina Roca Barillas de Almengor of the Second Juvenile Trial Court remands the case to the Juvenile Court of First Instance after declaring the abandonment final and unappealable.⁴⁴

May 8 & 11, 1998: The Attorney General issues two letters stating the respective adoptions of both Ramírez children are improper because there is still an appeal against the declaration of abandonment pending in

36. Ramírez Escobar et al. v. Guatemala, Preliminary Objections, Merits, Reparations, and Costs, ¶ 113.

37. *Id.*

38. *Id.* ¶ 75.

39. *Id.* ¶ 76.

40. *Id.* ¶ 77.

41. *Id.* ¶ 78.

42. Ramírez Escobar et al. v. Guatemala, Preliminary Objections, Merits, Reparations, and Costs, ¶ 113.

43. Ramírez Escobar et al. v. Guatemala, Report on the Merits, ¶ 85.

44. *Id.* ¶ 86.

court.⁴⁵ The case is sent to the Trial and Family Court for the Department of Sacatepéquez for further adjudication.⁴⁶

May 26, 1998: The Trial and Family Court of Sacatepéquez rejects the Attorney General's argument and authorizes both adoption proceedings to move forward based on both adoptive families having successfully proven good moral character and financial stability.⁴⁷

June 2, 1998: The notary public, Mr. Rafael Morales Solares, grants both adoptions, authorizing the Vital Records Office of Guatemala to amend both of their birth certificates to reflect their status as adopted children, and their adoptive families receive permission to leave Guatemala with their newly adopted children.⁴⁸

December 11, 1998: After several juvenile judges recused themselves from this case, the Juvenile Court of First Instance of Escuintla orders the case to be archived based on the declaration of abandonment having already been signed.⁴⁹

December 17, 1998: Mr. Gustavo Tobar Fajardo, the O.R.'s biological father, files a complaint before the Juvenile Trial Court challenging the declaration of abandonment based on Ms. Ramírez Escobar's appeal that was still pending in court.⁵⁰

The Juvenile Trial Court rejects his claim, reasoning Mr. Tobar Fajardo filed his motion too late and he was not a party to the case, and prevents him from intervening in the case.⁵¹

February 2, 1999: Mr. Tobar Fajardo files an *amparo* action before the Court of Appeals.⁵² He argues the Juvenile Code does not establish a deadline for filing a motion for review, and thus, it was improper for the court to dismiss his motion on grounds of untimely filing.⁵³

45. Ramírez Escobar et al. v. Guatemala, Report on the Merits, ¶ 70.

46. Ramírez Escobar et al. v. Guatemala, Preliminary Objections, Merits, Reparations, and Costs, ¶ 114.

47. Ramírez Escobar et al. v. Guatemala, Report on the Merits, ¶ 71.

48. *Id.* ¶¶ 73-74.

49. Ramírez Escobar et al. v. Guatemala, Preliminary Objections, Merits, Reparations, and Costs, ¶ 111.

50. Ramírez Escobar et al. v. Guatemala, Report on the Merits, ¶ 88.

51. *Id.* ¶ 89.

52. *Id.* ¶ 90.

53. *Id.*

July 24, 1999: After the Court of Appeals grants Mr. Tobar Fajardo *amparo* relief and orders him to intervene in the case, Judge Mario Peralta of the Juvenile Trial Court of Escuintla recuses himself from the case because Mr. Tobar Fajardo's *amparo* complaint casted doubt on his judicial capacity.⁵⁴ The case is transferred to the Juvenile Court of First Instance of Jutiapa, and Ms. Ramírez Escobar and Mr. Tobar Fajardo again request from the court an annulment of the declaration of abandonment and return of their children back to them.⁵⁵

June 20, 2000: After receiving copies of the children's amended birth certificates, the juvenile court finally acknowledges several substantive errors that occurred during the processing of the case, which violated Ms. Ramírez Escobar's constitutional rights.⁵⁶ Shortly thereafter, the judge is forced to recuse himself after he receives anonymous threats demanding he rule in favor of the State.⁵⁷

November 7, 2000: The Juvenile Court of First Instance of Chimaltenango finds the appeal for review is admissible and orders new socioeconomic and psychological studies of the Ramírez family, an investigation into their lifestyle to be conducted by the National Civilian Police Force, and an investigation into the whereabouts of J.R.'s biological father whose name was listed on his birth certificate.⁵⁸

The socioeconomic and psychological evaluations yield favorable results regarding the Ramírez family's suitability to care for their children.⁵⁹

March 13, 2001: A judicial social worker conducts a social study on the Ramírez family and advises the court should return both children to the care and custody of their biological parents.⁶⁰

August 31, 2001: The juvenile court sends a letter to the United States Embassy requesting an opportunity to establish contact with both adoptive families and their biological parents.⁶¹ However, the Embassy does

54. Ramírez Escobar et al. v. Guatemala, Report on the Merits, ¶¶ 93-94.

55. Ramírez Escobar et al. v. Guatemala, Preliminary Objections, Merits, Reparations, and Costs, ¶¶ 121-122.

56. Ramírez Escobar et al. v. Guatemala, Report on the Merits, ¶¶ 97-98.

57. *Id.* ¶ 100.

58. Ramírez Escobar et al. v. Guatemala, Preliminary Objections, Merits, Reparations, and Costs, ¶ 128.

59. Ramírez Escobar et al. v. Guatemala, Report on the Merits, ¶ 107.

60. *Id.* ¶ 108.

