

Liakat Ali Alibux v. Suriname

ABSTRACT¹

This case is about the indictment, trial, and sentencing on a high-profile politician and former Minister of Suriname. In this case, the Court discussed freedom from ex post facto laws (which Suriname did not violate) and the right to appeal (which Suriname did violate).

I. FACTS

A. Chronology of Events

November 30, 1948: Mr. Liakat Ali Errol Alibux is born in Paramaribo, Suriname.² Mr. Alibux becomes a sociologist and holds several positions in public service.³

September 1996 – August 2000: Mr. Alibux serves as the Minister of Natural Resources.⁴

December 1999 – August 2000: Mr. Alibux serves as the Minister of Finance.⁵

June – July 2000: Mr. Alibux, acting as Minister of Finance of Suriname, purchases 1,292.62 square meters of property in Grote Combéweg, Paramaribo, for the Ministry of Regional Development.⁶ The complex of buildings is valued at the equivalent of \$900,000 U.S. dollars.⁷

August 2000: Mr. Alibux resigns from his governmental post when Mr.

1. Björn Roos, Author; Sean Lask, Editor; Hayley Garscia, Chief IACHR Editor; Cesare Romano, Faculty Advisor.

2. *Liakat Ali Alibux v. Suriname*, Preliminary Objections, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 276, ¶ 32 (Jan. 30, 2014).

3. *Id.*

4. *Id.*

5. *Id.*

6. *Id.* ¶ 33.

7. *Id.*

Ronald Runaldo Venetiaan replaces Mr. Jules Albert Wijdenbosch as President of Suriname.⁸

April – August 2001: State police conduct a preliminary investigation of Mr. Alibux regarding possible criminal offenses related to the purchased property.⁹ They suspect Mr. Alibux of committing forgery in preparing a proposal letter to the Council of Ministers concerning the purchase of the property to expand the office space of the Ministry of Regional Development and elaborating a decision of the Council of Ministers approving the sum of \$900,000 to purchase it.¹⁰ Further, the police allege fraud for the personal benefit or third-party benefit from the disbursement of \$900,000 by the Central Bank of Suriname and one count of violating the Foreign Exchange Law for making a payment in foreign currency to a resident of Suriname through the sale of the property without the authorization of the Foreign Exchange Commission.¹¹

April 6, 2001: At the preliminary investigation, Mr. Alibux testifies that he acted under the guidance of the Vice President when he purchased the buildings in Grote Combéweg.¹² Mr. Alibux also contends the Ministry of Finance prepared a proposal to the Council of Ministers for the acquisition of the property and the proposal was approved by the Council on June 23, 2000.¹³

August 6, 2001: Mr. Alibux again testifies and reiterates his testimony from April 6, 2001.¹⁴

August 9, 2001: The Prosecutor General writes to the President of the Republic, requesting the indictment of Mr. Alibux by the National Assembly.¹⁵

August 15, 2001: The President of the Republic forwards the letter to the Speaker of the National Assembly.¹⁶

8. *Id.*

9. *Id.* ¶ 34.

10. *Id.*

11. *Id.*

12. *Id.*

13. *Id.*

14. *Id.*

15. *Id.* ¶ 35.

16. *Id.*

October 18, 2001: The President of the Republic, following the approval of the Council of State and the National Assembly, ratifies the Indictment of Political Office Holders Act (“IPOHA”) and implements Article 140 into the State Constitution.¹⁷ The IPOHA aims to hold political officials liable for crimes committed while in office even after their retirement.¹⁸ The IPOHA also states that the Prosecutor General has the authority to petition the National Assembly directly for indictment of current or former political office holders.¹⁹

November 27, 2001: The Speaker of the National Assembly informs the Prosecutor General of the approval of the IPOHA and requests him to withdraw the August 9 letter and resend the request to the National Assembly pursuant to the new law.²⁰

