INTER-AMERICAN COURT OF HUMAN RIGHTS

CASE OF ACOSTA MARTÍNEZ ET AL. V. ARGENTINA

JUDGMENT OF AUGUST 31, 2020.

(Merits, reparations and costs)

In the case of *Acosta Martínez et al v. Argentina,*

the Inter-American Court of Human Rights (hereinafter "the Inter-American Court" or "the Court"), composed of the following judges:[*]

Elizabeth Odio Benito, President
Patricio Pazmiño Freire, Vice President
Eduardo Vio Grossi, Judge
Humberto Antonio Sierra Porto, Judge
Eduardo Ferrer Mac-Gregor Poisot, Judge, and
Ricardo Pérez Manrique, Judge,

also present,

Pablo Saavedra Alessandri, Secretary,[**]

pursuant to Articles 62(3) and 63(1) of the American Convention on Human Rights (hereinafter "the American Convention" or "the Convention") and Articles 31, 32, 62, 65 and 67 of the Rules of Procedure of the Court (hereinafter "the Rules of Procedure" or "the Court's Rules of Procedure"), delivers this judgment, which is structured as follows:

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* Judge Eugenio Raúl Zaffaroni, an Argentine national, did not take part in the processing, deliberation, or signature of this judgment, in accordance with the provisions of Article 19(1) and (2) of the Court's Rules of Procedure.

** The Deputy Secretary, Romina I. Sijniensky, did not participate in the processing of this case, or in the deliberation and signature of this judgment.

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I
INTRODUCTION OF THE CASE AND PURPOSE OF THE DISPUTE

1. *The case submitted to the Court.* On April 18, 2019, the Inter-American Commission on Human Rights (hereinafter "the Inter-American Commission" or "the Commission") submitted to the jurisdiction of the Court the case of *José Delfín Acosta Martínez and family regarding the Argentine Republic* (hereinafter also "the State" or "Argentina"). The Commission indicated that the case was related to the illegal and arbitrary detention and subsequent death of José Delfín Acosta Martínez (hereinafter also "Mr. Acosta Martínez" or the "alleged victim"), which took place on April 5, 1996. The Commission asked that the State be found responsible for the violation of the rights to life, personal integrity, personal liberty, equality, and non-discrimination, enshrined in Articles 4(1), 5(1), 5(2), 7(2), 7(3), 7(4), and 24 of the American Convention on Human Rights, in relation to Articles 1(1) and 2 of the same instrument, to the detriment of the alleged victim. Likewise, it asked that Argentina be declared internationally responsible for the violation of the rights to personal integrity, judicial guarantees and judicial protection established in Articles 5(1), 8(1), and 25(1) of the Convention, in relation to Article 1(1) of the same instrument, to the detriment of the next of kin of José Delfín Acosta Martínez.[1]

2. *Procedure before the Commission.* The procedure before the Commission was as follows:

a) Petition. On June 6, 2002, the Comisión de familiares de víctimas de la violencia social (COFAVI), together with the Centro de Investigaciones Sociales y Asesorías Legales Populares (CISALP) and Paola Gabriela Canova, filed a petition on behalf of the alleged victims alleging State responsibility to the detriment of José Delfín Acosta Martínez.

b) Admissibility Report. On July 11, 2013, the Commission adopted Admissibility Report 36/13.

c) Report on the Merits. On December 7, 2018, the Commission approved Report on the Merits 146/18, in which it reached a series of conclusions[2] and made several recommendations to the State.

3. *Notification to the State.* The Report on the Merits was notified to the State in a communication dated January 18, 2019, giving it two months to report on compliance with the recommendations. On March 21, 2019, the Commission granted the State an extension to present its compliance report and, on April 3, 2019, a working meeting was held between the parties. At that meeting, the State presented the petitioner with a proposal on compliance with the recommendations. However, the petitioner found it insufficient and asked the Commission to send the case to the Court. As of the date the case was submitted, the State had not submitted a report on compliance to the Commission, nor had it requested suspension of the deadline set in Article 51(1) of the Convention.

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[1] The relatives are his mother, Blanca Rosa Martínez, and his brother, Ángel Acosta Martínez.

[2] The Commission concluded that the State was responsible for the violation of the rights established in Articles 4(1), 5(1), 5(2), 7(1), 7(2), 7(3), 7(4), 7(5) and 24 of the American Convention in relation to the obligations established in Articles 1(1) and 2 of the same instrument, to the detriment of José Delfín Acosta Martínez. It also concluded that the State was responsible for the violation of the rights enshrined in Articles 5(1), 8(1) and 25(1) of the Convention, in relation to Article 1(1) of the same instrument, to the detriment of the relatives of José Delfín Acosta Martínez.

4. *Submission to the Court.* On April 18, 2019, the Commission submitted all the facts and human rights violations described in the Merits Report to the jurisdiction of the Inter-American Court, "owing to the need to obtain justice and reparation" and because "this case raises issues of inter-American public order."[3]

5. *The Commission's requests.* Based on the foregoing, the Commission asked the Court to find the State internationally responsible for the violations contained in its Report on the Merits (*supra* para. 2.c). The Commission asked the Court to order the State to provide measures of reparation, which are detailed and analyzed in Chapter VIII of this Judgment. This Court notes with concern that almost 17 years have elapsed between the presentation of the initial petition before the Commission and the submission of this case to the Court.

II
PROCEEDINGS BEFORE THE COURT

6. *Notification to the State and the representatives.* The State of Argentina and the representatives of the alleged victims were notified of the case's submission through communications dated May 23 and 31, 2019.

7. *Brief with pleadings, motions and evidence.* On July 24, 2019, the representatives of the alleged victims[4] (hereinafter "the representatives") presented their brief with pleadings, motions, and evidence (hereinafter "pleadings and motions brief"), in accordance with Articles 25 and 40 of the Rules of the Court. The representative agreed with what the Commission had alleged and asked that the State be ordered to adopt a series of measures of reparation and to reimburse costs and expenses.

8. *Answering brief.* On February 15, 2019, the State[5] submitted to the Court its brief answering the Commission's submission of the case, together with its observations on the pleadings and motions brief (hereinafter "answering brief"). In the brief, the State asked that the alleged violations of the rights recognized in the American Convention indicated in the Merits Report and in the pleadings and motions brief be rejected.

9. *Public hearing.* On February 10, 2020, the President issued an Order summoning the parties and the Commission to a public hearing on the merits and possible reparations and costs to hear the final oral arguments of the parties and the final oral observations of the Commission in this regard.[6] The order also called on an alleged victim and a witness

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[3] As its delegates before the Court, the Commission chose Luis Ernesto Vargas Silva, a Commissioner at the time, and Executive Secretary Paulo Abrão. Likewise, it appointed Silvia Serrano Guzmán and Paulina Corominas Etchegaray, then attorneys for the Secretariat, as legal advisers.

[4] The representatives of the alleged victims are Ángel Acosta Martínez, alleged victim and brother of José Delfín Acosta Martínez, Myriam Carsen and Soledad Pujo from CISALP and Alejandra Gatto and Paola Gabriela Canova from Asociación Civil El Trapito.

[5] Initially, the State appointed Alberto Javier Salgado, Director of International Litigation in Human Rights Matters of the Ministry of Foreign Affairs and Religion, as lead agent, along with alternate agents Gonzalo Bueno, Legal Advisor of the Litigation Department on International on Human Rights of the Ministry of Foreign Affairs and Religion, and Ramiro Cristóbal Badía, Director of International Legal Affairs on Human Rights of the Secretariat of Human Rights and Cultural Pluralism of the Nation. Ramiro Cristóbal Badía was later replaced by Andrea Viviana Pochak, Undersecretary of Protection and International Liaison on Human Rights of the National Human Rights Secretariat. Additionally, Gabriela Kletzel, Director of Legal Affairs in Human Rights Matters of the Secretariat for Human Rights of the Nation, was named an alternate agent.

[6] *Cf. Case of Acosta Martínez et al. v. Argentina. Call to hearing.* Order of the President of the Inter-American Court of Human Rights of February 10, 2020. Available at: http://www.corteidh.or.cr/docs/asuntos/acosta_martinez_10_02_2020.pdf.

proposed by the representatives, as well as an expert proposed by the Commission, to testify at the public hearing.[7] The public hearing took place on March 10, 2020, during the 134th regular session that the Court held at its seat in San José.[8] During the hearing, the State acknowledged responsibility for the violations identified by the Commission in its Merits Report. Additionally, during the hearing, the judges of the Court requested certain information and explanations from the parties and the Commission.

10. *Final written arguments and observations.* In view of Orders of the Court 1/20 of March 17, 2020[9] and 2/20 of April 16, 2020,[10] whereby it was decided to suspend the calculation of all deadlines due to the health emergency caused by the COVID-19 pandemic, the deadline for submitting final arguments was extended until June 18, 2020. Thus, on April 21 and June 18, 2020, the representatives and the State presented, respectively, their final written arguments, along with several annexes. The Commission submitted its final written observations on May 5, 2020. On June 9, 2020, the representatives amended and expanded their final arguments.

11. *Useful information and evidence.* At the public hearing, the Court asked the State to present certain documentation as evidence to facilitate adjudication.[11] The State presented part of this documentation along with its final arguments. The Court requested the missing documentation on June 24, 2020, which the State presented in writing on July 8, 2020.

12. *Observations on useful information and evidence.* On July 2, 2020, the representatives presented their observations on the annexes submitted by the State together with the final written arguments. On July 23, 2020, the representatives presented observations on the evidence requested by the Court and presented by the State on July 8, 2020. The Commission did not submit observations.

13. *Deliberation of this case*. The Court deliberated on this judgment in a virtual session on August 27 and 31, 2020.[12]

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[7] *Cf. Case of Acosta Martínez et al. v. Argentina. Call to hearing.* Order of the President of the Inter-American Court of Human Rights of February 10, 2020. Available at: http://www.corteidh.or.cr/docs/asuntos/acosta_martinez_10_02_2020.pdf.

[8] The following people appeared at the hearing: This hearing was attended by: a) on behalf of the Inter-American Commission: Paulo Abrão, then Executive Secretary, and Jorge H. Meza Flores, advisor; b) on behalf of the representatives of the alleged victims: Ángel Acosta Martínez, alleged victim, and Myriam Carsen, lawyer and c) on behalf of the State of Argentina: Alberto Javier Salgado, Director of International Litigation in Human Rights Matters of the Ministry of Foreign Affairs and Religion of the Nation; Andrea Viviana Pochak, Undersecretary of Protection and International Liaison on Human Rights of the Secretariat for Human Rights of the Nation, and Gonzalo Bueno, Legal Advisor of the Litigation Department on International on Human Rights of the Ministry of Foreign Affairs and Religion of the Nation.

[9] Available at: http://www.corteidh.or.cr/docs/comunicados/cp_18_2020.pdf

[10] Available at: http://www.corteidh.or.cr/docs/comunicados/cp_28_2020.pdf

[11] The following were requested: A copy of the detainee logbook from the station where Mr. José Delfín Acosta Martínez was sent, a copy of the Police Edict on Drunkenness; a copy of the Regulation of Procedures for Misdemeanor Offenses; and a copy of the Organic Law of the Federal Police, with all of them being the versions that were in force at the time of the facts of the case. Also requested were the current regulations in force in the City of Buenos Aires—both in terms of substance and procedure—governing detentions without a court order and the powers of the Federal Police regarding misdemeanor offenses, the opinion of PROCUVIN, and the technical report of the General Investigations Criminal Investigation Support Office that served as the basis for this order.

[12] Due to the exceptional circumstances brought about by the COVID-19 pandemic, this judgment was deliberated and approved during the 136th regular sessions, which was held remotely, using technological means, in keeping with the provisions of the Rules of Procedure of the Court.

III
COMPETENCE

14. The Court has jurisdiction to hear this case, pursuant to Article 62(3) of the Convention, because Argentina has been a State Party to the Convention since September 5, 1984, and accepted the contentious jurisdiction of the Court on the same date.

IV
ACKNOWLEDGMENT OF RESPONSIBILITY

A. Recognition by the State, observations of the parties and of the Commission

15. During the public hearing, the ***State*** indicated that it was attending "in the spirit of recognizing and highlighting the struggle of José Delfín Acosta's family for justice and reparation." In its final written arguments, the State repeated this position and expressed the following:

> With a firm commitment to improve institutional quality and guarantee full enforcement of human rights, on December 10, 2019 a new national government took office in the Argentine Republic. As the President of the Nation, Alberto Fernández, expressed when opening the ordinary sessions of Congress: "The defense of human rights is not the backbone of a government but the backbone of the Argentine Republic itself."
>
> Under the logic of this as the objective of State administration, as we stated in our oral arguments, once the new authorities studied the case files and their processing before the Inter-American System—particularly Report No. 146/18 of the […] Inter-American Commission on Human Rights [...] that was submitted to the jurisdiction of this Court, as well as the brief with pleadings, motions, and evidence presented by the representatives of the victims, and the legal opinion of the Office of the Institutional Violence Prosecutor of the Ministry of the Public Prosecutor of the Nation—an autonomous body provided for in the National Constitution—Argentina concluded it was urgent and absolutely necessary to reassess Argentina's position on these actions. The State has therefore decided to take responsibility for the human rights violations committed and, consequently, that the highest court of the region shall establish the measures it deems pertinent to redress them comprehensively.
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> Specifically, the Argentine State accepts the conclusions reached by the […] Inter-American Commission in its report on the merits, for which it acknowledges responsibility pursuant to the terms in which the IACHR found that the violations of the rights to life, personal integrity, personal liberty, equal protection, and non-discrimination suffered by José Delfín Acosta had been committed; along with the violation of the rights to personal integrity, judicial guarantees and judicial protection suffered by José's relatives, in particular Ángel and his mother Blanca Rosa.