61. Ramírez Escobar et al. v. Guatemala, Report on the Merits, ¶ 112.

not respond because the juvenile court failed to file the request in compliance with the standards established in the Inter-American Convention on Letters Rogatory and Additional Protocol.⁶²

September 19, 2002: The juvenile court is forced to archive the case again because Mr. Tobar Fajardo cannot afford to pay the filing fee required by the Ministry of Foreign Affairs to establish initial contact with the United State Embassy.⁶³

2002: A journalist investigating irregular adoptions in Guatemala locates O.R. in the United States and interviews him.⁶⁴ He tells the journalist that his adoptive parents changed his name, and that he misses his parents and wished to return to Guatemala to see them.⁶⁵

Mr. Tobar Fajardo and Ms. Ramírez Escobar agree to wait several years before attempting to establish direct contact their son O.R..⁶⁶ Eventually, Mr. Tobar Fajardo finds O.R. through the social network, Facebook.⁶⁷ They maintain daily communication with him.⁶⁸ However, they struggle to communicate because O.R. does not speak Spanish anymore.⁶⁹

November 2015: O.R. moves back to Guatemala to live with his biological parents.⁷⁰ He locates his brother, J.R., through the social network, Facebook.⁷¹ However, J.R. indicates he has no desire to know the details about his case or the separation from his family.⁷²

B. Other Relevant Facts

[None]

62. Ramírez Escobar et al. v. Guatemala, Report on the Merits, ¶¶ 114-115.

63. *Id.* ¶ 118.

64. Ramírez Escobar et al. v. Guatemala, Preliminary Objections, Merits Reparations, and Costs, ¶ 141.

65. *Id.*

66. *Id.* ¶ 142.

67. *Id.*

68. *Id.*

69. *Id.*

70. Ramírez Escobar et al. v. Guatemala, Preliminary Objections, Merits, Reparations, and Costs, ¶ 143.

71. *Id.*

72. *Id.*

II. PROCEDURAL HISTORY

A. Before the Commission

August 1, 2006: The Casa Alianza Association (*Asociación Casa Alianza*), the Social Movement for the Rights of Children and Youth (*Movimiento Social por los Derechos de la Niñez*), and the Center for Justice and Law International (Centro por la Justicia y el Derecho Internacional; “CEJIL”) submit a petition on behalf of the Ramírez family to the Commission.⁷³

March 19, 2013: The Commission issues Admissibility Report No. 8/13, which declares the petition admissible.⁷⁴

October 28, 2015: The Commission issues Merits Report No. 72/15.⁷⁵ The Commission concludes the State is responsible for violating rights provided in Articles 5 (Right to Humane Treatment), 7 (Right to Personal Liberty), 8 (Right to a Fair Trial), 11 (Right to Privacy), 17 (Rights of the Family), 18 (Right to a Name), 19 (Rights of the Child), and 25 (Right to Judicial Protection) of the American Convention, in relation to Articles 1(1) (Obligation of Non-Discrimination) and 2 (Obligation to Give Domestic Legal Effect of Rights) from the same instrument, to the detriment of the Ramírez family.⁷⁶

In light of the foregoing violations, the Commission recommends the State: (1) provide comprehensive redress for all human rights violations; (2) promptly conduct an exhaustive search to determine J.R.’s whereabouts; (3) immediately create conditions to forge a relationship between Ms. Ramírez Escobar, Mr. Tobar Fajardo and their children; (4) immediately provide free medical and mental health treatment to the Ramírez family; (5) punish the State authorities who were responsible for violating the rights of the Ramírez family; and (6) adopt measures to prevent and punish arbitrary adoption of children.⁷⁷

73. Ramírez Escobar et al. v. Guatemala, Preliminary Objections, Merits, Reparations, and Costs, ¶ 2(a).

74. Ramírez Brothers and Family v. Guatemala, Report on Admissibility, ¶ 3.

75. Ramírez Escobar et al. v. Guatemala, Report on the Merits, ¶ 4.

76. *Id.*

77. *Id.* ¶ 224(1)-(6).

B. Before the Court

February 12, 2016: The Commission submits this case to the Court after the State failed to adopt its recommendations.⁷⁸

November 23, 2016: The State submits a brief to the Court, acknowledging partial responsibility, opposing some of the allegations, and responding to requests for redress.⁷⁹ The Commission asks the Court to find and declare the State's international responsibility according to the reparation measures and recommendations in the Merits Report.⁸⁰

1. Violations Alleged by Commission⁸¹

Article 5 (Right to Humane Treatment)

Article 7 (Right to Personal Liberty)

Article 8 (Right to Fair Trial)

Article 11 (Right to Privacy)

Article 17 (Rights of the Family)

Article 18 (Right to a Name)

Article 19 (Rights of the Child)

Article 25 (Right to Judicial Protection)

all in relation to:

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

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

2. Violations Alleged by Representatives of the Victims⁸²

Same Violations Alleged by Commission, plus:

To the detriment of O.R. and J.R.:

Article 6 (Prohibition of Slavery and Servitude) of the American Convention.

78. Ramírez Escobar et al. v. Guatemala, Preliminary Objections, Merits, Reparations, and Costs, ¶ 3.

79. *Id.* ¶ 8.

80. *Id.* ¶ 4.

81. *Id.* ¶ 2(c).

82. *Id.* ¶ 6.

To the detriment of the Ramírez family:

Article 1(1) (Article of Non-Discrimination)
Article 24 (Right to Equality before the Law) of the American Convention.

