

Mirey Trueba Arciniega et al. v. Mexico

ABSTRACT¹

This case is about the extrajudicial killing by the Army of a young farmer in the Mexican State of Chihuahua. The State admitted responsibility and the Court, taking note of that, ordered reparations.

I. FACTS

A. Chronology of Events

[1978]: Mr. Mirey Trueba Arciniega is born in Baborigame, in the State of Chihuahua, Mexico.² Baborigame has approximately two-thousand inhabitants, of which roughly seventy-five percent are Tepehuan Indians.³ Mr. Trueba Arciniega works on his family's farm.⁴

1990s: The Federal Government establishes a military command post in Baborigame, as a response to violence from drug trafficking.⁵ Press reports recount several acts of violence against Baborigame's civilians by members of the military, including burning down homes, executing five people in 1992, arresting and allegedly torturing a civilian in 1996, and allegedly executing civilians in 1998, 1999, and 2000.⁶

August 20, 1998: The State sends 400 soldiers to Baborigame; the regional President of Chihuahua claims their purpose is to fight drug trafficking.⁷

1. Patricia Kim, Author; Kevin Zipser, Editor; Elizabeth Russo, Chief IACHR Editor; Cesare Romano, Faculty Advisor.

2. Mirey Trueba Arciniega et al. v. Mexico, Report on Merits, Report No. 47/16, Inter-Am. Comm'n H.R., Case No. 12.659, ¶ 23 (November 29, 2016).

3. *Id.* ¶ 24.

4. *Id.*

5. *Id.*

6. *Id.* ¶ 25.

7. Mirey Trueba Arciniega et al. v. Mexico, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (Ser. L.) No. 159, ¶ 26 (November 29, 2016).

August 22, 1998: Mr. Mirey Trueba is a passenger in a vehicle traveling in Baborigame with his brother, Mr. Vidal Trueba, and a friend, Mr. Jorge Jiménez, when an Army vehicle approaches and stops them.⁸ Mr. Mirey Trueba jumps out of the back of the vehicle and is fatally shot by someone in the Army vehicle.⁹

Mr. Tomás Trueba Loera, Mr. Mirey Trueba's father, files a complaint with the Public Prosecutor's Office in Baborigame.¹⁰ The Assistant Prosecutor opens an initial investigation and conducts a visual inspection of Mr. Mirey Trueba's body; the autopsy report details one gunshot wound in Mr. Mirey Trueba's left femoral artery.¹¹ The Office of the Public Prosecutor inspects the scene of the incident and finds eleven firearm shell casings.¹²

August 24, 1998: The Office of the Military Prosecutor files criminal charges against Lieutenant Coronel Luis Morales for the death of Mr. Mirey Trueba.¹³

August 30, 1998: The Office of the Public Prosecutor cedes jurisdiction and transfers the case to the Third Military Region because the alleged perpetrator of Mr. Mirey Trueba's murder acted while performing military service.¹⁴ The Military Judge issues a formal custody order against Lieutenant Coronel Morales.¹⁵

September 2, 1998: Mr. Trueba Loera submits a request to the National Human Rights Commission, requesting an investigation into his son's murder.¹⁶

September 17, 1998: The National Human Rights Commission interviews the Commanding Officer at the military base in Baborigame who reports that Lieutenant Coronel Morales was transferred to a military prison in Mazatlán, Sinaloa where he will undergo a trial for the murder of Mr. Mirey Trueba.¹⁷

8. Mirey Trueba Arciniega v. Mexico, Report on Merits, ¶ 27.

9. *Id.* ¶¶ 10; 29-31.

10. *Id.* ¶ 41.

11. *Id.*

12. *Id.* ¶ 42.

13. *Id.* ¶ 44.

14. Mirey Trueba Arciniega v. Mexico, Report on Merits, ¶ 45.

15. *Id.* ¶ 46.

16. *Id.* ¶ 47.

17. *Id.*

201x]

Desktop Publishing Example

103

November 30, 1998: The National Human Rights Commission denies jurisdiction.¹⁸

February 22, 2000: The Military Judge convicts Lieutenant Coronel Morales for the intentional homicide of Mr. Mirey Trueba, dismisses him from the Army, disqualifies him from reinstatement for eight years, and sentences him to eight years in prison.¹⁹ Lieutenant Coronel Morales appeals to the Supreme Military Tribunal (“Tribunal”).

