

Roche Azaña et al. v. Nicaragua

ABSTRACT¹

This case is about two Ecuadorian migrants in Nicaragua who were shot by State security forces when the truck that was transporting them tried to break through a security checkpoint. The Court found Nicaragua in violation of the American Convention due to the excessive use of force and the fact that the victims and their family did not have a chance to participate in proceedings against the perpetrators.

I. FACTS

A. Chronology of Events

April 8, 1996: Brothers Mr. Patricio Fernando Roche Azaña (hereinafter, “Mr. Patricio Fernando”) and Mr. Pedro Bacilio Roche Azaña (hereinafter, “Mr. Pedro Bacilio”) depart from the city of Azuay, Ecuador, with the intent to travel to the United States of America.²

April 14, 1996: After several days of travel, the brothers arrive in Chinandega, Nicaragua.³ The brothers are loaded into a van for transport to Honduras, along with approximately thirty other migrants.⁴ While en route to the border, the van arrives at a checkpoint operated by the Chinandega Municipal Police.⁵ Patrol officers attempt to stop the vehicle to conduct a search for contraband; however, the driver accelerates through the checkpoint without stopping.⁶

The driver attempts to evade the second checkpoint; however, after being alerted of the first checkpoint breach, the officers unload six

¹ Victoria Ramirez, Author; Katarina Shonafelt, Editor; Ashley Payne, Senior IACHR Editor; Alexandra Reyna, Chief IACHR Editor; Cesare Romano, Faculty Advisor.

² Roche Azaña et al. v. Nicaragua, Report on Merits, Report No. 114/18, Inter-Am. Comm’n H.R., Case No. 12.722, ¶ 16 (Oct. 5, 2018).

³ *Id.*

⁴ *Id.* ¶ 6.

⁵ *Id.* ¶¶ 7; 18.

⁶ *Id.* ¶¶ 11; 19.

bullets into the van in response to the driver's failure to stop per their orders.⁷ Despite the migrants' repeated requests for the driver to stop, the driver continued on to the community of Jucote where he abandoned the migrants.⁸ Five migrants, including the Roche Azaña brothers, are injured as a result of the shooting.⁹ Mr. Pedro Bacilio suffers a gunshot wound to the head and dies shortly before midnight.¹⁰

April 15, 1996: Jucote locals help the migrants by tending to their wounds and transporting them to the local health-care center.¹¹ However, Mr. Patricio Fernando is transported to the hospital, and undergoes an emergency surgery for intestinal and pelvic floor perforation.¹²

April 20, 1996: The Nicaraguan National Police detain three military personnel – two National Police members and a volunteer policeman – for the April 14th shooting.¹³ The Chinandega assistant prosecutor files charges against them for Mr. Pedro Bacilio's homicide, and the grievous bodily injury of Mr. Patricio Fernando and four others.¹⁴

April 21, 1996: Mr. Patricio Fernando undergoes another surgery for his injuries to his colon and rectum.¹⁵ Due to the seriousness of his injuries, Mr. Patricio Fernando is in a month-long coma and remains at the hospital for three months before returning to Ecuador.¹⁶

April 30, 1996: The First District Criminal Court Judge visits the hospital to take the statements of the injured migrants to comply with Nicaraguan law which requires statements be taken within ten days of the alleged crime.¹⁷ However, Mr. Patricio Fernando is in a coma at that time and unable to provide his statement or be advised of his right to participate in the criminal proceedings.¹⁸

⁷ Roche Azaña et al. v. Nicaragua, Report on Merits, ¶¶ 20; 22.

⁸ *Id.* ¶ 23.

⁹ *Id.* ¶¶ 24; 27.

¹⁰ *Id.* ¶¶ 7; 25.

¹¹ Roche Azaña et al. v. Nicaragua, Admissibility Report, Report No. 88/09, Inter-Am. Comm'n H.R., Case No. 12.722, ¶ 18 (Aug. 7, 2009).