III. MERITS

A. *Composition of the Court*⁸³

Eduardo Ferrer Mac-Gregor Poisot, President
Humberto Antonio Sierro Porto, Judge
Elizabeth Odio Benito, Judge
Eugenio Raúl Zaffaroni, Judge
L. Patricio Pazmiño Freire, Judge
Pablo Saavedra Alessandri, Secretary
Emilia Segares Rodríguez, Deputy Secretary

B. *Decision on the Merits*

March 9, 2018. The Court issues its Judgment on Preliminary Objections, Merits, Reparations and Costs.⁸⁴

The Court decided unanimously:

To accept the State's partial acknowledgment of international responsibility,⁸⁵ because:

One of the duties of the Court is to ensure that any act of acknowledgment of international responsibility complies with inter-American standards.⁸⁶ This process requires analysis of each act of acknowledgment of international responsibility according to the nature and severity of the alleged violations and the particular circumstances of each case.⁸⁷

In this case, the Court noted the State's recognition of facts regarding the following: (1) domestic adoption law that conflicted with international

83. Judge Eduardo Vio Grossi and Judge Roberto F. Caldas for reasons of force majeure did not participate in the deliberations or the signing of the Judgment. Ramírez Escobar et al. v. Guatemala, Preliminary Objections, Merits, Reparations, and Costs, n.*.

84. *Id.* ¶ 1.

85. *Id.* “decide” ¶ 1.

86. *Id.* ¶ 27.

87. *Id.*

*standards; (2) the manner in which the State carried out the process of separation of O.R. and J.R. from their mother; (3) the immediate institutionalization of O.R. and J.R. after the separation from their mother and the length of institutionalization; (4) the fact that the State granted international adoption after declaring them abandoned; (5) the State's failure to consider other relatives and care options other than international adoption; and (6) the presence of judicial irregularities during the adjudication of Ms. Ramírez Escobar's appeal and the adoption procedures.*⁸⁸

*The Court will not consider an act of acknowledgment of responsibility sufficient unless the State's intent is clear.*⁸⁹ *Therefore, the State must acknowledge all relevant facts that serve as the basis for such human rights violations in addition to recognizing the violations themselves.*⁹⁰ *Accordingly, the Court analyzed each of the facts as follows:*

(i) the legal claims

*The Court considered the State's express statements and observations made by the representatives and the Commission, and accepted the State's recognition as having the necessary clarity regarding the violation of rights provided by Articles 17 (Rights of the Family), 18 (Right to a Name and a Surname of Parents) and 19 (Rights of the Child) to the detriment of O.R. and J.R., and the rights to judicial guarantees in Articles 8 (Right to a Fair Trial) and 25 (Right to Judicial Protection), to the detriment of O.R., J.R., Ms. Ramírez Escobar and Mr. Tobar Fajardo.*⁹¹ *However, the Court noted the State's failure to recognize other violations of rights provided in the Convention to the detriment of Ms. Ramírez Escobar and Mr. Tobar Fajardo, which it would analyze on the merits.*⁹²

(ii) reparations

*The State undertook some measures of reparation.*⁹³ *However, the Court considered the State's efforts to be insufficient to satisfy an act of acknowledgment of responsibility.*⁹⁴

88. Ramírez Escobar et al. v. Guatemala, Preliminary Objections, Merits, Reparations, and Costs, ¶ 30.

89. *Id.* ¶ 29.

90. *Id.*

91. *Id.* ¶ 31.

92. *Id.* ¶ 32.

93. *Id.* ¶ 33.

94. Ramírez Escobar et al. v. Guatemala, Preliminary Objections, Merits, Reparations, and Costs, ¶ 32.

(iii) recognition assessment

Although partial acknowledgment of international responsibility is a valuable, positive contribution to the principles established by the Convention, the Court warned that the recognition of specific facts and violations may impact the Court's analysis of the other relevant facts and violations because they are part of the same set of circumstances.⁹⁵ Thus, the Court deemed it pertinent to specify all human rights violations that the State committed in the present case.⁹⁶

The Court found unanimously that Guatemala had violated:

Article 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal), 11(2) (Prohibition from Arbitrary or Abusive Interference with Family Life), 17(1) (Right to Protection of the Family Unit), in relation to Article 1(1) (Obligation of Non-Discrimination) and Article 2 (Obligation to Give Domestic Legal Effect of Rights) of the Convention, to the detriment of Ms. Ramírez Escobar, Mr. Tobar Fajardo, and O.R., as well as in relation to Article 19 (Rights of the Child) of the same instrument, to the detriment of O.R.,⁹⁷ because:

The Court examined whether the State exceeded reasonable periods for the proceedings by analyzing: (1) the declaration of abandonment; (2) the adoption procedure; (3) the arguments against family separation; and (4) the prohibition of discrimination during these processes.⁹⁸

(i) declaration of abandonment

First, the Court examined the arbitrary interference against private family life in the separation of the Ramírez family and declaration of abandonment, as well as the detrimental impact on the family nucleus, which should include close familial relatives who should also have been given the opportunity to care for the children, unless deemed unfit.⁹⁹ The separation of the Ramírez children from their biological family was unjustified in accordance with Article 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal), which provides

95. Ramírez Escobar et al. v. Guatemala, Preliminary Objections, Merits, Reparations, and Costs, ¶¶ 34-35.

96. *Id.* ¶ 37.

97. *Id.* “declares” ¶ 2.

98. *Id.* ¶ 154.

99. *Id.* ¶¶ 161-166.