January 4, 2002: Prosecutor General revokes his August 9 letter to the President, and requests that the National Assembly indict Mr. Alibux.²¹ Mr. Alibux is notified of the request.²²

January 17, 2002: The National Assembly grants the request to indict Mr. Alibux.²³ On the same day, Mr. Alibux files his defense brief before the National Assembly.²⁴ In his brief, Mr. Alibux maintains that he did not commit a punishable act by purchasing the property in 2000.²⁵

January 28, 2002: An Examining Judge in charge of Criminal Matters with the District Courts begins a preliminary inquiry against Mr. Alibux.²⁶

March 27, 2002 and September 20, 2002: Mr. Alibux, in a statement

17. *Id.* ¶ 36. Article 140 of the Constitution of Suriname states, “Those who hold political office shall be liable to trial before the High Court, even after their retirement, for indictable acts committed in discharging their official duties. Proceedings are initiated against them by the Attorney-General after they have been indicted by the National Assembly in a manner to be determined by law. It may be determined by law that members of the High Boards of State and other officials shall be liable to trial for punishable acts committed in the exercise of their functions.”
Id.

18. *Id.*

19. *Id.* ¶ 37.

20. *Id.* ¶ 38.

21. *Id.* ¶ 39.

22. *Id.*

23. *Id.* ¶ 40.

24. *Id.*

25. *Id.*

26. *Id.* ¶ 41.

before the Examining Judge, reiterates that he did not commit the offenses for which he is accused.²⁷

October 8, 2002: The Examining Judge concludes the preliminary inquiry.²⁸

October 29, 2002: The Prosecutor General informs Mr. Alibux that he will be prosecuted for the crimes of forgery, fraud, and a violation of the Foreign Exchange Act before the High Court of Justice.²⁹

November 11, 2002: Mr. Alibux submits a brief to the High Court of Justice, asserting that the decision by the Prosecutor General was illegal since the IPOHA is contrary to law and is applied retroactively.³⁰ Mr. Alibux files an objection with the High Court of Justice requesting that prosecution be halted.³¹

December 27, 2002: The High Court of Justice decides that Mr. Alibux's objection is inadmissible because it does not fall within the court's jurisdiction according to the Code of Criminal Procedure.³²

January 3, 2003: State police stop Mr. Alibux at the Paramaribo airport and prevent him from leaving the country for a four-day trip to St. Maarten.³³ There is no indication that Mr. Alibux challenges this act by any means.³⁴

Sometime Before June 12, 2003: Mr. Alibux's attorney presents objections.³⁵ Among his objections, Mr. Alibux's attorney claims that: (a) Article 140 of the Constitution and IPOHA are incompatible with Article 8(2)(h) (Right to Appeal) of the American Convention; (b) the indictment should be inadmissible since IPOHA was applied retroactively; and (c) on December 27, 2002, the High Court of Justice did not have the power to rule on the admissibility of Mr. Alibux's objections.³⁶

27. *Id.*

28. *Id.*

29. *Id.*

30. *Id.* ¶ 42.

31. *Id.*

32. *Id.* ¶ 43.

33. *Id.* ¶ 44.

34. *Id.*

35. *Id.* ¶ 45.

36. *Id.*

June 12, 2003: The High Court of Justice issues a Resolution denying all of Mr. Alibux's objections.³⁷

November 5, 2003: The High Court of Justice convicts Mr. Alibux of one count of forgery and orders his arrest.³⁸ Mr. Alibux is sentenced to imprisonment for a period of one year and is barred from holding office as a cabinet minister for a period of three years.³⁹ Further, the High Court of Justice states that it lacks jurisdiction to rule on the charges of forgery, fraud, and violation of the Foreign Exchange Act.⁴⁰ At this time, there is no judicial mechanism through which Mr. Alibux may appeal the verdict.⁴¹

February 2004: Mr. Alibux begins his sentence in the Santo Boma prison.⁴²

August 14, 2004: Mr. Alibux is released from prison through a Presidential Decree granting pardon to all convicted persons.⁴³

August 27, 2007: IPOHA is amended allowing those indicted to be initially tried by a panel of three judges of the High Court of Justice, and on appeal, by five to nine judges of the same court.⁴⁴ Additionally, all persons convicted prior to the amendment are given the right to appeal their convictions within three months.⁴⁵ Mr. Alibux does not appeal his conviction.⁴⁶

B. Other Relevant Facts

[None]

37. *Id.* ¶ 46.