16. With regard to reparations, at the public hearing, the State indicated that it "would submit itself to the reparations that this […] Inter-American Court may deem necessary, along with supervision of compliance therewith, to help guarantee the non-repetition of the facts." It reiterated this stance in its final written arguments. However, it clarified that on March 14, 2019, the judicial case investigating the illegal detention and death of José Delfín Acosta Martínez had been ordered reopened in the domestic system of justice. It also indicated that a large portion of the provincial laws providing for police edicts had been repealed and that, in the framework of a friendly settlement reached with the Inter-American Commission in case 12,854, the State had committed to renovating the detention spaces in the police stations intended to temporarily house detainees awaiting transfer or

final release by installing closed-circuit video surveillance systems, a commitment that had already been fulfilled. It likewise indicated that it had already taken a first step toward adopting institutional measures to address discrimination, such as by overhauling the leadership of the Instituto Nacional contra la Discriminación, el Racismo y la Xenofobia (National Institute against Discrimination, Racism and Xenophobia, INADI) and the implementation of the International Decade for People of African Descent. It also noted a reform of the Criminal Procedure Code of the Nation that broadened the categories of people who can become complainants.

17. The ***representatives*** indicated that "it was only on March 10, 2020 that the Argentine State officially recognized the full magnitude and significance of its responsibility." However, they stated that this recognition does not erase the fact that "for 15 years, the Argentine State continued with the policy of concealment and impunity that has been denounced since April 5, 1996, with the aggravating circumstance that, over the course of those 15 years, the cover-up was in the hands of the State representatives responsible for protecting the rights of the victims, not guaranteeing impunity for the perpetrators." They indicated that the State's position throughout the process was to delay it unnecessarily and make false promises to the victim's relatives. They therefore asked that a judgment be issued finding the State responsible and granting measures of reparation requested, especially the measures of non-repetition.

18. The ***Commission*** "welcome[d] and appreciate[d] the State's recognition." It also stressed that "it constitutes a step toward reestablishing the rights of the victims and providing reparations for the violations found." However, it stressed that it should still be noted that "the State has not made public, neither to the Commission nor even to family" the content of the technical report on the case prepared by the Office of the Special Prosecutor against Interinstitutional Violence (hereinafter PROCUVIN). It therefore asked the Court to "declare the human rights violations found by the Commission in its Merits Report and fully recognized by the Argentine State during the public hearing."

B. Considerations of the Court

19. Pursuant to Articles 62 and 64 of the Rules of Procedure, and in exercise of its authority in relation to the international protection of human rights, a matter of international law, the Court must ensure that acts of recognition of responsibility are acceptable for the purposes pursued by the inter-American system.[13] The Court will now proceed to analyze the situation in this specific case.

B.1. Regarding the facts

20. During the public hearing, Argentina acknowledged responsibility for the facts alleged by the Commission in the Merits Report, which was reiterated in its final arguments brief. The Court therefore finds there is no longer a dispute between the parties regarding the arrest, detention and subsequent death of José Delfín Acosta Martínez, as well as regarding the actions carried out by his relatives in order to clarify the truth of the facts.

B.2. Regarding the legal claims

[13] *Cf. Case of Manuel Cepeda Vargas v. Colombia. Preliminary Objections, Merits, Reparations and Costs*. Judgment dated May 26, 2010. Series C No. 213, para. 17, and *Case of Guzmán Albarracín et al v. Ecuador. Merits, Reparations, and Costs.* Judgment of June 24, 2020. Series C No. 405, para. 19.

21. Taking into account the violations recognized by the State, as well as the observations of the representatives and the Commission, the Court finds there is no longer any dispute regarding:

a) The violation of José Delfín Acosta Martínez's right to personal liberty (Article 7(1) of the Convention), in relation to Article 1(1) of the Convention.

b) The illegality and arbitrariness of the arrest and detention of José Delfín Acosta Martínez (Articles 7(2) and 7(3) of the Convention) in the context of racial discrimination (articles 1(1) and 24 of the Convention), in relation to the duty to adopt domestic legal effects (Article 2 of the Convention).

c) The lack of information on the reasons for his detention, to the detriment of José Delfín Acosta Martínez (Article 7(4) of the Convention).

d) The circumstances of his death in a police station in violation of the rights to life (Article 4(1) of the Convention) and personal integrity (Articles 5(1) and 5(2) of the Convention).

e) The violation of the right to humane treatment (Article 5(1) of the Convention), to the detriment of the relatives due to the impacts of the death of José Delfín Acosta Martínez.

f) The violation of the rights to judicial guarantees (Article 8 of the Convention) and judicial protection (Article 25(1) of the Convention), to the detriment of the relatives of José Delfín Acosta Martínez: his mother, Blanca Rosa Martínez, and his brother, Ángel Acosta Martínez.

B.3. Regarding reparations

22. Lastly, with respect to reparations, this Court must analyze the reparations requested by the Commission and the representatives, as the State did not expressly accept them, although it maintained that it would submit to the measures handed down by the Court.

B.4. Assessment of the acknowledgment of responsibility

23. The Court finds that the full acknowledgment of international responsibility makes a positive contribution to the development of these proceedings and the observance of the principles that inspire the Convention, as well as to the victims' needs for reparation.[14] The acknowledgment made by the State has full legal effects pursuant to above-mentioned articles 62 and 64 of the Court's Rules of Procedure, and has significant symbolic value to ensure that similar facts are not repeated. Owing to the comprehensive acknowledgment made by the State, the Court considers that the legal dispute in this case has ceased with regard to the facts, the relevant law, and the need to adopt measures of reparation.

24. In any case, it is necessary to specify the scope of this recognition of responsibility. To start with, because the State had Mr. Acosta Martínez in its custody, it was responsible for his life and integrity. Therefore, this Court finds that the acknowledgment legally means that the death of Mr. Acosta Martínez was not accidental or inadvertent. All of this is

[14] *Cf. Case of Benavides Cevallos v. Ecuador. Merits, Reparations, and Costs.* Judgment of June 19, 1998. Series C No. 38, para. 57, and *Case of Spoltore v. Argentina, Preliminary Objections, Merits, Reparations and Costs*. Judgment June 9, 2020. Series C No. 404, para. 44.

reinforced by the fact that it is the State that was in charge of the evidence to disprove that the death was the result of abuse.

25. Based on the gravity of the facts and the violations acknowledged by the State, the Court considers it necessary to deliver a judgment in which it determines the facts that occurred based on the evidence provided in the proceedings before it and their recognition by the State, as doing so contributes to providing victims with reparations, preventing similar facts from being repeated, and, essentially, fulfilling the purpose of the inter-American human rights jurisdiction.[15] In particular, the Court deems it necessary to analyze the scope of the State's international responsibility owing to the actions of the Argentine Federal Police in the context of the illegal and arbitrary detention of Mr. Acosta Martínez. The Court will also rule on the corresponding reparations. This analysis will help clarify jurisprudential criteria on the matter and the corresponding protection of the human rights of the victims in this case.

26. Additionally, the Court does not consider it necessary at this time to open up a discussion on all the points that were the subject of litigation, since some of the legal claims alleged and recognized by the State in this case—such as regarding José Delfín Acosta Martínez's right to personal integrity and life, as well as the violation of judicial guarantees and judicial protection, to the detriment of his relatives—have already been well established by the Inter-American Court in other cases.

V
EVIDENCE

A. Admissibility of the documentary evidence

27. The Court received various documents presented as evidence by the Commission, the representatives, and the State, which, as in other cases, it admits in the understanding that they were presented at the appropriate procedural moment (Article 57 of the Rules of Procedure).[16]

28. Additionally, in its final arguments, the State submitted—in an annex—a report of March 2017 from the Office of the Institutional Violence Attorney of the Public Prosecutor's Office (PROCUVIN). Despite the fact that this evidence was not presented at the proper procedural moment, because it was submitted as part of the State's acknowledgment of responsibility, and taking into account that the other parties raised no objections to it, the Court admits PROCUVIN's opinion as evidence for the purposes of better adjudication and considering it pertinent and necessary for the evaluation of the facts.[17]

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15 *Cf. Case of Tu Tojin v. Guatemala. Merits, Reparations, and Costs.* Judgment of November 26, 2008. Series C No. 190, para. 26, and *Case of Ruiz Fuentes et al. v. Paraguay. Merits, Reparations, and Costs.* Judgment of March 9, 2020. Series C No. 401, para. 28.

16 Documentary evidence, in general and pursuant to Article 57(2) of the Rules of Procedure, may be presented with the application brief, the pleadings and motions brief, or the answering brief, as applicable, and evidence submitted outside these procedural opportunities cannot be admitted, except in the event of the exceptions stated in the aforementioned Article 57(2) of the Rules of Procedure (namely, *force majeure*, serious impediment) or it refers to an event which occurred after the procedural moments indicated. *Cf. Case of the Barrios Family v. Venezuela. Merits, Reparations, and Costs.* Judgment of November 24, 2011. Series C No. 237, paras. 17 and 18, and *Case of Valle Ambrosio et al. v. Argentina. Merits and Reparations.* Judgment of July 20, 2020. Series C No. 408, para. 13.

17 *Cf. Case of Ivcher Bronstein v. Peru. Reparations and Costs.* Judgment of February 6, 2001. Series C No. 74, para. 71, *mutatis mutandis, Case of Espinoza González v. Peru. Preliminary Objections, Merits, Reparations, and Costs*. Judgment of November 20, 2014, Series C No. 289, para. 43.

B. Admissibility of the testimonial and expert evidence

29. The Court finds it pertinent to admit the statements provided during the public hearing[18] and by affidavit,[19] insofar as these are in keeping with the purpose defined by the order that required them and the subject of this case.

VI
FACTS

30. In this chapter, the Court will establish the facts considered proven in this case based on the body of evidence admitted, the factual framework established by the Report on the Merits, and the State's recognition of international responsibility. Facts submitted by the parties to explain or clarify this factual framework will also be included.[20] The facts are presented below in the following order: a) The context of racial discrimination, police violence, and the use of racial profiling; b) The arrest of Mr. José Delfín Acosta Martínez; c) The arrest and death of Mr. José Delfín Acosta Martínez; d) Investigation proceedings into the death of Mr. José Delfín Acosta Martínez and, e) intimidation and threats against family members and a witness.

A. Context

31. The State recognized that the case of José Delfín Acosta Martínez was not an isolated event, but rather "paradigmatic of the persecution and stigmatization of the persons of African descent in our country" and that it is "an emblematic case of police violence during the 90s, characterized in our country by police brutality and enforcement of the so-called 'police edicts.'"[21] The facts of the case thus took place in a context of both racial discrimination and police violence against the Afro-descendant population in Argentina at the time of the facts, a context that exists to this day.

A.1. Context of racial discrimination

32. At the public hearing, the State recognized the context of racial discrimination in Argentina, referring to "the existence of patterns of practices of institutional violence heavy with racist and discriminatory prejudices." This context persists to this day, as indicated by the State itself in its oral acknowledgment, where it stated that "discrimination in our country continues to be a serious problem, and recognizing this is the first step to adopting effective measures to address it."

33. This context of discrimination is rooted in how Argentine society views the Afro-descendant population. In his expert opinion rendered before the Court, anthropologist

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[18] During the public hearing, the Court heard the statements of alleged victim Ángel Acosta Martínez and witness Andrés Alberto Fresco, who took part via video conference, both proposed by the representatives. The expert opinion of Mr. Juan Pablo Gomara, put forward by the Commission, was also obtained.

[19] The Court received the statements made before a notary public (affidavit) of Blanca Rosa Martínez, Verónica Andrea Brotzman, Lucía Dominga Molina, Mary Sandra Chagas Techera, Néstor Diego Martínez Gutiérrez, and Fernando Ramírez Abella, as well as the expert opinions of Alejandro Frigerio and Víctor Manuel Rodríguez González, put forward by the representatives.

[20] *Cf. Case of the "Five Pensioners" v. Peru. Merits, Reparations, and Costs.* Judgment of February 28, 2003. Series C No. 98, and *Case of Noguera et al. v. Paraguay*, supra, para. 33.

[21] Final arguments of the State of June 18, 2020 (merits file, folios 541 and 542).