*the right of all people, including children, to be heard before a courts.*¹⁰⁰
*In this case, the State denied the Ramírez family these rights.*¹⁰¹

*The State Juvenile Code set specific judicial parameters for judicial authorities, including requiring a judicial social worker to investigate as soon as judicial authorities are alerted to a possible situation of child abandonment or danger.*¹⁰² *Judicial social workers must interview the complainant, the minor child, and the parents of the child or the persons in charge of the child in compliance with the Juvenile Code.*¹⁰³ *Here, the State failed to act with due diligence based on its failure to interview the Ramírez family, verify the complaint of the alleged abandonment, and failed to conduct an independent and impartial socioeconomic study of the family.*¹⁰⁴

*The fact that judicial authorities never interviewed O.R. meant that the State never had an opportunity to evaluate his opinions on the matter.*¹⁰⁵ *This Court considered the substantial impact the State's actions had on the development of the children.*¹⁰⁶ *The Court also considered the fact that the State failed to include Mr. Tobar Fajardo in the judicial process, and noted that despite his residence in Mexico at the time of the proceedings, he was still O.R.'s father and deserved an opportunity to assume full custody and care of his child before the court entered into a declaration of abandonment.*¹⁰⁷ *The Court considered such State conduct to be a violation of Mr. Tobar Fajardo's rights too.*¹⁰⁸

Regarding the effect the proceedings had on the Ramírez children, the Court concluded the State had significantly and irreversibly damaged the development and the rights of O.R., which clearly violated his right to be heard provided in Article 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal), in relation to Articles

100. Ramírez Escobar et al. v. Guatemala, Preliminary Objections, Merits, Reparations, and Costs, ¶¶ 170, 193.

101. *Id.* ¶ 193.

102. *Id.* ¶ 169.

103. *Id.*

104. *Id.* ¶ 179.

105. *Id.* ¶ 173.

106. Ramírez Escobar et al. v. Guatemala, Preliminary Objections, Merits, Reparations, and Costs, ¶ 173.

107. *Id.* ¶ 176.

108. *Id.* ¶ 177.

19 (Rights of the Child) and 1(1) (Obligation of Non-Discrimination) of the American Convention.¹⁰⁹

The Court also concluded that the State failed to observe its own legal requirements because the socioeconomic studies were conducted by the institution where the children were deposited after being removed from their home.¹¹⁰ This procedure did not comply with the requirement of such studies to be conducted by an unbiased objective body.¹¹¹ The State made no effort to conduct additional investigations into contradictory evidence submitted by the Attorney General indicating no sign of physical abuse, and the institution's investigative report alleging the children showed signs of physical abuse, neglect, and malnourishment upon their arrival at the institution.¹¹² Finally, the State failed to conduct child welfare interviews of other relevant people such as O.R.'s school teachers, other relatives and close friends of the family.¹¹³ Thus, the Court concluded the State failed to consider the best interests of the children, noting that even the declaration of abandonment did not include any reasoning about their interests or justification for taking the exceptional measure to separate the children from their mother.¹¹⁴

(ii) the adoption procedure

The State, by separating the Ramírez children from their mother in a manner noncompliant with the requirements necessary for such a separation, violated their rights to protection of the family recognized in Article 17 (Rights of the Family).¹¹⁵ The Court noted family separation as one of the most severe examples of State interference with the family.¹¹⁶ It further noted that for a state to restrict a right guaranteed in the American Convention, the restriction must meet several requirements.¹¹⁷ The most important requirement is the restriction's legitimate legal basis.¹¹⁸

109. Ramírez Escobar et al. v. Guatemala, Preliminary Objections, Merits, Reparations, and Costs, ¶ 173.

110. *Id.* ¶ 181.

111. *Id.*

112. *Id.* ¶ 184.

113. *Id.* ¶ 185.

114. *Id.* ¶ 188-189.

115. Ramírez Escobar et al. v. Guatemala, Preliminary Objections, Merits, Reparations, and Costs, ¶¶ 206; 239.

116. *Id.* ¶ 165.

117. *Id.* ¶ 287.

118. *Id.*

The Court explained that, to determine the compatibility between the adoption procedures carried out in this case and the American Convention, it must confirm whether the State: (1) verified that the Ramírez children could be legally adopted; (2) considered the best interests of the children and their best interests were the State's primary consideration when it made the decision regarding adoption; (3) guaranteed the children's right to be heard; (4) confirmed that there was no ability for the child to receive proper care in Guatemala before authorizing international adoption; and (5) confirmed no undue economic benefits were granted to any person or entity during the adoption procedures.¹¹⁹

Based on the lack of judicial coordination between family and juvenile courts and specific judicial officials' lack of diligence at the time the adoption was authorized, the Ramírez children were not adoptable, and thus, the State did not comply with the first requirement.¹²⁰ Further, at no time during the adoption proceedings of the Ramírez children did State authorities evaluate or determine that the children's international adoption was the most appropriate measure and within their best interests, nor did the State give the children an opportunity to be heard.¹²¹ Therefore, the State breached its obligation to consider the best interests of the children in their adoption and its obligation to guarantee their right to be heard.¹²²

Moreover, the Court found that once the juvenile court declared both children abandoned, the sole permanent care option that the State considered was international adoption.¹²³ Thus, the State failed to respect the children's rights to develop in accordance with their cultural, religious, ethnic and linguistic origin because the State did not consider the possibility of an adoption within the State or another form of care in Guatemala before authorizing the children for adoption to families abroad.¹²⁴ Finally, the Court found that state authorities also failed to ensure that no one received undue economic benefits regarding the adoptions of the Ramírez children.¹²⁵

119. Ramírez Escobar et al. v. Guatemala, Preliminary Objections, Merits, Reparations, and Costs, ¶ 208.

120. *Id.* ¶ 214.

121. *Id.* ¶¶ 227; 230.

122. *Id.*

123. *Id.* ¶ 233.