¹² Roche Azaña et al. v. Nicaragua, Preliminary Objections, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 403, ¶ 30.

¹³ *Id.* ¶ 31.

¹⁴ *Id.*

¹⁵ Roche Azaña et al. v. Nicaragua, Report on Merits, ¶ 27.

¹⁶ *Id.* ¶ 8.

¹⁷ Roche Azaña et al. v. Nicaragua, Admissibility Report, ¶¶ 20, 53.

¹⁸ *Id.* ¶ 53.

May 6, 1996: The First District Criminal Court orders the imprisonment of the perpetrators who fired shots on April 14, 1996.¹⁹

August 28, 1996: The Criminal Chamber of the Appeals Court, Western Region, upholds each perpetrator's imprisonment, except for one who was determined to be not involved in the shooting.²⁰

November 1996: Mr. Patricio Fernando undergoes a third surgery in Ecuador because of his injuries from the events of April 14, 1996.²¹

February 24, 1997: Only four hours after being confirmed and installed, the jury finds the defendants not guilty of homicide and inflicting grievous bodily injury.²² The ruling omits the jury's reasoning for its determinations and ultimate conclusion.²³

February 27, 1997: Consistent with the jury verdict, the Chinandega First District Criminal Court clears the defendants of all charges but fails to provide any basis for the acquittals.²⁴ According to Nicaraguan law, the decision cannot be appealed.²⁵ The victims do not receive notice of the judgment.²⁶

August 1998: An Ecuadorian Foreign Ministry Official transmits a copy of the Chinandega First District Criminal Court's judgment to the Roche Azaña brothers' mother, Mrs. María Angelita Azaña Tenesaca.²⁷ This is the first time that the Roche Azaña family has heard of any criminal proceedings for the perpetrators of the April 14 shooting.²⁸

II. PROCEDURAL HISTORY

A. Before the Commission

December 23, 1998: Mr. Patricio Barrera Tello submits a petition on behalf of Mr. Pedro Bacilio Roche Azaña and Mr. Patricio Fernando

¹⁹ Roche Azaña et al. v. Nicaragua, Report on Merits, ¶ 30.

²⁰ *Id.* ¶ 31.

²¹ Roche Azaña et al. v. Nicaragua, Preliminary Objections, Merits, Reparations, and Costs, Judgment, ¶ 30.

²² *Id.* ¶ 36-37.

²³ Roche Azaña et al. v. Nicaragua, Report on Merits, ¶ 32.

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.* ¶ 38.

²⁷ *Id.*

²⁸ *Id.*

Roche Azaña to the Inter-American Commission on Human Rights.²⁹ The State argues that the petition is inadmissible because petitioners failed to exhaust domestic remedies and the alleged facts do not constitute a violation of the Convention.³⁰

August 7, 2009: The Commission issues Admissibility Report No. 88/09, which declares the petition admissible with respect to the alleged violations of Articles 4(1) (Prohibition of Arbitrary Deprivation of Life), 5(1) (Right to Physical, Mental, and Moral Integrity), 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal), 24 (Right to Equal Protection), and Article 25 (Right to Judicial Protection), all in relation to Articles 1(1) (Obligation of Non-Discrimination) of the American Convention.³¹ The Commission finds the petition inadmissible regarding the alleged violation of Article 22 (Freedom of Movement and Residence) of the Convention.³²

October 5, 2018: The Commission issues Merits Report No. 114/18.³³ The Commission concludes that the State is responsible for violating Articles 4(1) (Prohibition of Arbitrary Deprivation of Life), 5(1) (Right to Physical, Mental, and Moral Integrity), all in relation to Articles 1(1) (Obligation of Non-Discrimination) and 2 (Obligation to Give Domestic Legal Effect to Rights) of the American Convention to the detriment of Mr. Pedro Bacilio.³⁴

The Commission further finds the State violated Articles 5(1) (Right to Physical, Mental, and Moral Integrity), in relation to Articles 1(1) (Obligation of Non-Discrimination) and 2 (Obligation to Give Domestic Legal Effect to Rights), and Articles 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal), and 25(1) (Right to Recourse Before a Competent Court) in relation to Articles 1(1) (Obligation of Non-Discrimination) of the American Convention to the detriment of Mr. Patricio Fernando.³⁵

Finally, the Commission concludes the State violated Articles 5(1) (Right to Physical, Mental, and Moral Integrity), 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent

²⁹ Roche Azaña et al. v. Nicaragua, Admissibility Report, ¶ 1.