Alejandro Frigerio indicated that initially, the Afro-descendant population was simply invisible.[22] Subsequently, a negative perception of the population gave rise to "widespread racism that is generally tacit in nature."[23] He clarified that although this discrimination was not overt, "that does not mean that it was not intense, and that it could not lead to outbreaks of violence in which race was a relevant factor."[24]

34. This erasure of this population and its problems is also reflected in the map of discrimination prepared by the National Institute against Discrimination, Xenophobia and Racism (INADI), showing that 38% of people interviewed in 2014 admitted to feelings of aversion toward people of African descent, but with only 3% recognizing that this group was the most impacted by racial discrimination. However, 61% of the persons of African descent interviewed acknowledged having been victims of discrimination.[25]

35. This situation obscured for many years the reality of long-standing structural racism that persists to this day. This was indicated by the Report of the Working Group of Experts on People of African Descent, where it stated that "the denial of the existence of Afro-Argentines is linked to the country's view of itself 'as a country of Europeans,'" and "such narratives have sought to perpetuate the long-standing invisibility and persistent structural discrimination against Afro-Argentines, people of African descent and Africans to the present day."[26]

36. In 2001, analyzing the report presented by Argentina, the United Nations Committee for the Elimination of Racial Discrimination expressed concern about "the existence of xenophobic attitudes towards immigrants, primarily those from neighbouring countries, asylum-seekers and persons of African descent."[27] In its Concluding Observations on the combined 21 to 23 periodic reports of Argentina, this same Committee stated, in 2017, that "it continues to be concerned about the structural discrimination of which indigenous peoples and Afro-descendants continue to be victims, as well as the invisibility the latter face regarding their rights."[28]

A.2. Context of police violence and use of racial profiling

37. In this case, the context of racial discrimination is combined with a context of police violence in the form of indiscriminate detentions. In the case of *Bulacio v. Argentina*, which

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[22] *Cf.* Expert opinion given before a notary public by Alejandro Frigerio on March 2, 2020 (evidence file, folio 1421).

[23] Expert opinion given before a notary public by Alejandro Frigerio on March 2, 2020 (evidence file, folio 1427).

[24] Expert opinion given before a notary public by Alejandro Frigerio on March 2, 2020 (evidence file, folio 1441).

[25] *Cf.* INADI. *Mapa Nacional de la discriminación. 2da edición.* 2014, pg. 26. Cited by the Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Mr. Mutuma Ruteere, on his mission to Argentina, UN Doc. A/HRC/35/41/Add.1. April 18, 2017, para. 61.

[26] Report of the Working Group of Experts on People of African Descent, Visit to Argentina, UN Doc. A/HRC/42/59/Add.2, August 14, 2019, para. 9.

[27] Committee on the Elimination of Racial Discrimination, *Consideration of reports submitted by States Parties under Article 9 of the Convention: Concluding observations*, UN Doc. CERD/C/304/Add.112, April 27, 2001, obs. 13.

[28] Committee on the Elimination of Racial Discrimination. Concluding observations on the combined twenty-first to twenty-third periodic reports of Argentina, UN Doc. CERD/C/ARG/CO/21-23, January 11, 2017, obs. 6.

took place in the same geographical and temporal context, the Court found, based on the expert opinions included in the case file, that "at the time of the facts, there were indiscriminate police detention practices, including the so-called *razzias*, detentions to establish identity and detentions in accordance with police edicts on misdemeanors."[29]

38. In 1995, the year prior to the arrest and death of Mr. Martínez Acosta, 246,008 detentions were reported by the Federal Police, of which 150,830—that is, about 61%—were detentions for police edicts; 53,293—close to the 22%—were detentions for identity verification; and 41,885—close to 17%—were on warrants or for *flagrante delicto*. This proportion remained stable throughout the 90s and demonstrates the significance of arrests on police edict as a proportion of overall police activity in the City of Buenos Aires.[30]

39. This power to detain was often accompanied by police violence. Thus, in its above-cited 2001 report, the Committee on the Elimination of Racial Discrimination observed that, "there have been reports of police brutality committed on a variety of pretexts, on grounds of race, colour or ethnic origin."[31] These practices of violence continued after the end of the dictatorship, but public denunciation of them did not become widespread until after the State was found responsible for the Bulacio case. It was therefore not until 2010 that this reality of police violence and pursuit of crimes of "having a face" that affect certain population groups—particularly persons of African descent—was confirmed.[32]

40. In his 2017 report, the UN Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance noted "a trend whereby the Buenos Aires Metropolitan Police and Argentine Federal Police enforce profiling in identity checks on the streets. The practice disproportionately affects migrants and people of African descent."[33] In its report after the visit carried out in 2019, the UN Working Group of Experts on People of African Descent stressed that "The experiences of people of African descent with law enforcement indicate the prevalence of structural discrimination. As reported by civil society, racial profiling of Afro-Argentines, people of African descent and Africans is prevalent among law enforcement agents. Negative stereotypes of people of African descent to the effect that they are dangerous, violent criminals involved in drug trafficking and sex work have contributed to excessive policing, resulting in selective and discretionary mechanisms for carrying out arbitrary detentions and investigations."[34] This report specifically mentions the case of José Delfín Acosta Martínez as a paradigmatic case of the disproportionate use of force against people of African descent.

B. Arrest of Mr. José Delfín Acosta Martínez

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[29] *Case of Bulacio v. Argentina. Merits, Reparations, and Costs.* Judgment of September 18, 2003. Series C No. 100, para. 69.

[30] *Cf.* Annual Report of the Centro de Estudios Legales y Sociales (CELS) 1997, pg. 99, document available at [https://www.cels.org.ar/web/wp-content/uploads/2016/10/IA1997.pdf].

[31] Committee on the Elimination of Racial Discrimination, *Consideration of reports submitted by States Parties under Article 9 of the Convention: Concluding observations*, *supra*, obs. 16.

[32] *Cf.* Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Mr. Mutuma Ruteere, on his mission to Argentina, *supra*, para. 27.

[33] Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Mr. Mutuma Ruteere, on his mission to Argentina, *supra*, para. 73.

[34] Report of the Working Group of Experts on People of African Descent, Visit to Argentina, *supra*, para. 30.

41. The brothers José Delfín and Ángel Acosta Martínez, of Uruguayan nationality and of African descent, immigrated to Argentina in 1982.[35] In Argentina, they founded the Grupo Cultural Afro, dedicated to the dissemination of Afro culture and the fight against racial discrimination.[36] According to the version presented by the Commission and the representatives and accepted by the State, it was because of this activism that José Delfín Acosta Martínez decided to intervene when the police were detaining two young Afro-Brazilians outside a nightclub on April 5, 1996.

42. In the early morning hours of April 5, 1996, José Delfín Acosta Martínez was in the vicinity of the Maluco Beleza nightclub, in the center of the city of Buenos Aires. He began a conversation on the street with a Brazilian of African descent named Wagner Gonçalves Da Luz.[37] Mr. Acosta Martínez acted and spoke coherently,[38] although some witnesses said he was drunk.[39] At that moment, two patrol cars of the Argentine Federal Police arrived at the scene, and several police officers got out and questioned Wagner Gonçalves Da Luz.[40] The police officers said that they had received an anonymous complaint that an armed person was there causing a disturbance.[41] They proceeded to put Wagner Gonçalves Da Luz up against the patrol car and detain him. In response, Marcelo Gonçalves Da Luz, Wagner's

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35 Corroborated by the statement made before a notary public by Blanca Rosa Martínez on February 28, 2020 (evidence file, folio 1458) and by the statement given at the public hearing by Ángel Acosta Martínez.

36 Acosta Martínez brothers' work as activists for the rights of Afro-descendant populations and on cultural promotion was mentioned by several witnesses in their statements to this Court. *Cf.* Statement made before a notary public by Néstor Diego Martínez Gutiérrez on February 20, 2020 (evidence file, folios 1446-1447) and statement made before a notary public by Lucía Dominga Molina on February 28, 2020 (evidence file, folio 1454).

37 *Cf.* Statement made before a notary public by Verónica Andrea Brotzman on February 28, 2020 (evidence file, folio 1455).

38 *Cf.* Statement of B.M.G. before the Investigating Judge of April 24, 1996, who attested regarding Acosta Martínez's attitude prior to his arrest that he found him "normal and cheerful" and that he did not notice him under the influence of alcohol (evidence file, folio 98). Statement given on April 24, 1996, by V.B. before the Investigating Judge, indicating that they saw Acosta Martínez in a "normal" state and that he "moved easily and, for example, when he passed by a window and they made a gesture to the witness, he continued on his way without remaining as maybe a sluggish drunk person would have" (evidence file, folio 105). In his statement at the public hearing before the Inter-American Court, witness Alberto Fresco, explained that "he behaved like a normal person, when he came out in defense of my friends […] he spoke correctly, he spoke correctly, a person who not only knew what he was saying, but was grounded in time and space, down to the detail that when he passed us at the bar and smiled, he did not seem like someone who was in a bad state."

39 *Cf.* Statement of R.B. before the Investigating Judge of April 8, 1996 (evidence file, folio 40). In his first statement to the chief of the police station, A.M. stated that Mr. Acosta Martínez appeared "on drugs and aggressive" (evidence file, folio 46). However, in the statement given before the Investigating Judge on April 8, 1996, A.M. indicated "as to the fact that in his previous statement, he states that he had seen the deceased being aggressive, that was not the case. He did notice that he looked drunk" (evidence file, folio 50). F.A.I., the nightclub doorman, who testified before the Examining Magistrate on April 9, 1996, that "the person was drunk, indicating that when he staggered, did not coordinate his movements well, and as an example, he recalls that while he was standing still with a glass of whiskey drinking at the door of the establishment, the glass kept tipping and spilling its contents" (evidence file, folio 64). In his testimony before the Investigating Judge, Wagner Gonçalvez stated with respect to Acosta Martínez "that he was clearly drunk, based on how he spoke, that is, his diction was not clear and he staggered, although what he said was understandable." (evidence file, folio 74). According to the statement of the officer identified as C.O.C., given on April 5, 1996 before the chief of the police station, Acosta Martínez "was under the influence of alcohol or some other drug-related substance {sic} based on abnormal and aggressive conduct that had been evident from the moment the witness made contact with him" (evidence file, folio 130).

40 *Cf.* Statement given by V.B. to the Investigating Judge on April 24, 1996 (evidence file, folio 102).

41 *Cf.* Statements given by D.A.O. to the chief of police station on April 5, 1996 (evidence file, folio 86) and by officer M.H.L. on April 5, 1996 (evidence file, folio 557).

brother, tried to intervene to prevent his brother from being detained.[42] Both were arrested and taken away in patrol car 105.

43. José Delfín Acosta Martínez tried to intervene and protested the arrest of the Gonçalves Da Luz brothers, alleging "they were only arrested for being black."[43] A police officer then asked José Delfín Acosta Martínez for his identification, which the officer threw to the ground, prompting a strong protest from Acosta Martínez.[44] In response, the police officers decided to put him in patrol car 305, where the struggle between the police officers and Acosta Martínez continued.[45]

44. At the time of the arrests, the police officers searched the three detainees and found that none of them were carrying weapons. They used the radio to confirm that there were no warrants out for their arrest. Nevertheless, the three were taken in the patrol cars to Police Station No. 5 of the Federal Police of the City of Buenos Aires.[46]

45. The entry logbook indicates the Drunken Edict as the grounds for José Delfín Acosta Martínez's detention, which punishes persons who are drunk or under the influence of drugs with a fine or arrest.[47]

C. Detention and death of Mr. José Delfín Acosta Martínez

46. The brothers Gonçalves da Luz and José Delfín Acosta Martínez were transferred to Police Station No. 5 of the Argentine Federal Police at 8:30 in the morning. Initially, the three detainees were held in the same corridor. Later, José Delfín Acosta Martínez was taken to a room where there was a bench and a table, while the Gonçalves da Luz brothers were taken to a cell in another part of the police station.[48] There are differing accounts of what happened after the detainees were separated.

47. According to the police's version, at the time of his arrest, José Delfín Acosta Martínez was very upset[49] and began removing all his clothing until he was naked. Because of his aggressiveness, he had to be handcuffed.[50] The police officers alleged that he deliberately

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42 *Cf.* Statement the given by R.B. to the chief of the police station on April 5, 1996 (evidence file, folios 37 and 38), and statement given by A.M. to the chief on April 5, 1996 (evidence file, folios 46 and 47).

43 The literal content of the expression varies depending on the testimony. According to the statement provided by police officer D.A.O. to the chief of the Police Station on April 5, 1996, Mr. Acosta Martínez said "they always mess with the blacks" (evidence file, folio 87). However, despite the varying accounts, the meaning remains the same.

44 *Cf.* Statement of B.M.G. before the Investigating Judge of April 24, 1996 (evidence file, folio 97).

45 *Cf.* Statement made before a notary public by Verónica Andrea Brotzman on February 28, 2020 (evidence file, folio 1456).

46 *Cf.* Statement of police officer D.A.O given to the chief of the police station on April 5, 1996 (evidence file, folios 87 and 88).

47 *Cf.* Statement of Guard official B.L.B. given to the chief of the Police Station on April 6, 1996 (evidence file, folio 55).

48 *Cf.* Pleadings and motions brief of July 24, 2019 (merits file, folio 110).

49 According to the statement by Duty Officer B.L.B. to the chief of the police station on April 8, 1996, Mr. Acosta Martínez "continued to insult the police personnel and acted aggressively" (evidence file, folio 55). This information is confirmed by the statement given by C.O.C. to the chief on April 5, 1996 (evidence file, folio 131), statement given by O.J.O. to the chief of the police station on April 5, 1996 (evidence file, folio 137), and the statement given by Z.R.O. to the chief on April 5, 1996 (evidence file, folio 146).