124. *Id.*

125. Ramírez Escobar et al. v. Guatemala, Preliminary Objections, Merits, Reparations, and Costs, ¶ 237.

Accordingly, the Court concluded the State violated minimum guarantees of due process and breached the minimum substantive and procedural requirements of an intercountry adoption procedure.¹²⁶ The State, by failing to guarantee the minimum procedural requirement, did not comply with its obligations to adapt state law to the parameters of the Convention, which required the State to eliminate practices and norms that violate guarantees provided in the Convention, and enact laws and practices that lead to effective observance.¹²⁷ Thus, State domestic law that regulated the adoption procedure violated Article 2 (Obligation to Give Domestic Legal Effect of Rights) of the Convention.¹²⁸

Article 25(1) (Right of Recourse Before a Competent Court), in relation to Articles 1(1) (Obligation of Non-Discrimination), 11(2) (Prohibition from Arbitrary or Abusive Interference with Family Life), 17(1) (Right to Protection of the Family Unit), to the detriment of Ms. Ramírez Escobar, Mr. Tobar Fajardo, and O.R., and in relation to Article 19 (Rights of the Child) of the same instrument to the detriment of the child O.R.,¹²⁹ because:

Article 25(1) (Right of Recourse Before a Competent Court) requires states to provide effective judicial remedies to individuals within their jurisdiction for violations against their fundamental rights.¹³⁰ Because of the State's failure to consider Ms. Ramírez Escobar's allegations of irregularities throughout the process, the State failed to provide Ms. Ramírez Escobar with an effective judicial remedy.¹³¹ Further, Mr. Tobar Fajardo's absence at the Ministry of Foreign Affairs proceeding was not a sufficient reason to archive this case.¹³² In fact, requiring him to cover the cost of submitting a rogatory letter to the United States was an excessive burden itself.¹³³ Therefore, the Court held the State violated the right to judicial protection provided in Article 25(1) (Right of Recourse Before a Competent Court) of the American Convention, in relation to Articles 1(1) (Obligation of Non-Discrimination), 11(2) (Prohibition from Arbitrary or Abusive Interference with Family Life), 17(1) (Right to

126. Ramírez Escobar et al. v. Guatemala, Preliminary Objections, Merits, Reparations, and Costs, ¶ 239.

127. *Id.* ¶ 243.

128. *Id.*

129. *Id.* “declares” ¶ 3.

130. *Id.* ¶ 250.

131. *Id.* ¶ 253.

132. Ramírez Escobar et al. v. Guatemala, Preliminary Objections, Merits, Reparations, and Costs, ¶ 256.

133. *Id.* ¶ 254.

*Protection of the Family Unit), to the detriment of Ms. Ramírez Escobar, Mr. Tobar Fajardo, and O.R., and in relation to Article 19 (Rights of the Child), to the detriment of O.R.*¹³⁴

Article 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal) of the Convention, in relation to Articles 1(1) (Obligation of Non-Discrimination), 11(2) (Prohibition from Arbitrary or Abusive Interference with Family Life), 17(1) (Right to Protection of the Family Unit), to the detriment of Ms. Ramírez Escobar, Mr. Tobar Fajardo, and O.R., and in relation to Article 19 (Rights of the Child) of the same instrument to the detriment of the child O.R.,¹³⁵ because:

*The right to access to justice requires that facts be investigated and resolved within a reasonable time period, and any prolonged delay may constitute a violation of such judicial guarantees.*¹³⁶ *The Court noted the importance of expediting adoption processes for the wellbeing of the child involved, however, the Court requires that the children have been adequately heard and their best interests have been considered.*¹³⁷

*In this case, more than three years elapsed between the date Ms. Ramírez Escobar filed an appeal for review of the declaration of abandonment and the date at which the court granted her a genuine opportunity to question her children's legal status.*¹³⁸ *By that time, the damage their family endured was irreversible; both children were adopted and living with other families abroad.*¹³⁹ *Further, during that three year period, the court declared her appeal for review meritless on four separate occasions, and also failed to even address the issues she raised within her appeal.*¹⁴⁰ *Such unreasonable delays constituted a violation of the rights to effective judicial remedy provided in Article 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal) of the Convention.*¹⁴¹

134. Ramírez Escobar et al. v. Guatemala, Preliminary Objections, Merits, Reparations, and Costs, ¶ 256.

135. *Id.* "declares" ¶ 4.

136. *Id.* ¶ 257.

137. *Id.* ¶ 258.

138. *Id.* ¶ 261.

139. *Id.*

140. Ramírez Escobar et al. v. Guatemala, Preliminary Objections, Merits, Reparations, and Costs, ¶ 261.

141. *Id.* ¶ 263.

Articles 11(2) (Prohibition from Arbitrary or Abusive Interference with Family Life) and 17(1) (Right to Protection of the Family Unit), in relation to Article 1(1) (Obligation of Non-Discrimination) of the Convention, to the detriment of Ms. Ramírez Escobar, Mr. Tobar Fajardo, and O.R., and in relation to Article 19 (Rights of the Child) of the same instrument to the detriment of O.R.,¹⁴² because:

Article 1(1) (Obligation of Non-Discrimination) of the Convention sets forth a general obligation requiring States to respect and guarantee the complete and free exercise of every right and freedom established in the Convention.¹⁴³ This obligation prohibits States from engaging in discriminatory treatment.¹⁴⁴ Discrimination includes “any distinction, exclusion, restriction or preference based on certain grounds, such as race, color, sex, language, religion, political or other opinion, the national or social origin, property, birth or any other social condition, and whose purpose or result is to nullify or impair the recognition, enjoyment or exercise, under conditions of equality, of human rights and fundamental freedoms of all persons.”¹⁴⁵

The Court acknowledged the intersections of discrimination that Ms. Ramírez Escobar endured based on her being a single mother who was living in poverty and with a lesbian mother.¹⁴⁶ The Court reiterated that living in poverty is not enough to justify separating a child from his biological family.¹⁴⁷ At the time, the poverty rate in Guatemala was exceptionally high, which explained why there was such an unusually high number of illegal and extrajudicial adoptions taking place within the State.¹⁴⁸

Next, the Court considered the social studies that the State conducted to determine whether the Ramírez family separation constituted a difference in treatment.¹⁴⁹ Each study reflected the family’s socioeconomic situation as the main justification for the recommendation to separate the children

142. Ramírez Escobar et al. v. Guatemala, Preliminary Objections, Merits, Reparations, and Costs, “declares” ¶ 5.

143. *Id.* ¶ 271.