38. *Id.* ¶ 47.

39. *Id.*

40. *Id.*

41. *Id.*

42. *Id.* ¶ 48.

43. *Id.*

44. *Id.* ¶ 49.

45. *Id.*

46. *Id.*

II. PROCEDURAL HISTORY

A. Before the Commission

August 22, 2003: The Inter-American Commission on Human Rights receives Mr. Alibux's petition dated July 20, 2003.⁴⁷

March 9, 2007: The Inter-American Commission approves the Admissibility Report No. 34/07.⁴⁸

July 22, 2011: The Commission approves the Merits Report No. 101/11, making several recommendations to the State.⁴⁹

B. Before the Court

January 20, 2012: The Commission submits the case to the Court after the State failed to adopt its recommendations.⁵⁰

1. Violations Alleged by Commission⁵¹

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

Article 9 (Freedom from *Ex Post Facto* Laws)

Article 22 (Freedom of Movement and Residence)

Article 25 (Right to Judicial Protection)

2. Violations Alleged by Representatives of the Victims⁵²

Same Violations Alleged by the Commission.

August 21, 2012: The State submits preliminary objections to the Court.⁵³

47. Liakat Ali Alibux v. Suriname, Admissibility Report, Report No. 34/07, Inter-Am. Comm'n H.R., Case No. 12.608, ¶ 8 (Mar. 9, 2007).

48. Liakat Ali Alibux v. Suriname, Preliminary Objections, Merits, Reparations and Costs, ¶ 2.

49. *Id.*

50. *Id.* ¶ 1.

51. *Id.* ¶ 2.

52. *See generally id.* Mr. Irvin Madan Dewdath Kanhai serves as the representative of Mr. Alibux.

53. *Id.* ¶ 6.

December 20, 2012: The parties are ordered to appear at a public hearing on February 6, 2013 to present their final oral arguments and observations on the State's preliminary objections and merits, reparations and costs, and to hear Mr. Alibux's testimony.⁵⁴

February 6, 2013: The public hearing takes place.⁵⁵

III. MERITS

A. *Composition of the Court*

Humberto Antonio Sierra Porto, President
Roberto de Figueiredo Caldas, Vice-President
Manuel E. Ventura Robles, Judge
Diego García-Sayán, Judge
Alberto Pérez Pérez, Judge
Eduardo Vio Grossi, Judge
Eduardo Ferrer Mac-Gregor Poisot, Judge

Pablo Saavedra Alessandri, Secretary
Emilia Segares Rodríguez, Deputy Secretary

B. *Decision on the Merits*

January 30, 2014: The Court issues its Judgment on Preliminary Objections, Merits, Reparations and Costs.⁵⁶ The Court dismisses the State's preliminary objections by five votes to two.⁵⁷ The three preliminary objections allege the victim's failure to exhaust domestic remedies.⁵⁸ The State maintains the victim failed to comply with Article 46(1)(a) (Exhaustion of Domestic Remedies) of the Convention by submitting his petition to the Commission before final judgment had been reached in the criminal proceedings brought against him.⁵⁹ The State further alleges that Mr. Alibux voluntarily refused to exercise domestic remedies

54. *Id.* ¶ 8.

55. *Id.*

56. *Liakat Ali Alibux v. Suriname*, Preliminary Objections, Merits, Reparations and Costs.