50 *Cf.* Statement given by C.O.C. to the chief on April 5, 1996 (evidence file, folio 132), statement given by O.J.O. to the chief of the police station on April 5, 1996 (evidence file, folio 137), statement given by H.M.E.

and intentionally threw himself on the floor, hitting himself hard, and that at no time was he struck by the police officers,[51] but rather that he appeared to have experienced a seizure.[52] The representatives rejected this version of events and held that José Delfín Acosta Martínez was beaten by the police until he lost consciousness, with serious injuries. Witnesses present at the police station said they heard Mr. Acosta Martínez screaming while he was in custody.[53]

48. An ambulance from the Emergency Medical Care System (SAME) arrived at the police station. The emergency service doctor proceeded to examine José Delfín Acosta Martínez. In his statement given to the chief of the police station, he indicated that the patient had had a seizure, causing a small bump to the occipital region. He was then placed on a stretcher and taken in the ambulance to the Ramos Mejía hospital. When he was almost to the hospital, Mr. Acosta Martínez suffered a cardiopulminary arrest and died in the ambulance.[54]

D. Investigation into the death of José Delfín Acosta Martínez

D.1. Notification of death and viewing of the body

49. On April 5, 1996, around 3:00 p.m., Mr. Ángel Acosta Martínez arrived at the apartment he shared with his brother José Delfín and found a summons on the ground addressed to a relative of José Delfín Acosta Martínez.[55] At that very moment, a plainclothes police officer knocked on his door and asked him to accompany him to Police Station No. 5 without saying why. Once at the police station, the chief of the police station informed him of the death of his brother. In response, Ángel Acosta Martínez asked to see the body.[56]

50. Ángel Acosta Martínez, accompanied by a friend, was taken to the Judicial Morgue to proceed to view his brother's body. According to his statement, the body of José Delfín showed numerous indications of a beating.[57] Ángel Acosta Martínez next received his

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to the chief of the police station on April 5, 1996 (evidence file, folio 141), statement given by Z.R.O. to the chief of the police station on April 5, 1996 (evidence file, folio 146), and statement given by O.D.A. to the chief of the police station on April 5, 1996 (evidence file, folio 163).

51 *Cf.* Statement given by B.L.B. to the chief of the police station on April 6, 1996 (evidence file, folio 56); statement given by D.A.O. to the chief of the police station on April 5, 1996 (evidence file, folio 88), and statement given by H.M.E. to the chief of the police station on April 5, 1996 (evidence file, folio 142).

52 *Cf.* Statement given by O.J.O. to the chief of the police station on April 5, 1996 (evidence file, folio 138). This version was corroborated by a taxi driver who, according to the police account, was called as a witness. *Cf.* Statement the given by O.D.A. to the chief of the Police Station on April 5, 1996 (evidence file, folios 162 and 163), and expansion of the statement before the Investigating Judge on April 9, 1996 (evidence file, folios 168 and 171). For his part, Alberto Fresco, who witnessed the arrest and then went to the police station where the brothers Gonçalves da Luz and José Delfín Acosta Martínez were detained, testified that the taxi driver who served as a witness to the police actions was not summoned to the police station until after the events took place, at around 10 a.m. *Cf.* Statement given by Andres Alberto Fresco to the Investigating Judge on September 2, 1998 (evidence file, folio 340), reaffirmed in his statement given during the public hearing before this Court.

53 *Cf.* Statement given by R.B. to the Investigating Judge on April 8, 1996 (evidence file, folio 41), and statement given by A.M. to the chief of the police station on April 5, 1996 (evidence file, folio 47).

54 *Cf.* Statement given by J.B.B. to the chief of the police station on April 5, 1996 (evidence file, folio 151).

55 *Cf.* Statement of Angel Acosta Martinez before the Investigating Judge of April 22, 1996 (evidence file, folio 177).

56 *Cf.* Statement of Angel Acosta Martinez before the Investigating Judge of April 22, 1996 (evidence file, folio 181), reaffirmed in his statement at the public hearing before this Court.

57 In his testimony, he states that he noticed "that at the base of the neck, on both sides, near the clavicle, there are spots like purple bruises. On the left parietal part of the skull, a lump is noted. He continues {sic}

brother's belongings. He noted that the shirt had been washed and that the pants had black stains and shoe prints.[58] Likewise, they did not turn over several of his belongings, including the keys to the apartment.[59]

D.2. Autopsies conducted on the body of José Delfín Acosta Martínez

51. On April 5, 1996, a doctor from the Forensic Medical Corps performed an autopsy on the body of José Delfín Acosta Martínez. The report indicated that he died at 8:45 that same day inside a SAME ambulance when he was entering the Ramos Mejía hospital.[60] The examination documented several injuries.[61] In his statement before the Investigating Court, he indicated that all the injuries could be considered "not sufficient to cause death and caused by blows or collision with or against hard objects" and found the cause of death to be "acute pulmonary edema. Intrapulmonary hemorrhage."[62]

52. On April 15, 1996, the radiology department of the forensic medical corps presented its radiological report finding no indication of "osteoarticular alterations or elements of metallic density consistent with a projectile from a firearm."[63]

53. On April 17, 1996, the forensic chemistry and toxicology laboratory indicated that it had found ethyl alcohol in the blood of José Delfín Acosta Martínez's body, 2.81 grams per liter, along with cocaine—5.16 micrograms per milliliter—and a positive result for cocaine from a nasal swab.[64]

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uncovering it and on the left wrist right at the wrist (base of the thumb) he had two violet lines […] His head was tilted a little to the left and I noticed that from the nape of the neck down the his back had a very dark purple color "(Statement of Ángel Acosta Martínez to the Investigating Judge on April 22, 1996, evidence file, folios 186 to 187). This was reaffirmed in his statement at the public hearing before this Court. For his part, C.W.C., who also came to the morgue to view the body, stated that "the deceased being bald, he noticed a bump on the left side of the head, in the upper part, colored. On the trapezius, towards the clavicle, the body had some violet marks, and the upper part of the back looked to be a darker color than his skin […] His wrists showed signs of having been restrained, and the witness assumed they were marks from handcuffs. Lastly, the deponent observed a lump on the groin, which was not colored and was quite pronounced" (Statement of C.W.C. before the Investigating Judge of April 10, 1996 (evidence file, folio 219).

58 *Cf.* Statement of Angel Acosta Martinez before the Investigating Judge of April 22, 1996 (evidence file, folios 193 to 194) and statement of C.W.C. before the Investigating Judge of April 10, 1996 (evidence file, folio 221).

59 *Cf.* Statement of Angel Acosta Martinez before the Investigating Judge of April 22, 1996 (evidence file, folio 193).

60 *Cf.* Autopsy Report No. 673 at 7:10 p.m. on April 5, 1996 (evidence file, folios 227 to 230).

61 The following injuries were documented:
"1) In the right lumbar region, a bluish lesion with an ecchymotic appearance, 6 cm long and with a width of between 1 and 3 mm.
2) In the middle lumbar region near the 1st lumbar vertebra: bluish lesion with an ecchymotic appearance, 5 x 0.1 cm.
3) In the posterior interparietal region of the scalp; three scabby excoriations of 1.3 and 2 mm respectively.
4) In the middle third of the right forearm, ulnar edge: bluish ecchymotic area of 20 x 8 mm.
5) On the left wrist, encircling it, two bluish ecchymotic rings, each 5 mm wide, are observed, separated by 7 mm as they converge on the ulnar edge.
6) In the left frontal temporal region: hematoma of 2 x 3 cm" Autopsy Report No. 673 at 7:10 p.m. on April 5, 1996 (evidence file, folio 228).

62 Autopsy Report No. 673/96 at 7:10 p.m. on April 5, 1996 (evidence file, folio 230).

63 Radiological Report of the Radiology Department of the Forensic Medical Corps, National Judiciary of the Federal Capital, of April 15, 1996 (evidence file, folio 236).

64 *Cf.* Report of the Forensic Toxicology and Chemistry Laboratory of April 17, 1996 (evidence file, folio 238).

54. On April 19, 1996, the Histo-Cytopathology Laboratory of the Judicial Morgue rendered its anatomic-pathological report with the following conclusions "1. Pulmonary congestion and hemorrhage. Food aspiration. Birefringent crystals that polarize light in bronchi and alveoli. 2. Subcutaneous hemorrhage in the lumbar region. 3. Passive renal congestion. Myoma of the spinal cord. 4. Diffuse brain congestion and edema."[65]

55. In the autopsy report of April 22, 1996, based on the toxicological examinations and the anatomic-pathological report, it was concluded that "death occurred due to the combined effects of ethyl alcohol and cocaine, since, when ingested together, they produce the compound called ethylenecocaine […] as a final conclusion, it can be stated then that the death of JOSE DELFIN ACOSTA was due to severe poisoning from cocaine and ethyl alcohol."[66]

56. José Delfín Acosta Martínez's body was repatriated to Uruguay. There, a case was opened, allowing for a second autopsy to be conducted.[67] On November 15, 1996, a Forensic Board made up of three doctors presented its report on the autopsy of José Delfín Acosta Martínez, conducted on April 5, 1996. It describes a series of traumatic injuries and concludes that "the cause of death cannot be determined by this second autopsy [since] due to the time elapsed and the absence of organs, the toxicological study could not be corroborated." Upon analyzing the Argentine toxicological test, the board determined that "the figures documented for the dosage of alcohol and cocaine in the blood are high enough to allow for the conclusion that as of the time of death, they were much higher" and that the results would indicate that Acosta Martínez "was in a coma at the time of his arrest."[68]

57. The performance of this second autopsy enabled Mr. Acosta Martínez's relatives to ask the investigating judge in Argentina to reopen the case. The formation of a medical review board was therefore ordered, composed of three doctors from the Forensic Medical Corps and one outside expert doctor. On June 26, 1998, this Medical Review Board presented its report in which it concluded, among other things, that "he would not necessarily have been unconscious at the time of his arrest, since a blood alcohol level of 2.80 grams per thousand is associated with depression of the central nervous system, whereas cocaine is a stimulant that excites the central nervous system"[69] and that it can be concluded from "reading the two autopsies that the traumas described therein are the result of a blow or collision with a hard object, and it is not possible from a medical perspective to expand on that analysis."[70] The outside expert doctor gave his report in which he detailed that "as to whether José Delfín Acosta Martínez was unconscious or conscious at the time of the arrest, it is not possible to determine this based on the amount of drug found in his body, since this it is closely related to the time at which he ingested the cocaine."[71] Likewise, with respect to the

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65 Pathological Anatomy Report No. 17256 of April 19, 1996 of the Andíomo Histo-Cytopathology Laboratory of the Judicial Morgue (evidence file, folio 243).

66 *Cf.* Autopsy Report No. 673/96 of April 22, 1996 (evidence file, folio 246).

67 *Cf.* Official Letter No. 266 issued by the Thirteenth Criminal Trial Court on October 2, 1996 (evidence file, folio 1233).

68 *Cf.* Report of the Medical Board (Uruguay) issued on November 15, 1996 (evidence file, folio 250).

69 *Cf.* Report of the Medical Board of June 26, 1998 (evidence file, folio 277).

70 *Cf.* Report of the Medical Board of June 26, 1998 (evidence file, folios 279 to 280).

71 Report of H.R.N., outside medical expert, undated (evidence file, folio 284).

injuries, he concluded that "none of the injuries described—both lumbar and cranial—could have been caused by self-harm or seizures."[72]

58. In a brief filed on July 17, 1998, the attorney for the complainant challenged the report issued by the members of the Forensic Medical Corps comprising the Medical Board.[73] On October 21, 1998, the Medical Board joined the outside expert to present a new report. It established that "the amount of cocaine found in ACOSTA JOSE DELFIN's blood is the result of taking a large amount, but it is impossible to conclude whether over 'X' period of time it was one dose or several."[74] Likewise, it was concluded "that it is not scientifically possible to affirm whether he was unconscious or conscious based on the amount of cocaine ingested"[75] and that it is not possible to determine whether or not the injuries could be self-inflicted.[76] In his attached report, the expert witness stressed that "taken out of the context in which the events took place, it can be stated that the injuries described in the two autopsies performed are not fatal. However, taken together, the traumas could cause a neurogenic shock that, in the context of intoxication by alcohol or drugs mixed with alcohol, could have caused Acosta's death."[77]

59. In 2014, the National Directorate for Legal Affairs on Human Rights of the Secretariat for Human Rights and Cultural Pluralism of the Ministry of Justice and Human Rights asked PROCUVIN to investigate the facts of the case. This Attorney General's Office, in turn, requested a report from the General Directorate of Investigation and Technological Support for Criminal Investigation (DATIP), which was presented on July 27, 2015. The report determined that "José Delfín Acosta Martínez had numerous injuries that do not correspond to the usual patterns of self-harm,[78] and some of them are clearly the result of police actions (such as the restraint injuries to both wrists) while in custody" and that "extemporaneous analysis of the record allows for the inference of a co-causality nexus between the multiple injuries observed and the intoxication by alcohol and cocaine, and the death of the individual known in life as José Delfín Acosta Martínez."[79]

D.3. Domestic proceedings

60. As a result of the death of José Delfín Acosta Martínez, case No. 22,190/96, entitled "Acosta Martínez, Delfín José regarding death for uncertain causes" was opened *ex officio*, filed before the National Criminal Investigation Court No. 10. By order of April 10, 1996, Blanca Rosa Martínez, mother of Mr. José Delfín Acosta Martínez, was taken as the

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72 Report of H.R.N., outside medical expert, undated (evidence file, folio 284).

73 *Cf.* Brief filed on July 17, 1998 (evidence file, folios 302 to 307).