144. *Id.*

145. *Id.* ¶ 269.

146. *Id.* ¶ 276.

147. *Id.* ¶ 279.

148. Ramírez Escobar et al. v. Guatemala, Preliminary Objections, Merits, Reparations, and Costs, ¶ 282.

149. *Id.* ¶ 283.

from their biological family.¹⁵⁰ The Court noted that while lack of resources may have an impact on a child's upbringing, this alone was not enough to separate the family.¹⁵¹ Thus, the Court held that Ms. Ramírez Escobar, Mr. Tobar Fajardo and O.R. were discriminated against based on their socioeconomic situation.¹⁵²

The Court further concluded that the State's preconceived notions about gender roles led the State to base its decision on gender stereotypes.¹⁵³ It noted, as an example, the studies questioning whether Ms. Ramírez Escobar could act in her "maternal role" without making clear what characteristics the State attributed to that role.¹⁵⁴ Further, the studies suggested she was an irresponsible mother because she did not "accept her female role" when she "abandoned" her children when she went to work each day, which the State considered to be irregular female behavior.¹⁵⁵

Finally, the Convention protects a person's sexual orientation; thus, an act or practice based on sexual orientation will violate the Convention.¹⁵⁶ The State refused to consider the children's grandmother as their caretaker and legal custodian based on her sexual orientation.¹⁵⁷ Consequently, discrimination based on the children's maternal grandmother's sexual orientation also constituted a category of discrimination to the detriment of O.R..¹⁵⁸

In light of the foregoing, the Court concluded the State was responsible for violating its obligation not to discriminate and to respect and guarantee the rights to family life provided in Articles 11(2) (Prohibition from Arbitrary or Abusive Interference with Family Life) and 17(1) (Right to Protection of the Family Unit) of the Convention.¹⁵⁹

150. Ramírez Escobar et al. v. Guatemala, Preliminary Objections, Merits, Reparations, and Costs, ¶ 284.

151. *Id.* ¶ 288.

152. *Id.* ¶ 293.

153. *Id.* ¶ 299.

154. *Id.* ¶ 296.

155. *Id.*

156. Ramírez Escobar et al. v. Guatemala, Preliminary Objections, Merits, Reparations, and Costs, ¶ 300.

157. *Id.* ¶ 302.

158. *Id.*

159. *Id.* ¶¶ 303-304.

Articles 8 (Right to a Fair Trial) and 25 (Right to Judicial Protection) of the Convention, in relation to Article 1(1) (Obligation of Non-Discrimination) of the same instrument, to the detriment of Ms. Ramírez Escobar, Mr. Tobar Fajardo and O.R.,¹⁶⁰ because:

*The Court found the State violated the right to access to justice, “derived from a joint interpretation of the right to a fair trial and the right to judicial protection,” because of its failure to investigate the irregularities that judicial authorities recognized as having occurred during the declaration of abandonment and adoption of the Ramírez children, coupled with the presence of evidence of possible human trafficking under the guise of adoption.*¹⁶¹

Article 7(1) (Right to Personal Liberty and Security) of the Convention, in relation to Articles 11(2) (Prohibition from Arbitrary or Abusive Interference with Family Life), 17(1) (Right to Protection of the Family Unit), 19 (Rights of the Child), 1(1) (Obligation of Non-Discrimination) and 2 (Obligation to Give Domestic Legal Effect of Rights) of the same instrument to the detriment of O.R.,¹⁶² because:

*When a child does not have the option to leave the premises or establishment where he has been held against his own free will, it is a deprivation of liberty.*¹⁶³ *In this case, State agents forcibly removed O.R. from his home and took him to the Asociación los Niños de Guatemala where he would live until his adoption.*¹⁶⁴ *The Court noted that such internment in a residential care facility implied that the State intended to radically change the child’s everyday life, which at minimum, was an infringement on the general freedoms protected in Article 7(1) (Right to Personal Liberty and Security) of the Convention.*¹⁶⁵

*Further, the fact that the Ramírez children were separated from each other at the Asociación los Niños de Guatemala was deeply troubling to the Court.*¹⁶⁶ *States are required to act in the best interest of the child, which required the State to have at least considered alternative care to*

160. Ramírez Escobar et al. v. Guatemala, Preliminary Objections, Merits, Reparations, and Costs, “declares” ¶ 6.

161. *Id.* ¶ 321.

162. *Id.* “declares” ¶ 7.

163. *Id.* ¶ 329.

164. *Id.* ¶ 330.

165. *Id.* ¶ 331.