³⁰ *Id.* ¶ 3.

³¹ *Id.* ¶¶ 59-60.

³² *Id.* ¶ 61.

³³ Roche Azaña et al. v. Nicaragua, Preliminary Objections, Merits, Reparations, and Costs, ¶ 2(c).

³⁴ Roche Azaña et al. v. Nicaragua, Report on Merits, ¶ 59.

³⁵ *Id.* ¶¶ 59; 73.

Tribunal), and 25(1) (Right to Recourse Before a Competent Court) of the American Convention, all in relation to Article 1(1) (Obligation of Non-Discrimination) to the detriment of Mr. José Fernando Roche Zhizhingo and Mrs. María Angelita Azaña Tenesaca, the parents of the Roche Azaña brothers.³⁶

In light of the foregoing violations, the Commission recommends that the State: (1) provide reparations and compensate Mr. Patricio Fernando and his family; (2) reopen the criminal investigation to clarify the facts and prosecute those responsible for the violations identified in the report; (3) provide any necessary physical and mental health treatment for Mr. Patricio Fernando and his family; and (4) implement a program which trains law enforcement on migrants' rights and using force that is consistent with Inter-American standards.³⁷

B. Before the Court

April 24, 2019: The Commission submits the case to the Court, after the State failed to adopt its recommendations.³⁸

1. Violations Alleged by Commission³⁹

To the detriment of Mr. Pedro Bacilio:

Article 4(1) (Prohibition of Arbitrary Deprivation of Life)
Article 5(1) (Right to Physical, Mental, and Moral Integrity)
all in relation to:

Articles 1(1) (Obligation of Non-Discrimination) and
Article 2 (Obligation to Give Domestic Legal Effect to Rights) of the
American Convention.

To the detriment of Mr. Patricio Fernando:

Article 5(1) (Right to Physical, Mental, and Moral Integrity)
in relation to:
Articles 1(1) (Obligation of Non-Discrimination) and
Article 2 (Obligation to Give Domestic Legal Effect to Rights)
and

³⁶ Roche Azaña et al. v. Nicaragua, Report on Merits, ¶ 73.

³⁷ *Id.* ¶ 74(1)-(4).

³⁸ Roche Azaña et al. v. Nicaragua, Preliminary Objections, Merits, Reparations, and Costs, ¶ 3.

³⁹ Roche Azaña et al. v. Nicaragua, Report on Merits, ¶¶ 59; 73.

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

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

all in relation to:

Article 1(1) (Obligation of Non-Discrimination) of the American Convention.

To the detriment of Mr. Roche Zhizhingo and Mrs. Azaña Tenesaca:

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

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

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

all in relation to:

Article 1(1) (Obligation of Non-Discrimination) of the American Convention.

2. Violations Alleged by Representative of the Victims⁴⁰

Same Violations Alleged by Commission, plus:

Article XVII (Right to Recognition of Juridical Personality and Civil Rights) of the American Declaration on the Rights and Duties of Man

Article 22(1) (Right to Move Freely Within a State)

Article 22(4) (Limitations to Freedom of Movement and Residence in Certain Zones)

all in relation to:

Article 24 (Right to Equal Protection)

Article 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal) of the American Convention to the detriment of Mr. Patricio Fernando and Mr. Pedro Bacilio.

III. MERITS

A. Composition of the Court⁴¹

Elizabeth Odio Benito, President

L. Patricio Pazmiño Freire, Vice President

⁴⁰ Roche Azaña et al. v. Nicaragua, Preliminary Objections, Merits, Reparations, and Costs, ¶ 6.