74 Report of the Medical Board of October 21, 1998 (evidence file, folio 309).

75 Report of the Medical Board of October 21, 1998 (evidence file, folio 311).

76 *Cf.* Report of the Medical Board of October 21, 1998 (evidence file, folio 312).

77 Report of outside medical expert of October 27, 1998 (evidence file, folio 317).

78 Regarding head injuries, it was determined that "such injuries are not usually caused by self-harm, but the result rather of the participation of third parties. In fact, the injury described by Uruguayan professionals by the petrous part of the temporal bone (which cannot be evaluated with any scientific rigor using the photographs attached), would be even less compatible with self-harm. Rather, its existence indicates the action of a third party in the form of a trauma or blow with a blunt object, with or against the ipsilateral hemicranial surface "(Medical-legal report of the Directorate of Technological Support for Criminal Investigations (DATIP) of July 27, 2015, evidence file, folio 1731).

79 Medical-legal report of the Directorate of Technological Support for Criminal Investigations of July 27, 2015 (evidence file, folio 1732).

complainant in the investigation.[80] On April 9, 1996, the Uruguayan consul in Buenos Aires asked the judge in the case for information about the death of Acosta Martínez.[81] During the investigation, the testimony of several witnesses offered by the plaintiff was taken,[82] and a series of statements were incorporated and/or taken *ex officio*.[83]

61. On April 25, 1996, the investigating judge moved to close the file on the preliminary investigation, concluding that there was no crime.[84] Following the autopsy in Uruguay (*supra* paragraph 56), the complainant requested the reopening of the investigation,[85] which was ordered on May 12, 1998.[86] As part of this process, a new forensic report was ordered by a

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80 *Cf.* Order issued by Investigating Judge No. 10, of April 10, 1996 (evidence file, folio 297).

81 *Cf.* Official letter 267/96 of the Uruguayan Consulate in Buenos Aires of April 9, 1996 (evidence file, folio 616).

82 The following statements were taken: of Ángel Acosta Martínez (given to the chief of police station on April 5, 1996—evidence file, folios 173 to 174—and expanded statement before the Investigating Judge given on April 22, 1996—evidence file, folios 176 to 210); of M.C.R. (statement before the Investigating Judge on April 23, 1996—evidence file, folios 628 to 633); of B.M.G. (statement before the Investigating Judge on April 24, 1996—evidence file, folios 96 to 99); and of V.A.B. (statement before the Investigating Judge on April 24, 1996—evidence file, folios 101 to 106).

83 The statements of the two brothers who were arrested at the same time as Acosta Martínez are incorporated into the file as follows: Wagner and Marcelo Gonçalves Da Luz (statement given to the chief of the police station on April 5, 1996—evidence file, folios 68 to 71; expansion of statement given before the Investigating Judge on April 11, 1996—evidence file, folios 73 to 76; statement given to the chief of the police station on April 5, 1996—evidence file, folios 78 to 79; expansion of statement given before the Investigating Judge on April 11, 1996—evidence file, folios 81 to 84, respectively); of the taxi driver who was called as a witness to the events at the Fifth Police Station, O.D.A. (statement given to the chief of the police station on April 5, 1996—evidence file, folios 160 to 161; expansion of the statement given to the chief of the police station on the same day—evidence file, folios 162 to 165; and expansion of the statement given before the Investigating Judge on April 9, 1996—evidence file, folios 168 to 171); of the eyewitnesses at the nightclub exit: R.B. (statement given before the chief of police station on April 5, 1996—evidence file, folios 35 to 38; and expanded statement given before the Investigating Judge on April 8, 1996—evidence file, folios 40 to 43), A.M. (statement made before the chief of police Station on April 5, 1996—evidence file, folios 45 to 48), and L.A.C. (statement given before the Investigating Judge on April 10, 1996 *ex parte*—evidence file, folios 585 to 589); of duty officer B.L.B. (statement made before the chief of police station on April 6, 1996—evidence file, folios 54 to 57); from the doorman of the Maluco Beleza F.A.I. nightclub (statement given before the chief of police station on April 5, 1996—evidence file, folios 59 to 62; and expanded statement given before the Investigating Judge on April 9, 1996—evidence file, folios 64 to 66); of police officers D.A.O. (statement made before the chief of police Station on April 5, 1996—evidence file, folios 86 to 89), A.G. (statement made before the chief of police station on April 5, 1996–evidence file, folios 91 to 94), C.O.C. (statement made before the chief of police station on April 5, 1996—evidence file, folios 129 to 134), O.J.O. (statement made before the Head of the Police Station on April 5, 1996—evidence file, folios 136 to 139), H.M.E. (statement made before the chief of police station on April 5, 1996—evidence file, folios 140 to 143), Z.R.O. (statement made before the chief of police Station on April 5, 1996—evidence file, folios 145 to 148), C.W.A. (statement made before the chief of police station on April 5, 1996—evidence file, folios 524 to 525), M.H.L. (statement made before the chief of the police station on April 5, 1996—evidence file, folios 557 to 560) and R.F. (statement made before the chief of police station on October 5, 1996—evidence file, folios 562 to 564); of the doctor who was in the ambulance, G.B.B. (statement given before the chief of police Station on April 5, 1996—evidence file, folios 150 to 151; and expanded statement given before the Investigating Judge on April 11, 1996—evidence file, folios 153 to 155); of the orderly D.P. (statement given before the chief of the police station on April 5, 1996—evidence file, folios 540 to 542; and expanded statement given before the Investigating Judge on April 9, 1996—evidence file, folios 157 to 158); of the person who accompanied Ángel Acosta to the morgue, C.W.C. (statement given before the chief of the police station on April 5, 1996—evidence file, folios 536 to 538; and expanded statement given before the Investigating Judge on April 10, 1996—evidence file, folios 213 to 225), and the forensic doctor JAP (statement given before the Investigating Judge on April 8, 1996—evidence file, folios 232 to 234).

84 *Cf.* Order issued by Investigating Court No. 10 on April 25, 1996 (evidence file, folios 108 to 126).

85 *Cf.* Request for reopening filed before Investigating Court No. 10 by the complainant, undated (evidence file, folios 253 to 262).

86 *Cf.* Order issued by Investigating Judge No. 10 of May 18, 1998 (evidence file, folios 264 and 265).

medical board, which was rendered on June 26, 1998 (*supra* paragraph 57). On July 17, 1998, the complainant challenged the report of the medical board.[87] The board presented a new report on October 21, 1998 (*supra* paragraph 58). On November 17, 1998, the complainant asked for a new medical board and that the investigation be extended.[88]

62. On September 2, 1998, the testimony of the witness Andrés Alberto Fresco was received.[89] On December 23, 1998, a statement was once again received from Marcelo Gonçalves Da Luz.[90] This hearing was not communicated to the complainant, who requested that it be repeated.[91] In an order dated March 23, 1999, the National Criminal Investigation Court No. 10 rejected the request.[92]

63. On April 18, 1999, the plaintiff filed a request for Marcelo Gonçalves Da Luz to be called to testify again.[93] On April 19, 1999, the Court denied this request.[94] The complainant filed an appeal against this resolution on April 28, 1999,[95] which was found inadmissible in an order dated May 7, 1999 of the National Criminal Investigation Court No. 10.[96]

64. By order of August 5, 1999, National Criminal and Correctional Investigation Court No. 10 ordered the case closed on finding that there was no crime, concluding that the death of José Delfín Acosta Martínez was the result of the effects of alcohol and drugs, along with the self-imposed injuries.[97] On August 23, 1999, the complainant appealed the order.[98] The appeal was resolved on September 17, 1999 by the National Chamber of Criminal and Correctional Appeals, which ruled to uphold the lower court.[99] On October 12, 1999, the complainant filed a cassation appeal,[100] which was rejected by a resolution of the National

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87 *Cf.* Appeal contesting the forensic report before Investigating Judge No. 10, filed by the complainant on July 17, 1998 (evidence file, folios 302 to 307).

88 *Cf.* Brief of observations and request for measures before Investigating Judge No. 10, presented by the complainant on November 17, 1998 (evidence file, folios 321 to 327).

89 *Cf.* Testimony given before Investigating Judge by Andrés Alberto Fresco on September 2, 1998 (evidence file, folios 337 to 344).

90 *Cf.* Testimony given before the Investigating Judge by Marcelo Gonçalves Da Luz on December 23, 1998 (evidence file, folios 329 to 330).

91 *Cf.* Request before the Investigating Judge by the complainant on March 9, 1999 (evidence file, folio 332).

92 *Cf.* Order issued by the National Criminal Investigation Court No. 10 on March 23, 1999 (evidence file, folios 334 to 335).

93 *Cf.* Request before the investigating judge filed by the complainant on April 18, 1999 (evidence file, folios 769 to 772).

94 *Cf.* Order issued by the National Criminal Investigation Court No. 10 on April 19, 1999 (evidence file, folios 773 to 774).

95 *Cf.* Appeal before the National Criminal Investigation Court filed by the complainant on April 28, 1999 (evidence file, folios 346 to 349).

96 *Cf.* Order issued by National Criminal Investigation Court No. 10 on May 7, 1999 (evidence file, folio 351).

97 *Cf.* Resolution issued by National Criminal Investigation Court No. 10 on August 5, 1999 (evidence file, folio 353 to 387).

98 *Cf.* Appeal filed by the complainant on August 23, 1999 (evidence file, folios 389 to 392).

99 *Cf.* Resolution issued by the National Chamber of Appeals on September 17, 1999 (evidence file, folio 394).

100 *Cf.* Cassation appeal before the National Criminal Cassation Chamber filed by the complainant on October 12, 1999 (evidence file, folios 396 to 406).

Criminal Cassation Chamber of October 21, 1999.[101] Subsequently, on October 28, 1999, the complainant filed motion for reconsideration of dismissal of appeal,[102] which was dismissed by the National Chamber of Criminal Cassation in a resolution of December 9, 1999.[103] On February 3, 2000, the complainants filed an extraordinary appeal,[104] which was found inadmissible on March 7, 2000 by the National Chamber of Criminal Cassation.[105] Finally, on March 23, 2000, the complainant filed a motion for reconsideration of dismissal of appeal before the Supreme Court of Justice of the Nation,[106] which was dismissed by a resolution dated December 18, 2001.[107]

65. The case was reopened again by an order dated March 14, of 2019.[108] On March 18, 2019, it was sent to National Criminal and Correctional Prosecutor's Office No. 10 for further investigation. On March 22, 2019, the prosecutor in charge to refer the case to the Office of the Attorney General on Institutional Violence (PROCUVIN). In the framework of the investigation, PROCUVIN contacted several witnesses,[109] requested evidence, and issued a number of subpoenas.[110] On October 29, 2019, PROCUVIN reported that the case was under evaluation in order to determine how to proceed.[111] Following the public oral hearing of this case before this Court, PROCUVIN requested copies of the statements before notary public presented by the representatives, as well as the expert opinion of Víctor Manuel Rodríguez.[112] Additionally, the State reported that none of the judges involved in the José Delfín Acosta Martínez case remain in their positions.

E. Intimidation and threats to family members and a witness

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101 *Cf.* Resolution issued by the National Chamber of Appeals on October 21, 1999 (evidence file, folios 408 to 409).

102 *Cf.* Motion for reconsideration of dismissal of appeal before the National Criminal Cassation Chamber filed by the complainant on October 28, 1999 (evidence file, folios 411 to 420).

103 *Cf.* Resolution issued by the National Criminal Cassation Chamber on December 9, 1999 (evidence file, folios 790 to 793).

104 *Cf.* Special Appeal before Chamber I filed by the complainant on February 3, 2000 (evidence file, folios 422 to 445).

105 *Cf.* Resolution issued by the National Criminal Cassation Chamber on March 7, 2000 (evidence file, folios 447 to 449).

106 *Cf.* Motion for reconsideration of dismissal of appeal filed before the Supreme Court of the Nation by the complainant on March 23, 2000 (evidence file, folios 451 to 484).

107 *Cf.* Resolution issued by the Supreme Court of Justice on December 18, 2001 (evidence file, folios 487 to 490).

108 *Cf.* Final arguments of the State of June 18, 2020 (merits file, folio 545).

109 They requested information regarding the taxi driver who had been called to the police station as a witness, O.D.A. The National Electoral Chamber informed them that he had died in 2012. The contact information of the Gonçalves brothers was found and on June 25, 2019 they were summoned to testify (*Cf.* Official Letter No. 956 issued by the PROCUVIN on October 29, 2019 (merits file, folios 211 to 213).

110 They issued requests to the Headquarters of the Argentine Federal Police for certified copies of the edicts on disorderly conduct, drunkenness and other forms of intoxication, the report books of the Sergeant of the Guard, the chief of the mobile service that detained Acosta and the Gonçalves brothers, and the detainee logbook. They also asked for the police personnel logbooks mentioned in the case in question. They asked the Director of SAME for the logbooks and/or reports related to the death of Acosta Martínez, along with the logbooks of the individuals who treated him in the ambulance (*Cf.* Official Letter No. 956 issued by the PROCUVIN on October 29, 2019 (merits file, folios 211 to 213).

111 *Cf.* Response of the State of November 15, 2019 (merits file, folio 199).

112 *Cf.* Final arguments of the State of June 18, 2020 (merits file, folio 546).