57. *Id.* ¶ 21, "Decides" ¶ 1. Judges Humberto Antonio Sierra Porto, Roberto de Figueiredo Caldas, Manuel E. Ventura Robles, Diego García-Sayán, and Eduardo Ferrer Mac-Gregor Poisot voting in favor, and Judges Alberto Pérez Pérez and Eduardo Vio Grossi voting against.

58. *Id.* ¶ 11.

59. *Id.*

that became available to him following the amendment to IPOHA.⁶⁰ Finally, the State argued that the victim did not bring forth any type of action before the domestic tribunals the impediment of his departure in January 2003.⁶¹

Regarding the first preliminary objection, the Court finds that due to the absence of a mechanism by which petitioner could appeal the potential conviction, the issuance of a domestic judgment was not required before presenting the case before the Commission.⁶²

The Court next addresses the State's objection over the lack of exhaustion of the appeal process provided by the amendment to IPOHA.⁶³ Here, the Court finds that the objection to the Court's exercise of jurisdiction should have been raised at an appropriate procedural stage.⁶⁴ The Court highlights that the State did not make reference to the introduction of the available remedy, nor did it indicate that Mr. Alibux must exhaust the remedy once it became available to him.⁶⁵ The Court concluded that because the remedy did not exist at the time Mr. Alibux was convicted, the preliminary objection for lack of domestic appeal is time-barred.⁶⁶

Lastly, regarding the third preliminary objection, the Court acknowledges that Mr. Alibux did not file any remedy before the State's domestic tribunals.⁶⁷ Nevertheless, because the State did not introduce the materials necessary for its admissibility before the Commission or indicate what remedies Mr. Alibux should have exhausted, the issue is not brought before the Court.⁶⁸

60. *Id.*

61. *Id.*

62. *Id.* ¶ 18.

63. *Id.* ¶ 19.

64. *Id.*

65. *Id.*

66. *Id.*

67. *Id.* ¶ 20.

68. *Id.*

The Court found by six votes to one that Suriname had violated.⁶⁹

Article 8(2)(h) (Right to Appeal), in relation to Article 1(1) of the Convention, to the detriment of Mr. Alibux,⁷⁰ because:

*Mr. Alibux did not have an effective judicial remedy to appeal his judgment of conviction from the High Court of Justice and the violation of the right to appeal had already materialized before the State established an appeals process.*⁷¹

*The Court indicated that the right to appeal a judgment to a higher judge or court must be respected as part of the due process of law.*⁷² *Minimal rights must be guaranteed to all those subjected to a criminal proceeding and judgment, including the right to defense against a flawed ruling before judgment becomes res judicata.*⁷³ *Although the use of the highest court for criminal prosecution of government officials is not a per se violation of the right to appeal, the right to judicial review is not offset if the decision is one of first instance.*⁷⁴ *Furthermore, the State must ensure that the appeal mechanism efficiently and adequately protects the right to review the conviction.*⁷⁵

*While the High Court of Justice was an appropriate forum for the prosecution of Mr. Alibux, the rank of the court itself could not guarantee that the judgment would be free from error.*⁷⁶ *The lack of a high court or judge to review the conviction is contrary to the right to appeal.*⁷⁷ *The State should have ensured, at the time of conviction, that Mr. Alibux had the possibility to appeal that was adequate and efficient.*⁷⁸ *Although of the possibility for Mr. Alibux to appeal his conviction transpired in 2007, the lack of juridical review at the time of his conviction was sufficient to establish a violation.*⁷⁹

69. Judges Humberto Antonio Sierra Porto, Roberto de Figueiredo Caldas, Manuel E. Ventura Robles, Diego García-Sayán, Alberto Pérez Pérez, and Eduardo Ferrer Mac-Gregor Poisot voting in favor, and Judge Eduardo Vio Grossi voting against.

70. *Id.* ¶¶ 77-111.

71. *Id.* ¶ 111.