⁴¹ *Id.* p. 1.

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
Romina I. Sijniensky, Deputy Secretary

B. Decision on the Merits

June 3, 2020: The Court issues its Judgment on Merits, Reparations, and Costs.⁴²

The Court found unanimously that Nicaragua had violated:

Article 4(1) (Prohibition of Arbitrary Deprivation of Life) in relation to Articles 1(1) (Obligation of Non-Discrimination) and 2 (Obligation to Give Domestic Legal Effect to Rights) of the Convention, to the detriment of Mr. Pedro Bacilio, and Article 5(1) (Right to Physical, Mental, and Moral Integrity) in relation to Articles 1(1) (Obligation of Non-Discrimination) and 2 (Obligation to Give Domestic Legal Effect to Rights) of the Convention, to the detriment of Mr. Patricio Fernando,⁴³ because:

*The Court emphasized that a state's use of force should only be implemented in exception circumstances and must comply with the inter-American standards of (1) legality, (2) purpose, (3) legitimate absolute necessity, and (4) proportionality.*⁴⁴

*To comply with the legality standard, the State must have an established legal framework that protects the right to life and prevents arbitrary or excessive use of force.*⁴⁵ *The Court found that the State failed to meet this standard because its legal framework lacked clear guidelines on State agents' use of lethal force.*⁴⁶ *In particular, the Court held that the State's law failed to provide specific regulations on the use of force,*

⁴² Roche Azaña et al. v. Nicaragua, Preliminary Objections, Merits, Reparations, and Costs, p. 1.

⁴³ *Id.* “declares” ¶ 1-2.

⁴⁴ *Id.* ¶ 53.

⁴⁵ *Id.* ¶¶ 55-56.

⁴⁶ *Id.* ¶¶ 56; 58.

permitted significant discretion in its application, and lacked effective guarantees to combat excessive and arbitrary uses of force, therefore violating the legality principle.⁴⁷ Additionally, the Court held that the excessive speed through the checkpoints was not a legitimate reason to use force and harm the vehicle or the persons inside.⁴⁸

Even though the van may have escaped if the State's agents had not used force, the Court concluded that the State's conduct was not absolutely necessary because the State could have used less harmful tactics and the migrants did not pose a direct threat.⁴⁹ Lastly, with respect to proportionality, the Court held that states have a duty to preemptively implement plans that minimize the need to use force.⁵⁰ The Court found that the the State's failure to adequately plan and train its agents for possible customs infractions, coupled with the use of guns suitable for war, made the State agents' conduct disproportional to the needs of the situation.⁵¹

Based on the foregoing, the Court held that the State's conduct resulted in the arbitrary death of Mr. Pedro Bacilio in violation of Article 4(1) (Arbitrary Deprivation of Life).⁵² For the same reasons, the State's conduct arbitrarily caused Mr. Patricio Fernando's injuries in violation of Article 5(1) (Right to Physical, Mental, and Moral Integrity).⁵³

Articles 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal) and 25 (Right to Judicial Protection) in relation to Article 1(1) (Obligation of Non-Discrimination) of the Convention, to the detriment of Mr. Patricio Fernando, Mrs. Azaña Tenesaca, and Mr. Roche Zhizhingo,⁵⁴ because:

Articles 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal) and 25 (Right to Judicial Protection) guarantees the victims' and their families' right to know what occurred

⁴⁷ Roche Azaña et al. v. Nicaragua, Preliminary Objections, Merits, Reparations, and Costs, ¶ 56-57.

⁴⁸ *Id.* ¶ 60.

⁴⁹ *Id.* ¶ 62.

⁵⁰ *Id.* ¶ 63.

⁵¹ *Id.* ¶ 68.

⁵² *Id.* ¶ 70-71.

⁵³ Roche Azaña et al. v. Nicaragua, Preliminary Objections, Merits, Reparations, and Costs, ¶¶ 70-71.