66. Ángel Acosta Martínez reported that following the death of his brother, both he and his mother received anonymous threats.[113] Thus, on April 23, 1996, National Criminal Investigation Court No. 10 sent an official letter to the president of the Chamber of Criminal and Correctional Appeals of the Federal Capital informing him of the death threats reported by Ángel Acosta Martínez and the alleged theft of items from the home of his deceased brother.[114]

67. On April 24, 1996, Ángel Acosta Martínez sent a letter to the Uruguayan Consul in Buenos Aires requesting immediate protection from the threats received by him, his mother, and the Uruguayan family that had sheltered them.[115] On April 29, 1996, the Consulate sent a letter to the Head of the Department of Foreign Affairs of the Argentine Federal Police requesting that the pertinent measures be taken.[116]

68. On April 30, 1996, a statement was taken from Ángel Acosta Martínez regarding the threats received.[117] He indicated that, on April 6 of that same year, he had gone to his brother's home and found that several personal photographs were missing and that several medical documents had been moved.[118] He also reported that he and his mother needed to change their residence because they had received threats that, in the end, led Ms. Martínez to return to Uruguay.[119] Ángel Acosta Martínez also indicated that he was the victim of two suspicious incidents of abuse. In one, the police threatened him in public with a firearm and told him to "stop pushing." In the other, while he was with his baby son and about to get a on train, they hit him in the face with the butt of a gun and told him "this will happen to someone else, cut it out."[120] Finally, in 2004, they hit him with a car, and according to his statement at the public hearing, caused injuries to his pelvis, wrists, shoulder, and ankle.

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113 In his statement of April 22, 1996, he indicated that he had moved his mother to the home of some friends and there "began to be (sic) telephone threats and other silent calls. That one of those threats asked to speak to Ms. Acosta or Acosta's mother. That the owner of the house answered the call, and she didn't say if she was there or not. A male voice gave her the following message: "Tell her to stop fucking around, not to continue (sic)," to the point that they became very nervous, so much so that the residents went to Uruguay." Also, in that same statement, he indicated that he wanted to "report that someone entered his brother's house, not knowing who although he assumes it was the police, indicating that they took his brother's effects and other things, including photographs and information on his illness, related to Hepatitis B" (statement made before the Investigating Judge by Ángel Acosta Martínez on April 22, 1996—evidence file, folios 208 to 209). This was reiterated in his testimony at the public hearing before this Court.

114 *Cf.* Communication from the Court of Appeals to the President of the National Chamber of Appeals of April 23, 1996 (evidence file, folios 492 to 493).

115 *Cf.* Letter sent to the Consul of Uruguay in Buenos Aires by Ángel Acosta Martínez on April 24, 1996 (evidence file, folio 498).

116 *Cf.* Official letter 322/96 from the Uruguayan Consulate in Buenos Aires of April 29, 1996 (evidence file, folio 500).

117 *Cf.* Statement given by Ángel Acosta Martínez before the Investigating Judge on April 30, 1996 (evidence file, folios 502 to 503).

118 During the public hearing, Ángel Acosta Martínez indicated that they took documents on tests related to his brother's hepatitis B.

119 In her statement before this Court, Mary Chagas, the sister of the person who let Ms. Blanca Martínez and Ángel Martínez stay in his home after the death of José Delfín Acosta Martínez, explained that "after the death of José Ángel, she could not return to the house where he was, so she went to live in the house of my brother, Carlos William Chagas. Then Angel and my brother and his wife and son had to leave that house because of the threats. My brother was afraid for his son, who was very little." (Statement made before a notary public by Mary Chagas on February 28, 2020, evidence file, folios 1450-1451).

120 Statement made by Ángel Acosta Martínez at the public hearing before this Court.

He said he only reported these attacks on his physical integrity to the media because he did not trust the police in Argentina.[121]

69. On September 3, 1998, the head of the National Criminal Investigation Court No. 10 sent the President of the National Chamber of Appeals certified photocopies of the testimony given by Andrés Alberto Fresco, in order to inform the Correctional Court so it would take action at the reports of threats.[122] There is no information in the case file to indicate investigations were indeed initiated with respect to the complaints of threats presented by Ángel Acosta Martínez and witness Alberto Fresco.

VII
MERITS

70. This case involves the alleged illegal, arbitrary, and discriminatory deprivation of liberty of José Delfín Acosta Martínez on April 5, 1996, as well as alleged harm to his personal integrity at the hands of police officers in a police station, culminating in his death that same day. The case involves the improper investigation of the facts and the impact of these facts on the right to personal integrity of José Delfín Acosta Martínez's mother, Blanca Rosa Martínez, and his brother, Ángel Acosta Martínez.

71. As described in this judgment (*supra* paras. 15 to 26), the State fully recognized its responsibility in terms set forth by the Commission in its Report on the Merits. However, the Court concluded it was necessary to proceed to determine and specify the scope of State's responsibility as regards the illegality and arbitrariness of the deprivation of José Delfín Acosta Martínez's liberty in order to develop the jurisprudence on the matter and to protect the corresponding human rights for the victims in this case.

VII-1
RIGHT TO PERSONAL LIBERTY,[123] EQUALITY AND NON-DISCRIMINATION[124] AND DUTY TO ADOPT DOMESTIC LEGAL EFFECTS[125]

A. Arguments of the parties and of the Commission

72. The Commission argued that "at the time of the facts, the edicts on which the victim's arrest was based were not authorizing arrests based on objective elements, but instead on behaviors or situations that were associated with the commission of crimes on the basis of suspicion. This gave significant discretion and, in the absence of proper safeguards, the detentions tended to be based on prejudices and stereotypes associated with certain groups, as is the case with groups that have historically faced discrimination, including people of African descent." It also concluded that "the State did not prove that the detention of José Delfín Acosta had been carried out based on objective elements associated with a criminal act, nor did the State demonstrate it had informed him of the reasons for his detention. Even though Mr. Acosta Martínez did not carry weapons, properly identified himself, and, as the record shows, "had no warrants restricting his freedom," he was handcuffed, detained,

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121 *Cf.* Statement made by Ángel Acosta Martínez at the public hearing before this Court.

122 *Cf.* Communication to the President of the National Criminal and Correctional Appeals Chamber of the City of Buenos Aires of September 3, 1998 (evidence file, folio 505).

123 Article 7 of the Convention.

124 Articles 1(1) and 24 of the Convention.

125 Article 2 of the Convention.

and taken to the police station. At the time of his arrest, Mr. Acosta Martínez shouted 'they always mess with the blacks, in the understanding this was the only basis for the detention.'"

73. The ***representatives*** endorsed the Commission's arguments, concluding that the Convention was not compatible with the body of law intended to justify the detention. They also argued that it was not only arbitrary but also discriminatory, based on the fact that the detainees were Afro-descendants and foreign nationals.

74. The ***State*** recognized that the case of José Delfín Acosta Martínez was not an isolated event, but rather "emblematic of police violence during the 90s, characterized in our country by police brutality and enforcement of the so-called 'police edicts.'" Regarding these legal provisions, in its final arguments, it specified that the edicts "established a series of vague provisions that severely punish both so-called 'moral or political disorder' and the personal status of individuals." It effectively accepted that the detention of José Delfín Acosta Martínez was arbitrary and illegal and that it was paradigmatic of the persecution and stigmatization of the Afro-descendant community in Argentina.

B. Considerations of the Court

75. The Court has indicated that personal liberty and safety are guarantees against illegal or arbitrary detention or imprisonment. Although the State has the right and obligation to ensure safety and maintain public order, its powers are not unlimited because, at all times, it has a duty to use procedures that are in keeping with the law and respect the fundamental rights of every individual subject to its jurisdiction.[126] The objective of ensuring safety and maintaining public order requires the State to legislate and to take measures of different types to prevent and regulate the conduct of its citizens, one of which is to ensure the presence of law enforcement personnel in public spaces. However, the Court observes that improper actions by such State agents in their interaction with those they should protect represents one of the main threats to the right to personal liberty, which, when it is violated, results in a risk that other rights will be violated, such as to personal integrity and, in some case, to life.[127]

76. The Court recalls that the essential content of Article 7 of the American Convention is the protection of the liberty of the individual against any arbitrary or illegal interference by the State.[128] This article contains two types of very different regulations, one general and the other specific. The general one is included in the first paragraph: "Every person has the right to personal liberty and security." While the specific one is composed of a series of guarantees that protect the right not to be deprived of liberty unlawfully (Article 7(2)) or arbitrarily (Article 7(3)), to be informed of the reasons for the detention and of the charges against the person detained (Article 7(4)), to judicial control of the deprivation of liberty and to the reasonableness of the length of pre-trial detention (Article 7(5)), to contest the legality of the detention (Article 7(6)) and not to be detained for debt (Article 7(7)). Any

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126 *Cf. Case of Bulacio v. Argentina*, *supra*, para. 124, and *Case of Díaz Loreto et al. v. Venezuela. Preliminary Objections, Merits, Reparations, and Costs*. Judgment dated November 19, 2019. Series C No. 392, para. 90.

127 *Cf. Case of Servellón García et al. v. Honduras. Merits, Reparations, and Costs.* Judgment of September 21, 2006. Series C No. 152, para. 87 and *Case of Millacura Towers et al. v. Argentina.* Merits, reparations and costs. Judgment of August 26, 2011. Series C No. 229, para. 70.

128 *Cf. Case of Juan Humberto Sánchez v. Honduras. Preliminary Objections, Merits, Reparations and Costs.* Judgment of June 7, 2003. Series C No. 99, para. 84, and *Case of Azul Rojas Marín et al. v. Peru. Preliminary Objections, Merits, Reparations, and Costs*. Judgment of March 12, 2020. Series C No. 402, para. 100.

violation of paragraphs 2 to 7 of Article 7 of the Convention will necessarily result in the violation of Article 7(1).[129]

77. The State recognized the violation of personal liberty, equality, and non-discrimination, so there is no dispute in this regard. However, in order to analyze the scope of Argentina's international responsibility in relation to the obligation to adopt measures of domestic law, a legal analysis of these violations must be carried out, focusing on 1) analysis of the applicable legal framework and of the legality of the detention and 2) analysis of the arbitrariness of the detention and its relationship with the principle of equality and non-discrimination.

B.1. Analysis of the applicable legal framework and the legality of the detention

78. According to the police account, the arrest and detention of José Delfín Acosta Martínez was carried out in application of the Police Edict on Drunkenness.[130] Thus, it is based on these regulations and the procedural regulations applicable at the time of the facts in the City of Buenos Aires that it must be analyzed whether the requirements established by Article 7(2) of the Convention were met.[131]

79. Article 7(2) recognizes the main guarantee of the right to physical liberty: the legal exception, according to which the right to personal liberty can only be affected by a law.[132] This legal exception entails, first, a formal guarantee, in the sense that all restrictions on liberty must emanate from a "general legal norm tied to the general welfare, passed by democratically elected legislative bodies established by the Constitution, and formulated according to the procedures set forth by the constitutions of the States Parties for that purpose."[133] But second, it also has a material aspect, the prior definition principle, which obliges the States to establish, as specifically as possible and "beforehand," the "reasons" and "conditions" for the deprivation of physical liberty.[134] Thus, the Convention itself refers to the domestic law of the State in question in order to analyze compliance with Article 7(2). This does not mean that the Court ceases to rule in accordance with the Convention, nor that it plays the role of performing constitutional or legal review with regard to domestic law.[135] It only means control of international treaty obligations, under the auspices also of Articles 1(1) and 2 of the Convention.

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129 *Cf. Case of Chaparro Álvarez and Lapo Íñiguez v. Ecuador. Preliminary Objections, Merits, Reparations, and Costs*. Judgment of November 21, 2007. Series C No. 170, para. 54, and *Case of Azul Rojas Marín et al. v. Peru*, *supra*, para. 100.

130 Statement given to the chief of the police station by Duty Officer B.L.B on April 8, 1996 (evidence file, folio 55).

131 Article 7(2)(2). No one shall be deprived of his physical liberty except for the reasons and under the conditions established beforehand by the constitution of the State Party concerned or by a law established pursuant thereto.

132 *Cf. Case of Chaparro Álvarez and Lapo Íñiguez v.* Ecuador, supra, para. 56; and *Case of Carranza Alarcon v. Ecuador. Preliminary Objections, Merits, Reparations, and Costs*. Judgment of February 3, 2020. Series C No. 399, para. 61.

133 *The Word "Laws" in Article 30 of the American Convention on Human Rights.* Advisory Opinion OC-6/86 of May 9, 1986. Series A No. 6, para. 27.

134 *Cf. Case of Chaparro Álvarez and Lapo Íñiguez v.* Ecuador, *supra*, para. 57; and *Case of Carranza Alarcon v.* Ecuador, *supra*, para. 61.

135 *Cf. Case of Azul Rojas Marín et al. v. Peru*, *supra*, para. 110.