166. Ramírez Escobar et al. v. Guatemala, Preliminary Objections, Merits, Reparations, and Costs, ¶ 344.

*ensure that the Ramírez children were not separated.*¹⁶⁷ *The Court even stated that it was the State's responsibility to supervise institutions in charge of child care to ensure such institutions act in ways that reflect the children's best interests.*¹⁶⁸

*The Court found no evidence that justified the State's decision to prevent Ms. Ramírez Escobar from visiting her children at the Asociación los Niños de Guatemala.*¹⁶⁹ *Finally, the State failed to conduct periodic review into whether foster care was still necessary and appropriate for the Ramírez children during the seventeen-month period that they were institutionalized.*¹⁷⁰ *Because States are responsible for protecting children who have been separated from their families, States have an ongoing duty to ensure that institutions act in accordance with children's rights and supervise both public and private institutions.*¹⁷¹ *A State's failure to oblige serves to generate international responsibility for any act in violation of the children's best interests.*¹⁷²

*Therefore, the Court concluded that factors including restricting O.R.'s freedom by placing him in the residential care center, separating O.R. from his brother at the care center, refusing their mother an opportunity to visit her children, failure to periodically review the suitability of foster care, and lack of supervision of the care center itself clearly violated O.R.'s right to personal liberty.*¹⁷³

Article 18 (Right to a Name and to Surname of Parents) of the Convention, in relation to Articles 1(1) (Obligation of Non-Discrimination) and 19 (Rights of the Child) of the same instrument to the detriment of O.R.,¹⁷⁴ because:

*The right to identity may be conceptualized as a set of features that identify a person in society.*¹⁷⁵ *The State violated O.R.'s right to his identity when it separated him from his culture and his name was changed as a*

167. Ramírez Escobar et al. v. Guatemala, Preliminary Objections, Merits, Reparations, and Costs, ¶ 345.

168. *Id.* ¶ 345.

169. *Id.* ¶ 346.

170. *Id.* ¶ 347-348.

171. *Id.* ¶¶ 351; 354.

172. *Id.* ¶ 355.

173. Ramírez Escobar et al. v. Guatemala, Preliminary Objections, Merits, Reparations, and Costs, ¶ 357.

174. *Id.* "declares" ¶ 8.

175. *Id.* ¶ 359.

result of an arbitrary abandonment proceeding and subsequent adoption.¹⁷⁶ The Court found these arbitrary interferences with O.R.'s private and family life violated his family's right to protection and O.R.'s rights of the child.¹⁷⁷

Article 5 (Right to Humane Treatment) of the Convention, in relation to Article 1(1) (Obligation of Non-Discrimination) of the same instrument, to the detriment of Ms. Ramírez Escobar, Mr. Tobar Fajardo and O.R., as well as in relation to Article 19 (Rights of the Child) of the Convention to the detriment of O.R.,¹⁷⁸ because:

The overall effect of the permanent separation of the Ramírez family generated immeasurable and permanent suffering on each of the family members.¹⁷⁹ The Court evaluated the effect of such separation on each member of the family within a possible violation of their right to personal integrity.¹⁸⁰ Based on the permanent damage that the Ramírez family suffered as a result of forced family separation, the Court concluded the State violated the right to humane treatment provided in Article 5 (Right to Humane Treatment) of the Convention.¹⁸¹

IV. REPARATIONS

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

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

1. Judgment as a Form of Reparation

The Court noted that the Judgment itself is a form of reparation.¹⁸²

176. Ramírez Escobar et al. v. Guatemala, Preliminary Objections, Merits, Reparations, and Costs, ¶ 361.

177. *Id.*

178. *Id.* “declares” ¶ 9.

179. *Id.* ¶ 365.

180. *Id.*

181. *Id.* ¶ 369.

182. Ramírez Escobar et al. v. Guatemala, Preliminary Objections, Merits, Reparations, and Costs, “and provides” ¶ 10.

2. Restore the Ties Between the Ramírez Family

The State must immediately initiate a process for establishing a bond between the Ramírez family.¹⁸³ The State must provide psychiatric and therapeutic support, and offer scholarships to the victims to study the English and Spanish language.¹⁸⁴

3. Amend O.R.'s Birth Certificate

The State must adopt and implement all necessary measures to amend O.R.'s birth certificate to reflect the name and surname that his biological parents gave to him.¹⁸⁵ This required the State to ensure the correction of all Guatemalan state records.¹⁸⁶

4. Investigate and Sanction Officials

The State must conduct criminal, administrative, and disciplinary investigations of the events of this case, and identify and punish those responsible for the human rights violations.¹⁸⁷ Furthermore, the State must fulfill these obligations according to the standards established by the Court, and complete such obligations within a reasonable amount of time.¹⁸⁸

5. Publicly Acknowledge Responsibility

The Court ordered the State to publicly acknowledge responsibility before the national media and in the presence of the victims.¹⁸⁹

6. Make a Documentary on the Facts

First, the State must create a documentary regarding the facts of the case for the national media, and ensure the documentary is available in Spanish and by translation.¹⁹⁰ The State must also provide victims two weeks

183. Ramírez Escobar et al. v. Guatemala, Preliminary Objections, Merits, Reparations, and Costs, "and provides" ¶ 11.

184. *Id.*

185. *Id.* "and provides" ¶ 12.

186. *Id.* ¶ 388.

187. *Id.* "and provides" ¶ 13.

188. *Id.* ¶¶ 394-395.

189. Ramírez Escobar et al. v. Guatemala, Preliminary Objections, Merits, Reparations, and Costs, "and provides" ¶¶ 14; 398

190. *Id.* "and provides" ¶¶ 15; 401.

advance notice before the documentary is aired on national television.¹⁹¹ Finally, the State must provide the victims' representatives with five copies of such documentary to disseminate to the victims, civil society organizations and major Guatemalan universities.¹⁹²

7. Publish the Judgment

The Court ordered the State to publish this Judgment within six months in an official journal, a widely circulated national newspaper, and online.¹⁹³ Furthermore, the online publication must be made available for a period of one year.¹⁹⁴ The Court noted that the State must immediately notify the Court once each publication is made available regardless of any time period restriction.¹⁹⁵ Finally, the State must translate the Judgment into English because O.R. does not speak Spanish.¹⁹⁶

8. Regularly Monitor the Institutionalization of Children

The State must regulate, oversee, and monitor the institutions and centers of residential refuge for children.¹⁹⁷ This requires the State conduct periodic training with state and judicial officials and employees of private institutions, and ensuring that the National Adoptions Council has the necessary resources in order to effectively deal with child trafficking, and conducting periodic reviews of institutions to ensure their rights are not being restricted or violated.¹⁹⁸

191. Ramírez Escobar et al. v. Guatemala, Preliminary Objections, Merits, Reparations, and Costs, ¶ 401.

192. *Id.*

193. *Id.* “and provides” ¶¶ 16; 402.