⁵⁴ *Id.* "declares" ¶ 3.

and to participate in the proceedings.⁵⁵ Further, the Court held that the rights enshrined in these Articles – such as effective access to justice, remedies, and reparations – applied to all victims of human rights violations, regardless of migratory status.⁵⁶ In fact, in the cases of migrant victims, states have heightened obligations to guarantee these rights.⁵⁷

The Court held that the State had no grounds for its failure to notify Mr. Patricio Fernando of the proceedings.⁵⁸ The Court rejected the State's justification that Mr. Patricio Fernando was in a comatose condition because he regained consciousness and remained in Nicaragua during at least part of the proceedings and, alternatively, the State had the option to notify his family – who should have been notified as to their deceased son's case regardless.⁵⁹ Consequently, the Court found that, due to the State's absolute failure to notify Mr. Patricio Fernando or his parents of their right to participate in the criminal proceedings, the State violated Articles 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal) and 25 (Right to Judicial Protection) of the Convention⁶⁰

Articles 5(1) (Right to Physical, Mental, and Moral Integrity) in relation to Article 1(1) (Obligation of Non-Discrimination) of the Convention, to the detriment of Mrs. Azaña Tenesaca and Mr. Roche Zhizhingo,⁶¹ because:

The Court has affirmed that victims' relatives may be victims of human rights violations themselves.⁶² The Court found that Mr. Patricio Fernando's injuries and Mr. Pedro Bacilio's death caused substantial pain and suffering to their parents.⁶³ Therefore, the Court found the State violated both Mrs. Azaña Tenesaca's and Mr. Roche Zhizhingo's right to mental and moral integrity enshrined in Article 5(1) of the Convention.⁶⁴

⁵⁵ Roche Azaña et al. v. Nicaragua, Preliminary Objections, Merits, Reparations, and Costs, ¶¶ 84-85.

⁵⁶ *Id.* ¶ 91-92.

⁵⁷ *Id.* ¶ 92.

⁵⁸ *Id.* 90.

⁵⁹ *Id.* ¶¶ 86, 90, 92.

⁶⁰ *Id.* ¶ 94.

⁶¹ Roche Azaña et al. v. Nicaragua, Preliminary Objections, Merits, Reparations, and Costs, “declares” ¶ 4.

⁶² *Id.* ¶ 100.

⁶³ *Id.* ¶ 101.

⁶⁴ *Id.* ¶¶ 101-102.

C. Dissenting and Concurring Opinions

1. Concurring Opinion of Judge L. Patricio Pazmiño Freire

In a concurring opinion, Judge Pazmiño Freire sought to establish a more precise and inclusive definition of the term “migrant.”⁶⁵ Judge Pazmiño Freire concluded that the term “migrant” must be defined as “an open, non-restrictive category that includes every human being who, regardless of reason, cause, motive or circumstances, abandons his country of origin or nationality, where he usually reside, either temporarily or permanently, irrespective of his legal status.”⁶⁶

2. Concurring Opinion of Judge Eugenio Raúl Zaffaroni

In a concurring opinion, Judge Zaffaroni contended that the State violated Article 4(1) (Prohibition on Arbitrary Deprivation of Life) not only because of the State’s arbitrary use of force, but also because of the subsequent and arbitrary impunity of the perpetrators.⁶⁷ He concluded that there was sufficient evidence that the perpetrators committed homicide and inflicted grievous bodily injury with willful intent or reckless negligence, but the State failed to punish them without adequate justification.⁶⁸

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 indicated that the Judgment itself is a form of reparation.⁶⁹

⁶⁵ Roche Azaña et al. v. Nicaragua, Merits and Reparations, Concurring Opinion of Judge L. Patricio Pazmiño Freire, Inter-Am. Ct. H.R. (ser. C) No. 403, ¶ 3 (June 3, 2020).

⁶⁶ *Id.* ¶ 28.