May 11, 2000: Mr. Mirey Trueba’s family files a new motion to ascertain the status of the case.²⁰

May 30, 2000: The Military Prosecutor’s Office informs Mr. Mirey Trueba’s family that the National Human Rights Commission is the body that should handle the case.²¹

January 19, 2001: The Supreme Military Tribunal rules on Lieutenant Coronel Morales’s appeal, convicts him of manslaughter, and reduces his prison sentence to one year, eleven months, and fifteen days.²² Since he has already served his prison term, the Tribunal orders his release.²³

B. Other Relevant Facts

[None]

II. PROCEDURAL HISTORY

A. Before the Commission

August 2, 2001: The Commission for Solidarity and the Defense of Human Rights (Comisión de Solidaridad y Defensa de los Derechos Humanos; COSYDDHAC) and the Center for Justice and International Law (Centro por la Justicia y el Derecho Internacional; CEJIL)

18. Mirey Trueba Arciniega v. Mexico, Report on Merits, ¶ 48.

19. *Id.* ¶ 52.

20. *Id.* ¶ 49.

21. *Id.* ¶ 50.

22. *Id.* ¶ 53.

23. *Id.*

(“Petitioners”) present a petition on behalf of Mr. Mirey Trueba to the Inter-American Court of Human Rights.²⁴

September 17, 2002: The State, through the Mexican Secretariat of National Defense (Secretaría de la Defensa Nacional; “SEDENA”), admits that a soldier in the Mexican Armed Forces likely caused Mr. Mirey Trueba’s death and offers a payment of 117,822.00 Mexican Pesos (\$4,883.21 USD) to his family as compensation for the moral and material damages incurred.²⁵

December 10, 2002: Petitioners express their interest in a friendly settlement agreement, but no agreement materializes.²⁶

July 24, 2008: The Inter-American Commission on Human Rights (“Commission”) issues Admissibility Report No. 48/18.²⁷ The State contests the petition’s admissibility because: (1) the crime was unintentionally committed; (2) Mr. Mirey Trueba’s killer was prosecuted and convicted; and (3) the State has compensated the victim’s family and complied with the obligations of the American Convention.²⁸ The Commission considers it inappropriate to determine whether the violations occurred at this stage of the proceedings, but believes that the allegations, if proven, will establish violations of the American Convention.²⁹

January 16, 2009: The State expresses interest in a friendly settlement.³⁰

November 3, 2016: The Petitioners express to the Inter-American Court of Human Rights (IACHR) that they are not interested in a friendly settlement and request the Commission to issue the merits report.³¹

November 29, 2016: The Commission issues Merits Report No. 47/16.³² The Commission finds that the State violated Articles 4.1 (Right to Life)

24. Mirey Trueba Arciniega v. Mexico, Merits, Reparations, and Costs, ¶ 2(a).

25. Mirey Trueba Arciniega v. Mexico, Admissibility Report, Report No. 48/08, Inter-Am. Comm’n H.R., Case No. 12.659, ¶ 8 (July 24, 2008).

26. *Id.* ¶ 9.

27. Mirey Trueba Arciniega v. Mexico, Merits, Reparations, and Costs, ¶ 2(b).

28. Mirey Trueba Arciniega v. Mexico, Admissibility Report, ¶ 3.

29. *Id.* ¶ 57.

30. Mirey Trueba Arciniega v. Mexico, Report on Merits, ¶ 7.

31. *Id.* ¶ 9.

32. Mirey Trueba Arciniega v. Mexico, Merits, Reparations, and Costs, ¶ 2(c).

201x]

Desktop Publishing Example

105

and 5.1 (Right to Humane Treatment) in relation to Articles 1(1) and 2 to the detriment of Mr. Mirey Trueba, Articles 8.1 (Right to a Fair Trial) and 25.1 (Right to Judicial Protection) in relation to Article 1(1) and 2 to the detriment of Mr. Mirey Trueba's relatives, and Article 5 in relation to Articles 1(1) to the detriment of Mr. Mirey Trueba's relatives.³³

The Commission recommends the State to: (1) provide adequate compensation for the moral and material damages of the violations described in this report; (2) conduct a criminal investigation within a reasonable amount of time to find all of the facts and identify potential liability to impose the proper punishment for the humans rights violations, notwithstanding the double jeopardy principle; (3) take appropriate criminal, disciplinary, or administrative measures regarding the acts or omissions of state agents who contributed to denying justice in this case; and (4) adopt non-repetitive legislative, administrative, or other type of measures to limit using the Armed Forces for law enforcement except in exceptional situations, and strictly comply with the standards in this report for regulation, equipping, training, and overseeing the use of force.³⁴

B. Before the Court

April 28, 2018: The Commission submits the case to the Court after the State failed to adopt its recommendations.³⁵

November 13, 2018: The State and Mr. Mirey Trueba's representatives submit a Friendly Settlement Agreement to the Court ("Agreement").³⁶

1. Violations Alleged by Commission³⁷

Article 4 (Right to Life)

Article 5 (Right to Humane Treatment)

Article 8 (Right to a Fair Trial)

Article 25 (Right to Judicial Protection)

all in relation to:

Article 1(1) (Obligation to Respect Rights)

Article 2 (Domestic Legal Effects) of the American Convention.