80. Paragraph 12 of Article 75 of the Argentine Constitution establishes that criminal matters are the exclusive competence of the National Congress.[136] However, misdemeanors fall to the provincial jurisdictions, in application of article 121 of the Constitution.[137] Additionally, pursuant to article 129 of the Constitution, the City of Buenos Aires has "an autonomous government regime with its own powers of legislation and jurisdiction […]". At the time of the facts, misdemeanors in the City of Buenos Aires were defined by a series of Police Edicts, among them one called Drunkenness and other Forms of Intoxication, Decree-Law No. 17189/56 modified by Decree-Laws No. 8126/57 and 16903/66. Article 1 of this Edict, established that "Those who are in a complete state of drunkenness in the streets, squares, cafes, cabarets, shops, taverns or other drinking establishments or public places shall be punished with a fine of 300 to 1,500 pesos or with arrest of 3 to 15 days." Likewise, article 3 punished "those who in the places listed in article 1 are under the influence of alkaloids or narcotics" with a fine of 1,500 to 3,000 pesos or arrest of 15 to 30 days.[138]

81. The procedure to be followed was regulated in the Regulation of Procedures for Misdemeanor Offenses, known as "RRPF6." This legal provision was drafted by the Office of the Chief of the Federal Police, under the authority conferred by Decree-Law No. 17,189/56, ratified by Law No. 14,467[139]. Chapter I of Title II established the external procedure for a misdemeanor in progress, as follows:

> Article 86. The officer who comes upon a misdemeanor in progress shall first seek its immediate cessation, imposing, through their presence, authority such that in cases of disturbances of the peace, public calm is immediately reestablished, securing the cooperation of others officers if deemed necessary.
>
> Article 87. It must be ascertained if the offender(s) carry weapons and, if so, they shall be seized. For this sole purpose, the agent shall pat them down over their clothes, full searches in public being prohibited.
>
> Article 88. Once the misdemeanor offender or offenders are in custody, bringing their conduct into line with that of detainees and preventing the possibility of escape, they shall commence the questioning to establish what happened, collecting the information necessary.
>
> Article 89. Should the offender be drunk or on drugs, the officer shall procure to transport them to the station in order to make the spectacle caused by the offender less visible. For this sole purpose, police jurisdiction is extended in the sense that the police station that is closest to the place where the offenders are detained is competent to handle the entire process, if that distance is appreciable.

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136 "Art. 75. Congress is responsible for the following: [...]

12. Issuing the Civil, Commercial, Penal, Mining, Labor, and Social Security Codes, in unified or separate bodies, without such codes altering the local jurisdictions, their application falling to federal or provincial courts, depending on the things or persons falling under their respective jurisdictions; and especially general laws for the entire Nation on naturalization and nationality, subject to the principle of natural nationality and as best benefits Argentina, as well as on bankruptcies, on falsification of current currency and public documents of the State, and those that require the establishment of the trial by jury."

137 "Art. 121. The provinces retain all the power not delegated by this Constitution to the federal government or expressly reserved by special agreements at the time of their incorporation."

138 Edict of Drunkenness and other Forms of Intoxication, Decree-Law No. 17189/56 (evidence file, folios 1635 and 1636).

139 This Law, promulgated on September 23, 1958, declared that "the decree laws issued by the provisional Government between September 23, 1955 and April 30, 1958, that have not been repealed by the Honorable Congress of the nation remain in force" [text available at https://www.argentina.gob.ar/normativa/nacional/ley-14467-181278/texto].

> [...] Article 131. In all cases, disorderly drunks, whatever their status or condition, shall be held in the detainee room.[140]

82. The prerogatives of the Federal Police were enshrined in the Organic Law of the Federal Police, Decree-Law No. 333/58 of January 14, 1958. Article 6 established in subsection i) established the powers of the Federal Police as follows: "1. Apply the police edicts within the competence assigned by the Code of Criminal Procedures."[141] This prerogative of police detention by application of edicts coexisted with detention for identity verification, these constituting the two main grounds for police detention without a warrant.

83. The arrest of Mr. Acosta Martínez was carried out in application of the Police Edicts and the Regulation of Procedures for Misdemeanor Offenses. This regulation does not comply with the principle of legality and prior definition, as it has been understood by this Court in its case law. In this regard, the Court has established that "the categorization of an act as unlawful and the establishment of its legal effects must pre-exist the conduct of the individual who is considered to be an offender because, to the contrary, people would not be able to conduct themselves in keeping with a valid known legal system that expresses social rebuke and its consequences."[142] Thus, in order to prosecute criminal offenses, their scope of application must be defined as clearly and precisely as possible.[143]

84. In this specific case, the Edict on Drunkenness and Other Forms of Intoxication did not comply with this requirement of certainty, since it defines as punishable conduct being "in a complete state of drunkenness," wording that, in addition to being ambiguous and indeterminate, gives the authorities a broad discretion in applying it.[144] Complete drunkenness is not empirically verifiable behavior. Rather, it is subject to a value judgment by the police officers in charge of enforcing the edict.[145] The State itself underscored in its final arguments that the Police Edicts "were legal provisions that empowered the security forces to detain and prosecute people for committing minor offenses. In reality, they established a series of vague provisions that severely punish both so-called 'moral or political disorder' and the personal status of individuals."

85. Likewise, drunkenness, sanctioned by the old edict, is more a transitory condition of a person, rather than a conduct. The Court has already found that the exercise of the state's *ius puniendi* on the basis of the personal characteristics of the agent and not the act committed "substitutes the Criminal System based on the crime committed, proper of the criminal system of a democratic society, for a Criminal System based on the situation of the

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140 Rules of Procedure for Misdemeanor Offenses (RRPF6) (evidence file, folios 1670 and 1681)

141 Organic Law of the Federal Police, Decree Law No. 333/1958 of January 14, 1958 (evidence file, folio 1639).

142 *Case of Baena Ricardo et al. v. Panama. Merits, Reparations, and Costs.* Judgment of February 2, 2001. Series C No. 72, para. 106, and *Case of Pollo Rivera et al. v. Peru. Merits, Reparations, and Costs.* Judgment of October 21, 2016. Series C No. 319, para. 219.

143 *Cf. Case of Castillo Petruzzi et al. v. Peru. Merits, Reparations, and Costs.* Judgment of May 30, 1999. Series C No. 52, para. 121, and *Case of Pollo Riviera et al. v. Peru*, *supra*, para. 219

144 As the expert Juan Pablo Gomara pointed out, referring to the police edicts in force in Argentina at the time of the facts: "These prohibitions did not describe empirically-verifiable behavior but rather involve a complete value judgment the truth or falsity of which cannot be predicated. These evaluations regarding manners of being, sexual orientation, personal or social status, clearly amount to criminal law based on the identity of the offender, incompatible with the principle of legality" (Expert opinion given at the public hearing by Juan Pablo Gomara—evidence file, folio 1484).

145 Expert opinion given at the public hearing by Juan Pablo Gomara (evidence file, folio 1484).

perpetrator, which opens the door to authoritarianism precisely in a subject in which the juridical rights of greatest hierarchy are at stake."[146]

86. Additionally, the Police Edict applied to Mr. Acosta Martínez sanctioned "being in a complete state of drunkenness in the streets, squares, cafes, cabarets, shops, taverns or other drinking establishments" with a fine and deprivation of liberty. That is to say, the provision in question punished the mere condition of being drunk, without reference to the conduct of the offender impacting or endangering themselves or others. In this regard, it should be noted that laws on misdemeanors, like criminal law, involve the exercise of the punitive power of the State, which is evident in this case since the sanction established is the deprivation of liberty.

87. In a democratic society, the State's punitive power can only be exercised to the extent strictly necessary to protect fundamental legal rights from attacks that damage or endanger them. Drunkenness, as defined by the edict in question, does not by itself affect the rights of third parties, so sanction of it does not seek to protect individual or collective legal rights.[147] Even if being drunk is considered in itself punishable, such behavior does not extend beyond the most private part of an individual's life, which is without question a violation of the Convention, as it is specifically this area that is removed from the exercise of State *ius puniendi*, whose inviolable limit is the self-determination and dignity of the individual, constituting the basic pillars of all legal systems.

88. Notwithstanding the foregoing, under certain circumstances, the consumption of alcohol or other psychoactive substances can be sanctioned when it is associated with conduct that may affect the rights of third parties or endanger or injure individual or collective legal right.

89. Lastly, Article 2 of the Convention that States Parties to the Convention have a duty to adapt their domestic legislation to the obligations derived from the Convention. In this regard, the Court has indicated that:

> If the States, pursuant to Article 2 of the American Convention, have a positive obligation to adopt the legislative measures necessary to guarantee the exercise of the rights recognized in the Convention, it follows, then, that they also must refrain both from promulgating laws that disregard or impede the free exercise of these rights, and from suppressing or modifying the existing laws protecting them. These acts would likewise constitute a violation of Article 2 of the Convention.[148]

90. Therefore, upon using the Edict on Drunkenness and the Regulation of Procedures for Misdemeanor Offenses to arrest Mr. Acosta Martínez and having maintained this legislation following ratification of the Convention, the State violated articles 7(1) and 7(2), in relation to articles 1(1) and 2 of the Convention.

B.2. Arbitrariness of detention

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[146] *Case of Fermín Ramírez v. Guatemala. Merits, Reparations, and Costs.* Judgment of June 20, 2005. Series C No. 126, para. 94, and *Case of Rodríguez Revolorio et al. v. Guatemala. Preliminary Objections, Merits, Reparations and Costs*. Judgment of October 14, 2019. Series C No. 387, para. 63.

[147] *Cf. Case of Kimel v. Argentina. Merits, Reparations, and Costs.* Judgment of May 2, 2008. Series C No. 177, para. 76, and *Case of Usón Ramírez v. Venezuela. Preliminary Objections, Merits, Reparations and Costs*. Judgment of November 20, 2009. Series C No. 207, para. 73.

[148] *Case of Hilaire, Constantine and Benjamin et al. v. Trinidad and Tobago. Merits, Reparations, and Costs.* Judgment of June 21, 2002. Series C No. 94, para. 113, and *Case of Rodríguez Revolorio et al. v. Guatemala*, *supra*, para. 63.

91. In this case, the Court deems it necessary to analyze the alleged arbitrariness of Mr. Acosta Martínez's deprivation of liberty in conjunction with the discriminatory grounds recognized by the State.

92. It should be recalled that, in accordance with the facts established in this judgment (*supra* para. 42), the police officers went to the place where the arrests occurred and justified their intervention on having received an anonymous complaint that an armed person was present there. However, although the exit of the Maluco Beleza nightclub was very crowded at that time in the morning, as evidenced by the different testimonies contributed to this case, when the police arrived there, they only asked the persons of African descent there for their ID cards and arrested them, with no objective evidence indicating that one of them was carrying a weapon. Furthermore, once the identity of the brothers Walter and Marcelo Gonçalves Da Luz and Mr. Acosta Martínez had been verified, and despite the fact that none of them were the armed person the police action supposedly sought, the three were taken to Police Station No. 5 of the Federal Police of the City of Buenos Aires (*supra* para. 44). At the time of the arrests, Mr. Acosta Martínez himself stated that "they were only arrested for being black" (*supra* para. 43).

93. This shows that the police officers were more motivated by racial profiling than by a real suspicion that an offense had been committed. The broad nature of the police edicts enabled them, *a posteriori*, to justify their intervention and give it the appearance of legality. However, these grounds demonstrate the arbitrary nature of Mr. Acosta Martínez's detention.

94. When analyzing the reasons for Mr. Acosta Martínez's arrest and deprivation of liberty, the context of racial discrimination and police persecution experienced by persons of African descent in Argentina—as described in paragraphs 31 to 40 of this judgment—must be taken into account.

95. In the same way, the leeway provided in the norms empowering the police to deprive someone of liberty based on edicts that punish characteristics more than conduct ends up being used arbitrarily and based on prejudices and stereotypes of certain groups that coincide with those historically discriminated against. Indeed, as the 2015 Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related forms emphasizes:

> Police, immigration and detention officials frequently employ racial and ethnic profiling, in many different and pernicious ways. Government policies may also facilitate discretionary practices that allow law enforcement authorities to target groups or individuals on the basis of their skin colour, dress or facial hair or the languages they speak. Implicit biases also sometimes motivate profiling. Although some studies have demonstrated how ineffective racial and ethnic profiling is, officials continue to use the practice.[149]

96. The Durban program of action defines racial profiling at "the practice of police and other law enforcement officials relying, to any degree, on race, colour, descent or national or ethnic origin as the basis for subjecting persons to investigatory activities or for determining whether an individual was engaged in criminal activity."[150] The Committee on

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[149] Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Mr. Mutuma Ruteere, UN Doc. A/HRC/29/46, April 20, 2015, para. 16.

[150] World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance, Durban, 2001, para. 72.

the Elimination of Racial Discrimination has made reference to these practices, defining them as "questioning, arrests and searches which are in reality based solely on the physical appearance of a person, that person's colour or features or membership of a racial or ethnic group, or any profiling which exposes him or her to greater suspicion."[151]

97. At its sixth period of sessions, the Working Group of Experts on People of African Descent considered the issue of racial profiling. The Working Group recognized that racial profiling violates the right to non-discrimination and recalled that international and regional laws make it clear that racial discrimination in the administration of justice is illegal. The Working Group also underscored that racial profiling has been recognized as a specific problem as a result of the systematic and historic targeting of persons of African descent, with severe consequences in creating and perpetuating a profoundly negative stigmatization and stereotyping of persons of African descent as having a propensity to criminality. It likewise affirmed that in most cases where racial profiling has been applied, no significant results have been achieved in terms of enhanced security, and great harm has been done to people of African descent and other vulnerable groups.[152]

98. Manifestations of the use of racial profiling may also be linked to internal law or practice. Indeed, as the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance indicated, "Government policies may also facilitate discretionary practices that allow law enforcement authorities to target groups or individuals on the basis of their skin colour, dress or facial hair or the languages they speak."[153]

99. The Working Group on Arbitrary Detention has indicated that deprivation of liberty is discriminatory "when it is apparent that persons have been deprived of their liberty specifically on the basis of their own or perceived distinguishing characteristics or because of their real or suspected membership of a distinct (and often minority) group. The Working Group found one of the factors to be taken into account in determining the existence of discriminatory motives to be if "The authorities have made statements to, or conducted themselves toward, the detained person in a manner that indicates a discriminatory attitude."[154] Thus, an arrest based on the use of racial profiling would be clearly discriminatory.