194. *Id.* ¶ 402.

195. *Id.* ¶ 404.

196. *Id.* ¶ 403.

197. Ramírez Escobar et al. v. Guatemala, Preliminary Objections, Merits, Reparations, and Costs, “and provides” ¶ 17.

198. *Id.* ¶ 408.

B. Compensation

The Court awarded the following amounts:

1. Pecuniary Damages

The State must pay \$5,000 each to O.R., Ms. Ramírez Escobar, and Mr. Tobar Fajardo for consequential damages.¹⁹⁹

2. Non-Pecuniary Damages

The Court awarded \$100,000 each to O.R., Ms. Ramírez Escobar, and Mr. Tobar Fajardo for equity damages for pain and suffering caused, the violations committed by the State and the denial of justice, as well as the impact on their life projects, and other non-material consequences suffered.²⁰⁰

3. Costs and Expenses

The Court awarded CEJIL \$45,000 for the costs and expenses related to the litigation of the case.²⁰¹ Furthermore, the Court awarded \$2,082.79 as reimbursement for costs and expenses to the Court's Legal Assistance Fund for Victims.²⁰²

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

\$362,082.79

C. Deadlines

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 Judgment date.²⁰³

The State must publish the Official Summary and the Judgment within six months, and translate the Judgment within six months of the date of the Judgment.²⁰⁴

199. Ramírez Escobar et al. v. Guatemala, Preliminary Objections, Merits, Reparations, and Costs, ¶ 416.

200. *Id.* ¶ 420.

201. *Id.* ¶ 426.

202. *Id.* ¶ 429.

203. *Id.* ¶¶ 429-430.

204. *Id.* ¶¶ 402-403.

The State must make a public act of recognition acknowledging its international responsibility within one year of the date of the Judgment.²⁰⁵

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.²⁰⁶

V. INTERPRETATION AND REVISION OF JUDGMENT

[None]

VI. COMPLIANCE AND FOLLOW-UP

March 12, 2020: The Court found the State has fully complied with its obligations to: (1) publish the Judgment and the Official Summary; (2) pay the victims for material and immaterial damages; (3) reimburse the Victim's Legal Assistance Fund.²⁰⁷

The Court found the State has partially complied with its obligations to: (1) provide scholarships to the Ramírez family to learn the English and Spanish language; and (2) modify O.R.'s birth certificate to reflect the name his biological parents gave him.²⁰⁸ The State provided scholarships to Mrs. Ramírez Escobar and Mr. Tobar Fajardo.²⁰⁹ However, it has not yet provided a scholarship to O.R..²¹⁰ Further, the State modified O.R.'s birth certificate, but has not yet complied with its obligation to modify public records data in Guatemala and in the United States.²¹¹

Finally, the Court found the State has failed to comply with the following obligations: (1) conduct criminal, administrative and disciplinary investigations and identify and punish those responsible for the human rights violations; (2) publicly acknowledge its international responsibility; (3) make a documentary film on the facts of the case; (4) create and implement a nationwide program guaranteeing adequate supervision and control over the institutionalization of children; and (5) pay CEJIL for the costs and expenses related to the litigation of the case.²¹² Thus, the Court

205. Ramírez Escobar et al. v. Guatemala, Preliminary Objections, Merits, Reparations, and Costs, ¶ 398.

206. *Id.* "and provides" ¶ 20.

207. Ramírez Escobar et al. v. Guatemala, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R., "resolves" ¶¶ 1; 3 (Mar. 12, 2020).

208. *Id.* "resolves" ¶ 2.

209. *Id.*

210. *Id.*

211. *Id.*

212. *Id.* ¶ 4.

kept open the proceeding for monitoring compliance for the remaining reparations.²¹³

VII. LIST OF DOCUMENTS

A. Inter-American Court

1. Preliminary Objections

[None]

2. Decisions on Merits, Reparations and Costs

Ramírez Escobar et al. v. Guatemala, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 351 (March 9, 2018).

3. Provisional Measures

Ramírez Escobar et al. v. Guatemala, Resolution of the President, Inter-Am. Ct. H.R. (ser. C) No. 351 (Oct. 14, 2016).

4. Compliance Monitoring

Ramírez Escobar et al. v. Guatemala, Supervision of Compliance with Judgment, Inter-Am. Ct. H.R. (March 12, 2020).

5. Review and Interpretation of Judgment

[None]

B. Inter-American Commission

1. Petition to the Commission

Ramírez Brothers and Family v. Guatemala, Report on the Merits, Rep. No. 72/15, Inter-Am. Comm'n H.R., Pet. No. 12.896, (October 28, 2015).

²¹³ Ramírez Escobar et al. v. Guatemala, Monitoring Compliance with Judgment, “resolves” ¶ 5.

2. Report on Admissibility

Ramírez Brothers and Family v. Guatemala, Report on Admissibility, Report No. 8/13, Inter-Am. Comm'n H.R., Case. No. 793-06, (March 19, 2013).

3. Provisional Measures

[None]

4. Report on Merits

Ramírez Brothers and Family v. Guatemala, Report on the Merits, Rep. No. 72/15, Inter-Am. Comm'n H.R., Case 12.896 (October 28, 2015).

5. Application to the Court

[None]

VIII. BIBLIOGRAPHY

[None]