72. *Id.* ¶ 84.

73. *Id.* ¶ 85.

74. *Id.* ¶¶ 89-91.

75. *Id.* ¶¶ 107-110.

76. *Id.* ¶ 103.

77. *Id.* ¶ 90.

78. *Id.* ¶¶ 107-110.

79. *Id.* ¶ 110.

*Therefore, the Court found that the State violated Article 8(2)(h) (Right to Appeal) of the Convention.*⁸⁰

Article 22 (Freedom of Movement and Residence) in relation to Article 1(1) of the Convention, to the detriment of Mr. Alibux,⁸¹ because:

*The State did not employ clear and specific regulations that established the legality of the restriction on Mr. Alibux's freedom of movement.*⁸²

*While the Convention provides that every person has the right to leave any country freely, that right may be curtailed pursuant to specific provisions of Article 22(3) and 30 of the Convention.⁸³ It is imperative that state actions limiting basic rights, namely the right to leave one's own country, be designed by laws passed by the legislature in accordance with specific and established guidelines.⁸⁴ State authorities failed to precisely define the exceptional circumstances or legislation that warranted the limitations placed on Mr. Alibux's freedom of movement.*⁸⁵

*Thus, the Court found that the State violated Article 22 (Right to Freedom of Movement and Residence) of the Convention.*⁸⁶

The Court found by six votes to one that Suriname had not violated:

Article 9 (Freedom from *Ex Post Facto* Laws), in relation to Article 1(1) of the Convention, to the detriment Mr. Alibux,⁸⁷ because:

At the time Mr. Alibux committed the crime with which he was charged, the conduct was sufficiently established as a crime within the State's Penal Code.⁸⁸ Because the application of IPOHA established the procedural regulations and mechanisms for prosecution, and did not affect the classification or severity of the penalty, the right to freedom from ex

80. *Id.* ¶ 111.

81. *Id.* ¶¶ 126-136.

82. *Id.*

83. *Id.* ¶ 132.

84. *Id.* ¶ 134.

85. *Id.* ¶ 135.

86. *Id.* ¶ 136.

87. *Id.* ¶¶ 53-76.

88. *Id.*

post facto laws was maintained.⁸⁹

The Court found that the State upheld its obligation under Article 9 (Freedom from Ex Post Facto Laws) after analyzing the scope of the rule of freedom from *ex post facto* laws, the temporal application of norms governing the procedure, and the application of the IPOHA to Mr. Alibux.⁹⁰ First, the Court acknowledged that the definition of an act as an unlawful act and the determination of its penalties must precede the conduct of the violator.⁹¹ When applying criminal legislations, the Court noted that judges are obligated to strictly adhere to the State's own provisions to guarantee that the defendant's behavior corresponds to a preexisting criminal codification:⁹² that is, a clear definition of the criminalized conduct establishing elements and factors that distinguish it from non-criminal behavior.⁹³

Second, regulations governing procedure are drawn from the inception of the procedural act.⁹⁴ Unlike regulations establishing new criminalized conduct or penalties, the creation of a new procedure after the crime was committed does not violate the principle of legality.⁹⁵

Third, the State's provisions on the crime for which Mr. Alibux was charged were established with sufficient notice and specification that they may constitute criminal violations.⁹⁶ The freedom from *ex post facto* laws does not apply since the IPOHA enacted a procedure to prosecute existing laws and did not modify the inherent nature of a crime or penalty that had been codified.⁹⁷

As a result, the Court determined that the State did not violate Article 9 (Freedom from Ex Post Facto Laws).⁹⁸

89. *Id.*

90. *Id.* ¶ 58.

91. *Id.* ¶ 59.

92. *Id.* ¶ 60.

93. *Id.* ¶ 61.

94. *Id.* ¶¶ 68, 69, 70.

95. *Id.*

96. *Id.* ¶ 73.

97. *Id.* ¶ 74.