33. Mirey Trueba Arciniega v. Mexico, Report on Merits, ¶ 132.

34. Mirey Trueba Arciniega v. Mexico, Report on Merits, "Recommends," ¶¶ 1-4.

35. Mirey Trueba Arciniega v. Mexico, Merits, Reparations, and Costs, ¶ 1.

36. *Id.* ¶ 5.

37. Mirey Trueba Arciniega v. Mexico, Report on Merits, ¶ 132.

2. Violations Alleged by Representatives of the Victims³⁸

Same Violations Alleged by Commission.

III. MERITS

A. *Composition of the Court*³⁹

Eduardo Vio Grossi, President
 Humberto Antonio Sierra Porto, Judge
 Elizabeth Odio Benito, Judge
 Eugenio Raúl Zaffaroni, Judge
 L. Patricio Pazmiño Freire, Judge

Pablo Saavedra Alessandri, Secretary

B. *Decision on the Merits*

November 26, 2018: The Court issues its Judgment on Merits, Reparations, and Costs.⁴⁰

The Court found unanimously that:

There is no longer controversy over the facts because the State recognized that it violated Articles 4(1) (Right to Life), 5(1) (Right to Humane Treatment), 8(1) (Right to a Fair Trial), and 25(1) (Right to Judicial Protection) in relation to Articles 1.1 (Obligation of Non-Discrimination) and 2 (Obligation to Give Domestic Effect to Rights) of the American Convention.⁴¹ The Court also found that the State's recognition of the violations positively contributed to support the principles behind the American Convention.⁴²

38. COSYDDHAC and CEJIL served as representatives of Mr. Mirey Trueba. Mirey Trueba Arciniega v. Mexico, Admissibility Report, ¶ 2.

39. Judge Eduardo Ferrer Mac-Gregor Poisot did not participate in the deliberation and signing of the Judgment because he is a Mexican National. Mirey Trueba Arciniega v. Mexico, Merits, Reparations, and Costs, n.1.

40. Mirey Trueba Arciniega v. Mexico, Merits, Reparations, and Costs, "Resolution Points," ¶ 8.

41. Mirey Trueba Arciniega v. Mexico, Merits, Reparations, and Costs, ¶ 41.

42. *Id.* ¶ 42.

201x]

Desktop Publishing Example

107

C. Dissenting and Concurring Opinions

[None]

IV. REPARATIONS

The Court ruled unanimously that the State had the following obligations:⁴³

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

1. Review the Criminal Case

The State recognized the victims' rights to justice and truth, and agreed to review Mr. Luis Rodríguez's criminal case, accounting for the circumstances and criteria at the time of the incident according to Inter-American standards and with the Representatives' participation.⁴⁴

2. Provide Medical and Psychological Care

The State agreed to provide permanent medical and psychological care in specialized health facilities to the victims through Seguro Popular⁴⁵, coordinated by Chihuahua's Ministry of Health (Secretaría de Salud del Estado de Chihuahua), and according to the terms in the Agreement.⁴⁶ The Department for the Defense of Human Rights (Unidad para la Defensa de los Derechos Humanos; "UDDH") of the State's Secretariat of Internal Affairs (Secretaría de Gobernación; "SEGOB") and Chihuahua's Ministry of Health will manage this reparation.⁴⁷

43. The State and the representatives established the reparation measures as part of the friendly settlement agreement. *Mirey Trueba Arciniega v. Mexico*, Merits, Reparations, and Costs, ¶ 44.

44. *Id.* ¶ 45.

45. The government entity responsible for providing universal healthcare in Mexico.

46. *Mirey Trueba Arciniega v. Mexico*, Merits, Reparations, and Costs, ¶ 46 (B.1).