⁶⁷ Roche Azaña et al. v. Nicaragua, Merits and Reparations, Concurring Opinion of Judge Eugenio Raúl Zaffaroni, Inter-Am. Ct. H.R. (ser. C) No. 403, p. 1 (June 3, 2020).

⁶⁸ *Id.* p. 4-5.

⁶⁹ Roche Azaña et al. v. Nicaragua, Preliminary Objections, Merits, Reparations, and Costs, “and orders” ¶ 5.

2. Publish the Judgment

The Court ordered the State to publish the Official Summary of the Judgment in the Official Gazette and in a widely circulated national newspaper.⁷⁰ Additionally, the State must publish the full Judgment on an official State website for one year.⁷¹ Finally, the Court ordered that the State must immediately notify the Court once it has made these publications, regardless of any time period restrictions.⁷²

3. Implement a Training Program

The Court ordered the State to create and implement a training program incorporating the international standards on the protection of migrants' rights and the use of force for its National Police and Army.⁷³

B. Compensation

The Court awarded the following amounts:

1. Pecuniary Damages

The Court ordered the State to pay \$20,000 and \$10,000 to Mr. Patricio Fernando and Mrs. Azaña Tenesaco, respectively, for psychological and other medical treatment.⁷⁴ Further, the State must pay \$5,000 each to Mr. Patricio Fernando, Mr. Roche Zhizhingo, and Mrs. Azaña Tenesaca for financial expenses incurred from the violations in this Judgment.⁷⁵

Finally, the Court ordered the State to pay \$50,000 to Mr. Roche Zhizhingo and Mrs. Azaña Tenesaca for lost earnings resulting from Mr. Pedro Bacilio's death.⁷⁶

⁷⁰ Roche Azaña et al. v. Nicaragua, Preliminary Objections, Merits, Reparations, and Costs, ¶ 118.

⁷¹ *Id.*

⁷² *Id.*

⁷³ *Id.* ¶ 122.

⁷⁴ *Id.* ¶ 115.

⁷⁵ *Id.* ¶ 128.

⁷⁶ Roche Azaña et al. v. Nicaragua, Preliminary Objections, Merits, Reparations, and Costs, ¶ 129.

2. Non-Pecuniary Damages

The Court ordered the State to pay \$80,000 to Mrs. Azaña Tenesaca and Mr. Patricio Fernando, on behalf of Mr. Pedro Bacilio, for pain and suffering.⁷⁷ Further, the State must pay \$65,000 to Mr. Patricio Fernando for his pain and suffering.⁷⁸ Lastly, the Court ordered the State to pay \$15,000 to Mrs. Azaña Tenesaca and Mr. Roche Zhizhingo for their pain and suffering.⁷⁹

3. Costs and Expenses

The Court ordered no payment for costs and expenses because the victim's representatives made no arguments for it.⁸⁰ The Court ordered the State to pay \$3,188.10 to reimburse the Victims' Legal Assistance Fund.⁸¹

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

\$258,188.10.

C. Deadlines

The State must compensate the victims for pecuniary and non-pecuniary damages within one year of the Judgment and reimburse the Victims' Legal Assistance Fund within six months of the Judgment.⁸² Further, the State must integrate the training program into law enforcement agencies' regular training courses within one year of the Judgment.⁸³ Finally, the State must publish the Official Summary and the Judgment within six months of the Judgment.⁸⁴

⁷⁷ Roche Azaña et al. v. Nicaragua, Preliminary Objections, Merits, Reparations, and Costs ¶ 135.

⁷⁸ *Id.*

⁷⁹ *Id.* ¶ 136.

⁸⁰ *Id.* ¶ 137.

⁸¹ *Id.* ¶ 140.

⁸² *Id.* ¶¶ 140-141.

⁸³ Roche Azaña et al. v. Nicaragua, Preliminary Objections, Merits, Reparations, and Costs ¶ 122.

⁸⁴ *Id.* ¶ 118.