98. *Id.* ¶ 76.

Article 25 (Right to Judicial Protection) in relation to Article 1(1) of the Convention, to the detriment of Mr. Alibux,⁹⁹ because:

*The Court did not consider it necessary to make determinations on objections raised by Mr. Alibux to the High Court of Justice or those that were already incorporated within the violation of the right to appeal the judgment, which were deemed not to be a violation of Article 9 of the Convention, or were not required by the Convention.*¹⁰⁰

*Although Mr. Alibux submitted five interlocutory objections challenging the jurisdiction of the High Court of Justice, two were previously addressed by the Court's ruling on the alleged violations of Article 8(2)(h) (Right to Appeal) and 9 (Freedom from Ex Post Facto Laws).¹⁰¹ The remaining objections related to the jurisdiction of the High Court of Justice and were dismissed since the obligation to monitor compliance between domestic legislation and the Convention is delegated to all bodies of the state, and not restricted to a specific body.*¹⁰²

As such, the Court determined that the State did not violate Article 25 (Right to Judicial Protection).

C. Dissenting and Concurring Opinions

1. Separate Opinion of Judge Alberto Pérez Pérez

In a separate opinion, Judge Pérez Pérez communicated his disagreement with the Court's ruling regarding the lack of exhaustion of domestic remedies with respect to the restriction on Mr. Alibux's right to leave the country.¹⁰³ The separate opinion highlighted the fact that the State invoked codified provisions within its constitution and Code of Criminal Procedure when it restricted Mr. Alibux's right to leave the country.¹⁰⁴ However, arguments were not presented before the Court that would have allowed the Court to ascertain whether there were exceptions in domestic law that would have rendered the restriction on

99. *Id.* ¶¶ 112-125.

100. *Id.* ¶¶ 119-124.

101. *Id.* ¶¶ 117-120.

102. *Id.* ¶¶ 121-124.

103. Liakat Ali Alibux v. Suriname, Preliminary Objections, Merits, Reparations and Costs, Separate Opinion of Judge Alberto Pérez Pérez, Inter-Am Ct. H.R. (ser. C) No. 276, ¶ 1 (Jan. 30, 2014).

104. *Id.* ¶ 5.

Mr. Alibux inadmissible.¹⁰⁵

2. Dissenting Opinion of Judge Eduardo Vio Grossi

In a dissenting opinion, Judge Vio Grossi proposed that the Court should admit the first and third preliminary objections of the State concerning the rule of exhaustion of domestic remedies, and without such objections, the Court should not have delivered a ruling on the merits or the case.¹⁰⁶

Specifically, regarding the first preliminary objection, Judge Vio Grossi maintained that the issuance of a judgment by the Court is inconsistent with the inherent subsidiary nature of the Court itself.¹⁰⁷ He also asserted that the Court did not discuss the moment at which the requirement for exhaustion of legal remedies must be met.¹⁰⁸ Judge Vio Grossi concluded that the Rules of Procedure require that at the time the Commission decides on the admissibility of a petition, the petitioner must have already pursued and exhausted domestic remedies.¹⁰⁹

Regarding the third preliminary objection, Judge Vio Grossi took issue with the fact that the Court did not consider Mr. Alibux's obligation to prove that it was impossible to exhaust domestic remedies.¹¹⁰

3. Concurring Opinion of Judge Eduardo Ferrer Mac-Gregor Poisot

In a concurring opinion, Judge Mac-Gregor Poisot highlighted two aspects of the Inter-American system not discussed in the Court's judgment.¹¹¹ First, he discussed the alleged victim's right of access to justice before the Inter-American system in light of the State's contention that domestic remedies were not exhausted.¹¹² Second, he examined the right to judicial protection as an integrating element of the fundamental right of national and conventional sources, established in Article

105. *Id.*

106. *Liakat Ali Alibux v. Suriname*, Preliminary Objections, Merits, Reparations and Costs, Dissenting Opinion of Judge Eduardo Vio Grossi, Inter-Am Ct. H.R. (ser. C) No. 276 (Jan. 30, 2014).