47. *Id.*

3. Support a Productive Project

The State agreed to provide the amount of money that the parties agreed upon⁴⁸ through the Trust for Fulfilling Human Rights Obligations (Fideicomiso para el Cumplimiento de Obligaciones en Materia de Derechos Humanos), administered by the UDDH of the State's SEGOB for Mr. Eleazar Trueba Arciniega in order to create a constructive project for lawful and beneficial activities.⁴⁹

4. Provide Mrs. Micaela Arciniega Cevallos and Mr. Eleazar Trueba Arciniega the Resources for a House and Furniture

The State agreed to provide the resources for Mrs. Cevallos and Mr. Eleazar Arciniega through the Executive Commission for Victim Assistance (Comisión Ejecutiva de Atención a Víctimas; "CEAV") to buy a house after registering them in the National Registry of Victims (Registro Nacional de Víctimas).⁵⁰ The house must be located in the Insurgente, Loma Dorada, or Los Moros neighborhoods in Chihuahua.⁵¹ The house must have at least four bedrooms, two bathrooms, an equipped kitchen, laundry room, and large patio.⁵² The UDDH of the State's SEGOB and the CEAV will manage this reparation.⁵³

5. Provide Resources for Improvements to Mr. José Loera's House

The State agreed to provide the agreed-upon amount for Mr. Loera to make necessary improvements to his house in Baborigame through the CEAV after he is registered in the National Registry of Victims.⁵⁴ The State also committed to providing the support necessary for the improvements until they are completed.⁵⁵ The UDDH of the

48. The Court declined to mention the monetary amounts that the State promised to pay to Mr. Trueba Arciniega's relatives because the parties agreed on the amounts and to protect the victims. *Mirey Trueba Arciniega v. Mexico*, Merits, Reparations, and Costs, ¶ n.52.

49. *Id.* ¶ 47 (C.1).

50. *Id.* ¶ 47 (C.2).

51. *Id.*

52. *Id.*

53. *Id.*

54. *Mirey Trueba Arciniega v. Mexico*, Merits, Reparations, and Costs, ¶ 47 (C.3).

55. *Id.*

201x]

Desktop Publishing Example

109

State's SEGOB, the CEAV, and the Representatives will manage this reparation.⁵⁶

6. Provide Food to Mr. Mirey Trueba's Parents

The State agreed to provide a monthly basket of food from December 2022 for a period of five years to Mr. Mirey Trueba's parents.⁵⁷ The basket must contain all of the products listed by the National Institute of Statistics and Geography (Instituto Nacional de Estadística y Geografía) for basic food baskets, and must be annually updated.⁵⁸ The UDDH of the State's SEGOB and the CEAV will manage this reparation.⁵⁹

7. Publicly Acknowledge Responsibility

The State agreed to publicly acknowledge responsibility by preparing and reading an initialed document based on facts that the Court found.⁶⁰ The document will be prepared by SEGOB and the Deputy Secretary for Multilateral Affairs and Human Rights of the State's Secretariat of Foreign Affairs (Secretaría de Relaciones Exteriores; "SRE").⁶¹ This document will also be published in the Official Gazette, an additional newspaper that is widely circulated in Chihuahua, and on the SEGOB and the SRE's websites.⁶² The document must be approved by the victims before the State publishes it.⁶³ The UDDH of the State's SEGOB will manage this reparation.⁶⁴

8. Train State Agents

The State agreed to implement training courses for armed forces on: (1) the standards for using excessive force, and (2) Human Rights standards regarding citizen security, considering the United Nation's standards on the Basic Principles on the Use of Force and Firearms by Officials Responsible for Enforcing the Law (Principios Básicos sobre el

56. Mirey Trueba Arciniega v. Mexico, Merits, Reparations, and Costs, ¶ 47 (C.3).

57. *Id.* ¶ 47 (C.4).

58. *Id.*

59. *Id.*

60. *Id.* ¶ 47 (C.5).

61. *Id.*

62. *Id.*

63. Mirey Trueba Arciniega v. Mexico, Merits, Reparations, and Costs, ¶ 47 (C.5).

64. *Id.*

Empleo de la Fuerza y de Armas de Fuego por los Funcionarios Encargados de hacer cumplir la Ley).⁶⁵ These courses must be permanent and taught regularly by the State's Secretariat of National Defense (Secretaría de la Defensa Nacional; "SEDENA").⁶⁶ The State will also develop assessments to evaluate the results and impact of the training courses.⁶⁷ The UDDH of the State's SEGOB and the SEDENA will manage this reparation.⁶⁸

9. Train the Authorities that Investigate and Prosecute Officer-Involved Shootings

The State agreed to implement a permanent training program for agents of the State's Federal Public Ministry (Ministerio Público de la Federación) through the Attorney General's Office (Procuraduría General de la República; "PGR") on: (1) due diligence in investigating human rights violations committed by security personnel; (2) international standards on excessive use of force; and (3) procedural safeguards for victims of human rights violations.⁶⁹

10. Report on Compliance

As part of the compliance monitoring procedure of the Judgment, the Court determined that it will monitor compliance with all the measures in the Agreement.⁷⁰ The Court will monitor compliance for two years and determine whether to continue the measures.⁷¹

The Court will also monitor compliance with training and implementing training programs for state agents for two years, after which the Court will determine whether to continue the measures.⁷²

B. Compensation

The Court awarded the following amounts:⁷³

65. *Id.* ¶ 48 (D.1).