V. INTERPRETATION AND REVISION OF JUDGMENT

A. *Chronology of Events*

July 28, 2020: The victims' representative submits to the Court a request to interpret the Judgment.⁸⁵ The representative requests clarification on: (1) the amount Mrs. Azaña Tenesaca would receive as lost profits; and (2) whether Mr. Patricio Fernando was entitled to compensation for lost profits.⁸⁶

August 7, 2020: The State also submits to the Court a request to interpret the Judgment.⁸⁷ The State requests clarification on: (1) the actual participation of the Nicaraguan Army members in the April 14, 1996 incident; and (2) the scope of the Court-ordered training program in light of the military member's lack of involvement.⁸⁸

B. *Merits*

November 18, 2020: The Court issues its Interpretation of the Judgment on Merits, Reparations, and Costs.⁸⁹

The Court unanimously found:

The representative's request for clarification on the amount of lost profits Mrs. Azaña Tenesaca would receive was appropriate.⁹⁰ The Court clarified that the State must pay Mrs. Azaña Tenesaca the total amount of \$50,000 for lost profits related to the death of Mr. Pedro Bacilio.⁹¹ On the other hand, the Court found the representative's request on whether Mr. Patricio Fernando is entitled to compensation for lost profits inadmissible because the Judgment is clear on the issue.⁹²

The Court additionally found the State's request for clarification on the Nicaraguan military involvement in the death of Mr. Pedro

⁸⁵ Roche Azaña et al. v. Nicaragua, Interpretation of the Judgment, Inter-Am. Ct. H.R. (ser. C) No. 418, ¶ 2 (Nov. 18, 2020).

⁸⁶ *Id.*

⁸⁷ *Id.* ¶ 3.

⁸⁸ *Id.*

⁸⁹ *Id.* p.1.

⁹⁰ *Id.* ¶ 20.

⁹¹ Roche Azaña et al. v. Nicaragua, Interpretation of the Judgment, ¶ 20.

⁹² *Id.* ¶ 26.

Bacilio inadmissible because the Judgment was clear on the issue, and the State's request amounted to an inadmissible challenge to the findings.⁹³

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

Roche Azaña et al. v. Nicaragua, Merits and Reparations, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 403 (June 3, 2020).

Roche Azaña et al. v. Nicaragua, Merits and Reparations, Concurring Opinion of Judge L. Patricio Pazmiño Freire, Inter-Am. Ct. H.R. (ser. C) No. 403 (June 3, 2020).

Roche Azaña et al. v. Nicaragua, Merits and Reparations, Concurring Opinion of Judge Eugenio Raúl Zaffaroni, Inter-Am. Ct. H.R. (ser. C) No. 403 (June 3, 2020).

3. Provisional Measures

Roche Azaña et al. v. Nicaragua, Resolution of the President, Call for Hearing, Inter-Am. Ct. H.R. (ser. E) No. 403 (Dec. 6, 2019).

4. Compliance Monitoring

[None]

⁹³ Roche Azaña et al. v. Nicaragua, Interpretation of the Judgment, ¶¶ 30-32.

5. Review and Interpretation of Judgment

Roche Azaña et al. v. Nicaragua, Interpretation of the Judgment, Inter-Am. Ct. H.R. (ser. C) No. 418 (Nov. 18, 2020).

B. Inter-American Commission

1. Petition to the Commission

[None]

2. Report on Admissibility

Roche Azaña et al. v. Nicaragua, Admissibility Report, Report No. 88/09, Inter-Am. Comm'n H.R., Case No. 12.722, ¶ 1 (Aug. 7, 2009).

3. Provisional Measures

[None]

4. Report on Merits

Roche Azaña et al. v. Nicaragua, Report on Merits, Report No. 114/18, Inter-Am. Comm'n H.R., Case No. 12.722, ¶ 1 (Oct. 5, 2018).

5. Application to the Court

Roche Azaña et al. v. Nicaragua, Letter of Submission, Inter-Am. Comm'n H.R., Case No. 12.722, ¶ 1 (Apr. 24, 2019).

VIII. BIBLIOGRAPHY

[None]