107. *Id.*

108. *Id.*

109. *Id.*

110. *Id.*

111. *Liakat Ali Alibux v. Suriname*, Preliminary Objections, Merits, Reparations and Costs, Concurring Opinion of Eduardo Ferrer Mac-Gregor Poisot, Inter-Am Ct. H.R. (ser. C) No. 276, ¶ 1 (Jan. 30, 2014).

112. *Id.* ¶ 3.

25 (Right to Judicial Protection) of the Convention.¹¹³

Regarding the first point of discussion, Judge Mac-Gregor Poisot outlined the procedural stages before a case comes to the Court, which includes filing the petitions, its initial assessment, and the admission of the case to the Court through the adoption of a Report on Admissibility.¹¹⁴ He then discussed the appropriate procedural stage at which the State must object regarding the petitioner's lack of exhaustion of domestic remedies: once the petition has been forwarded to the State, during the first stages of the admissibility proceeding before the Commission.¹¹⁵ Judge Mac-Gregor Poisot then noted that the principle of prior exhaustion of remedies is not only in the interest of the State, but also the alleged victim because it establishes a right to effective legal remedies under Article 25 (Right to Judicial Protection) of the Convention.¹¹⁶ He points out that the European Court of Human Rights has not considered the exhaustion of domestic remedies necessary at the time of the filing of the petition.¹¹⁷ Judge Mac-Gregor Poisot concluded that the exhaustion of remedies must be verified and updated up until the Commission renders a decision on the petition's admissibility.¹¹⁸

Regarding the second point of discussion, Judge Mac-Gregor Poisot first examined the jurisprudence of the Court with regard to Article 25 (Right to Judicial Protection) and its direct relationship to Article 8 (Right to a Fair Trial) in ensuring the right of access to justice.¹¹⁹ He then discussed the role of the Court to not only ensure protection of the rights under the Convention, but also those rights under the Constitution or State legislation.¹²⁰

Next, Judge Mac-Gregor Poisot considered the differences between Article 25 (Right to Judicial Protection) and Article 8(2)(h) (Right to Appeal).¹²¹ He determined that while both must be effective, accessible, and respect the framework of due process of law set forth in Article 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal), Article 25 (Right to Judicial Protection) is broad and general to protect the rights of the Constitution, state laws, and the Convention, and Article 8(2)(h) (Right to Appeal) is limited to

113. *Id.* ¶ 4.

114. *Id.* ¶ 17.

115. *Id.* ¶ 20.

116. *Id.* ¶ 24.

117. *Id.* ¶ 28.

118. *Id.* ¶ 29.

119. *Id.* ¶¶ 30-43.

120. *Id.* ¶ 44.

121. *Id.* ¶¶ 47-68.

promoting the review of a decision within the context of a process that can include the determination of rights and obligations of a criminal, civil, labor, or fiscal nature.¹²² He asserted that the underdeveloped part of Article 25 (Right to Judicial Protection), the right to the guarantee of fundamental rights, serves the normative force of that article.¹²³

Finally, Judge Mac-Gregor Poisot applied his discussion to the facts of the case at hand.¹²⁴ He concluded that Mr. Alibux would not have had, at any moment, access to an effective judicial remedy to protect his claims of constitutionality, legality, and conformity with the Convention, beyond the right to appeal enshrined in Article 8(2)(h).¹²⁵ The Court should have declared the violation of Article 25 (Right to Judicial Protection) in connection with Article 1(1) (Obligation to Respect Rights) and Article 2 (Obligation to Give Domestic Legal Effect to Rights), instead of subsuming it.¹²⁶

IV. REPARATIONS

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

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

1. Publish the Judgment

The State must publish the official summary of the Judgment once in the official gazette and once in a national newspaper with widespread circulation, and also must publish the present Judgment on an official website of the State for one year.¹²⁷

122. *Id.* ¶ 62.