66. *Mirey Trueba Arciniega v. Mexico, Merits, Reparations, and Costs*, ¶ 48 (D.1).

67. *Id.*

68. *Id.*

69. *Id.* ¶ 48 (D.2).

70. *Id.* ¶ 51.

71. *Id.*

72. *Mirey Trueba Arciniega v. Mexico, Merits, Reparations, and Costs*, ¶ 48 (D.1-D.2).

73. The Court refrained from mentioning the monetary amounts that the State promised to pay because the parties agreed on the reparations and to guarantee the beneficiaries' safety. *Id.* n. 52; ¶ 49.

201x]

Desktop Publishing Example

111

1. Pecuniary and Non-Pecuniary Damages

The State committed to pay the amount approved by the Technical Trust Committee (Comité Técnico del Fideicomiso) on April 9, 2018, for pecuniary and non-pecuniary damages, as well as for Mr. Mirey Trueba's loss of earnings.⁷⁴ The UDDH of the State's SEGOB will manage this reparation.⁷⁵

2. Costs and Expenses

The State agreed to pay \$5,000 to COSYDDHAC and \$5,000 to CEJIL for costs and expenses incurred in administering this case.⁷⁶

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

\$ 10,000 + eventually agreed-upon amounts

C. Deadlines

The State must review Mr. Rodríguez's criminal case within six months of the signing the Agreement.⁷⁷

The State must provide the resources for Mr. Eleazar Trueba Arciniega to start a productive project within six months of the signing the Agreement.⁷⁸

The State must provide the resources for a house and furniture to Mrs. Cevallos and Mr. Eleazar Trueba Arciniega after their registration in the National Registry of Victims and within six months of the signing of the Agreement.⁷⁹

The State must provide the resources for improvements to Mr. Loera's house after he is registered in the National Registry of Victims and within six months of the signing of the Agreement.⁸⁰

The State must publish the initialed document acknowledging responsibility on the SEGOB and SRE websites within twelve months of

74. Mirey Trueba Arciniega v. Mexico, Merits, Reparations, and Costs, ¶ 49.

75. *Id.*

76. *Id.* ¶ 50.

77. *Id.* ¶ 45.

78. *Id.* ¶ 47 (C.1).

79. *Id.* ¶ 47 (C.2).

80. Mirey Trueba Arciniega v. Mexico, Merits, Reparations, and Costs, ¶ 47 (C.3).

the signing of the Agreement.⁸¹ The State must also submit a schedule for complying with this measure within three months, and fully comply within six months, of the signing of the Agreement.⁸²

The State must submit a schedule for complying to train state agents explaining how and when to comply, as well as how results will be measured, within six months of the signing of the Agreement.⁸³

The State must pay the agreed-upon amounts for pecuniary and non-pecuniary damages within three months of the signing of the Agreement.⁸⁴

The State must pay costs and expenses within six months of the signing of the Agreement.⁸⁵

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

Mirey Trueba Arciniega et al. v. Mexico, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (Ser. L.) No. 159 (November 29, 2016).

3. Provisional Measures

[None]

81. Mirey Trueba Arciniega v. Mexico, Merits, Reparations, and Costs, ¶ 47 (C.5).

82. *Id.*

83. *Id.* ¶ 48 (D.1).

84. *Id.* ¶ 49.

85. *Id.* ¶ 50.

201x]

Desktop Publishing Example

113

4. Compliance Monitoring

[None]

5. Review and Interpretation of Judgment

[None]

B. Inter-American Commission

1. Petition to the Commission

[Not Available]

2. Report on Admissibility

Mirey Trueba Arciniega v. Mexico, Admissibility Report, Report No. 48/08, Inter-Am. Comm'n H.R., Case No. 12.659 (July 24, 2008).

3. Provisional Measures

[None]

4. Report on Merits

Mirey Trueba Arciniega et al. v. Mexico, Report on Merits, Report No. 47/16, Inter-Am. Comm'n H.R., Case No. 12.659 (November 29, 2016).

5. Application to the Court

[Not Available]

VIII. BIBLIOGRAPHY

[None]