123. *Id.* ¶ 131.

124. *Id.* ¶¶ 95-126.

125. *Id.* ¶ 134.

126. *Id.*

127. *Liakat Ali Alibux v. Suriname*, Preliminary Objections, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 276, ¶ 147 (Jan. 30, 2014).

B. Compensation

The Court awarded the following amounts:

1. Pecuniary Damages

The Court considered Mr. Alibux's request for pecuniary damages time-barred and does not award any to Mr. Alibux.¹²⁸ Because Mr. Alibux only made reference to measures of reparations in his final written argument, the request was outside of the procedural deadline.¹²⁹ Furthermore, the Court stated that it would be inappropriate to award pecuniary damages since it did not determine the State's responsibility for the violation of Article 9 (Freedom from *Ex Post Facto* Laws).¹³⁰

2. Non-Pecuniary Damages

The Court ordered the State to pay \$10,000 to Mr. Alibux as compensation for damage to his moral sphere.¹³¹

3. Costs and Expenses

The Court ordered the State to pay \$3,364 to Mr. Alibux for expenses rendered during the litigation of the case.¹³²

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

\$ 13,364¹³³

C. Deadlines

The State must publish the Judgment within six months of notification of the Judgment.¹³⁴ The State must pay compensation for non-pecuniary damage and reimbursement of costs and expenses directly to Mr. Alibux within one year from the date of notification of the Judgment.

128. *Id.* ¶ 155.

129. *Id.* ¶ 140.

130. *Id.* ¶ 155.

131. *Id.* ¶ 157.

132. *Id.* ¶ 165.

133. *Id.* ¶¶ 157, 165.

134. *Id.* ¶ 147.

ment.¹³⁵ The State is to submit a report to the Court describing the measures adopted in compliance with the Judgment within one year of notification of the Judgment.¹³⁶

V. INTERPRETATION AND REVISION OF JUDGMENT

[None]

VI. COMPLIANCE AND FOLLOW-UP

[None]

VII. LIST OF DOCUMENTS

A. *Inter-American Court*

1. Preliminary Objections

[Liakat Ali Alibux v. Suriname, Preliminary Objections, Merits, Reparations and Costs, Judgment, Inter-Am Ct. H.R. \(ser. C\) No. 276 \(Jan. 30, 2014\).](#)

2. Decisions on Merits, Reparations and Costs

[Liakat Ali Alibux v. Suriname, Preliminary Objections, Merits, Reparations and Costs, Judgment, Inter-Am Ct. H.R. \(ser. C\) No. 276 \(Jan. 30, 2014\).](#)

[Liakat Ali Alibux v. Suriname, Preliminary Objections, Merits, Reparations and Costs, Separate Opinion of Judge Alberto Pérez Pérez, Inter-Am Ct. H.R. \(ser. C\) No. 276 \(Jan. 30, 2014\).](#)

[Liakat Ali Alibux v. Suriname, Preliminary Objections, Merits, Reparations and Costs, Dissenting Opinion of Judge Eduardo Vio Grossi, Inter-Am Ct. H.R. \(ser. C\) No. 276 \(Jan. 30, 2014\).](#)

[Liakat Ali Alibux v. Suriname, Preliminary Objections, Merits, Reparations and Costs, Concurring Opinion of Eduardo Ferrer Mac-Gregor](#)

135. *Id.* ¶ 166.

136. *Id.* ¶ 170.

[Poisot, Inter-Am Ct. H.R. \(ser. C\) No. 276 \(Jan. 30, 2014\).](#)

3. Provisional Measures

[None]

4. Compliance Monitoring

[None]

5. Review and Interpretation of Judgment

[None]

B. Inter-American Commission

1. Petition to the Commission

[None]

2. Report on Admissibility

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