100. In this case, the police officers justified the arrest of Mr. Acosta Martínez on his alleged state of drunkenness. In this way, the use of a broad legal provision like the edicts against drunkenness obscured the use of racial profiling as the main reason for the detention, consequently establishing the arbitrariness of the deprivation of liberty. Indeed, this Court has indicated that the arrests made for discriminatory reasons are, therefore, arbitrary.[155]

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[151] Committee on the Elimination of Racial Discrimination. General recommendation XXXI on the prevention of racial discrimination in the administration and functioning of the criminal justice system, UN Doc. A/60/18, 2005, obs. 20.

[152] Report of the Working Group of Experts on People of African Descent on its sixth session, UN Doc. A/HRC/4/39, March 9, 2007, para. 56 and 58.

[153] Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Mr. Mutuma Ruteere, *supra*, para. 16.

[154] Report of the Working Group on Arbitrary Detention, UN Doc. A/HRC/36/37, July 19, 2017, para. 48.

[155] *Cf. Case of expelled Dominicans and Haitians v. Dominican Republic. Preliminary Objections, Merits, Reparations and Costs.* Judgment of August 28, 2014. Series C No. 282, para. 368; and *Case of Azul Rojas Marín et al. v. Peru*, *supra*, para. 129

101. Based on the foregoing, and taking into account that the State itself recognizes and emphasizes that the arrest and detention of José Delfín Acosta Martínez were based on discriminatory motives, this Court finds that Articles 7(1), 7(3), and 24 were violated in relation to Article 1(1) of the Convention, to the detriment of Mr. Acosta Martínez.

B.3. Conclusion

102. Taking into account the acknowledgment of responsibility by the State and the foregoing considerations, the Court concludes that the arrest and deprivation of liberty of Mr. Acosta Martínez were carried out based on a legal provision that does not comply with the requirements of the Convention. Likewise, the broadness of the provisions regulating police authority to detain people for committing offenses enabled the use of racial profiling and detentions based on discriminatory practices, for which reason the detention was also arbitrary and discriminatory.

103. The State is therefore responsible for the violations of the rights recognized in Articles 7(1), 7(2), 7(3), and 24 of the American Convention, in relation to the general obligations contained in Articles 1(1) and 2 of the Convention, to the detriment of José Delfín Acosta Martínez. Likewise, based on the State's acknowledgment of responsibility, the Court recalls that Argentina is responsible for the violation of Article 7(4) of the Convention to the detriment of Mr. Acosta Martínez.

VIII
REPARATIONS

104. Based on Article 63(1) of the American Convention, the Court has indicated that any violation of an international obligation that has caused harm entails the duty to make adequate reparation and that this provision reflects a customary norm that constitutes one of the fundamental principles of contemporary international law on State responsibility.[156] This Court has also established that reparations should have a causal nexus with the facts of the case, the violations declared, the harm proved, and the measures requested to redress the respective harm. Accordingly, the Court must analyze the concurrence of these factors in order to rule appropriately and in keeping with law.[157]

105. Consequently, based on its considerations on the merits and the violations of the Convention declared in this judgment, the Court will proceed to examine the claims presented by the Commission and the victims' representatives, together with the corresponding observations of the State, in light of the criteria established in its case law on the nature and scope of the obligation to make reparation, in order to establish measures to redress the harm caused to the victims.

A. Injured party

106. Under the terms of Article 63(1) of the Convention, this Court considers as injured party anyone who has been declared a victim of the violation of any right recognized therein. Therefore, this Court considers José Delfín Acosta Martínez, Ángel Acosta Martínez, and Blanca Rosa Martínezas to be the "injured parties" and, as victims of the violations declared

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156 *Cf. Case of Velásquez Rodríguez v. Honduras. Reparations and Costs.* Judgment of July 21, 1989. Series C No. 7, paras. 24 and 25, and *Case of Valle Ambrosio et al. v. Argentina*, *supra*, para. 55.

157 *Cf. Case of Ticona Estrada et al. v. Bolivia. Merits, Reparations, and Costs.* Judgment of November 27, 2008. Series C No. 191, para. 110, and *Case of Valle Ambrosio et al. v. Argentina*, *supra*, para. 57.

in this Judgment, they will be considered beneficiaries of the reparations ordered by the Court.

B. Obligation to investigate

107. The ***Commission*** asked the Court to "order the measures necessary for an exhaustive and diligent criminal and disciplinary investigation within a reasonable period of time into all the responsibilities stemming from the violations found in the Report on the Merits [...]."

108. The ***representatives*** agreed with the Commission, and specifically asked that: a) "the judicial proceedings entitled 'ACOSTA MARTINEZ, José Delfín death for uncertain causes' (File No. 22,190/1996) in the hands of the National Criminal and Correctional Court No. 10, Secretariat No. 130, as well as related and incidental cases that may be substantiated" be investigated; b) that "the police personnel involved in the incident" be investigated, along with "the judicial system officials;" c) that in order to "guarantee impartiality in its processing, the case be filed in a court other than the one involved in the original investigation and that a special prosecutor be placed in charge of the investigation;" and d) "that the conduct of the police officers involved in the facts be investigated, with applicable administrative sanctions applied."

109. The ***State*** indicated that the Court should take into account that, as a result of the Commission's report, on March 14, 2019, the court ordered the reopening of judicial case No. 22,190 investigating the illegal detention and death José Delfín Acosta Martínez. It underscored that the case is being investigated by the Office of the Special Prosecutor for Institutional Violence (PROCUVIN) of the Office of the Public Prosecutor, which had requested a number of elements of evidence and, as of submission of the final arguments, was about to file charges. It added that none of the judges involved in the case previously remained in their positions.

110. The Court notes that the State has taken actions aimed at reopening the judicial case investigating the illegal detention and death of José Delfín Acosta Martínez and that it is being handled by PROCUVIN, a prosecutor's office specializing in institutional violence. It therefore establishes that, in the framework of case file 22,190/1996, the State shall continue the investigations necessary to identify and, where appropriate, punish all those responsible for what happened to Mr. Acosta Martínez, as well as establish the truth regarding it, being careful to take the context of police violence due to racism and discrimination into consideration. In particular, the State shall ensure that the investigation is carried out in consideration of the context of police violence, racism and discrimination, avoiding omissions in the collection of evidence and following up on the different lines of investigation, without focusing exclusively on the police version of the facts.

111. Pursuant to its settled case law,[158] the Court finds that the State must ensure full access and capacity to act to the victims' next of kin at all stages of the investigation and prosecution of those responsible, in keeping with domestic law and the provisions of the American Convention. On this point, the Court takes note of the reform of the Criminal Procedure Code through Law No. 27,372 of 2017, which expressly recognizes the rights of

[158] *Cf. Case of the Caracazo v. Venezuela. Reparations and Costs.* Judgment of August 29, 2002. Series C No. 95, para. 118; *Case of Torres Millacura et al. v. Argentina*, *supra*, para. 165, and *Case of Montesinos Mejia v. Ecuador. Preliminary Objections, Merits, Reparations, and Costs*. Judgment of January 27, 2020. Series C No. 398, para. 230.

victims of all types of crimes and extends the opportunity to participate as a complainant to the siblings of the dead or disappeared person.[159]

C. Measures of satisfaction

112. The ***representatives*** asked the Court to order, as a measure of satisfaction, the publication of the "salient points" of the judgment in "at least two newspapers with national circulation and in the Official Gazette of the Argentine Republic," as well as the judgment in its entirety and the public hearing held in the framework of the case, at the "Judicial Information Center, under the Supreme Court of Justice of the Nation."

113. The ***State***, after acknowledging responsibility, made no specific reference to this measure of satisfaction.

114. As it has done in other cases,[160] the Court decides that the State must publish, within six months of notification of this judgment, in an appropriate and legible font: a) the official summary of this judgment prepared by the Court, once, in the Official Gazette of the Argentine Republic; b) the official summary of this judgment prepared by the Court, once, in a newspaper with broad national circulation, and c) this judgment in its entirety, available for one year, on an official website of the State. The State must advise this Court immediately when it has issued each of the publications ordered, regardless of the one-year time frame for presentation of its first report, as established in the thirteenth operative paragraph of this judgment.

D. Guarantees of non-repetition

D.1. Raising awareness among State officials and training them on racial discrimination

115. The ***Commission*** asked the Court to order the State to "train State security forces officials on the standards set forth in Merits Report No. 146/18, regarding their obligations to protect the lives and integrity of the people in their custody."

116. For their part, the ***representatives*** asked the Court to require that the State: "e.3. Incorporate specific content on racism and arbitrary detentions based on racial profiling into the official curricula of the security forces training programs, making special mention of the death of José Delfín Acosta Martínez and the judgment of this […] Court ".

117. The ***State*** made no reference to this measure of reparation.

118. This Court deems it pertinent to order the State to, within a period of two years, include training in the regular training received by the Police of the Autonomous City of Buenos Aires and the Argentine Federal Police on the discriminatory nature of the stereotypes based on race, color, nationality, or ethnic origin, as well as the use of racial profiling in the exercise of police authority to make arrests, along with raising awareness on the negative impact that the use of stereotypes has on people of African descent. The police training must include studying this judgment.

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[159] *Cf.* Article 82 of the Criminal Procedure Code. Text available at: http://servicios.infoleg.gob.ar/infolegInternet/anexos/275000-279999/276819/norma.htm

[160] *Cf. Case of Cantoral Benavides v. Peru. Reparations and Costs.* Judgment of December 3, 2001. Series C No. 88, para. 79, and *Case of Valle Ambrosio et al. v. Argentina*, *supra*, para. 63.

D.2. Implementation of a control mechanism and logging system

119. The ***representatives*** asked the Court to order the State to do the following: "e.1. Implement an internal and external control mechanism, with sanctioning power, on arbitrary detentions based on racial profiling, with the participation of organizations that work on human rights and the rights of Afro-Argentine, African and Afro-descendant persons. The mechanism shall receive complaints from the persons impact and have the power to challenge and veto police promotions;" and e.2. Implement a system for documenting and keeping statistics on racial origin, records of questionable detentions, and criminal statistics, at all levels of the security forces, in order to monitor and identify those committing racial discrimination and acting with violence. The goal is to collect disaggregated data on the number of Afro-Argentines, Afro-descendants, and Africans detained."

120. After acknowledging responsibility, the ***State*** did not specifically address this measure. However, it recognized the need to adopt measures to address the discrimination that continues to be a serious problem in Argentina.

121. This Court found that José Delfín Acosta Martínez was a victim of racial discrimination. The Court views positively the measures that the Argentine State has taken to recognize the systemic problem of racial discrimination. However, this Court finds it necessary to take measures to reveal and prevent police violence based on racial profiling. Therefore, it deems it pertinent to require the State to implement: i) a mechanism to collect the complaints of people who claim to have been arbitrarily detained based on racial profiling to produce a record of these situations and enable actions in response to the complaints; and ii) a system for documenting and keeping statistics on the Afro-descendant population in the country, as well as on the arrests indicated in point i) above, so as to tally the arrests of Afro-descendant persons and the complaints filed by them and compare them to the total population. The State shall publish this information annually in a corresponding report, ensuring that it is accessible to the general public, while keeping the identities of the victims confidential.[161] Furthermore, the State must present an annual report to the Court in which it describes the actions taken in this regard for three years following implementation of the data collection systems.

E. Other measures requested

E.1. Measures of satisfaction

122. Regarding the request of the ***representatives*** for the creation of a "Commission" that produces a report based on which the State "initiates the pertinent formal processes to sanction the conduct of officials who have committed acts causing harm—by action and/or omission—to the investigation into the death of José Delfín Acosta Martínez: This means launching legal actions; complaints before the Council of the Magistracy if there was a judiciary official involved; a complaint before the Attorney General of the Nation if there is a prosecutor involved; or a complaint before the corresponding agencies if the aforementioned were not competent," as well as a request for "the dismissal from the police force of the officers who were involved and are still on active duty," the Court finds that the delivery of this judgment and the reparations ordered in this chapter are sufficient and adequate to redress the violations suffered by the victims and does not find it necessary to order these measures.

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[161] *Cf. Case of López Soto et al. v. v. Venezuela. Merits, Reparations, and Costs.* Judgment of September 26, 2018. Series C No. 362, para. 349; and *Case of Azul Rojas Marín et al. v.* Peru, *supra*, para. 252.

123. The ***representatives*** asked the Court to also order the State to: "c. Present before the Congress of the Nation a bill reforming the Code of Criminal Procedure of the Nation so that it is mandatory in all criminal cases in which State security forces took part or where the security forces members are suspects for the Court to provide all evidence requested by the Public Prosecutor's Office. When the evidence is requested by the complaint, the Judge may only deny it in a properly-justified decision and following transfer of the matter to the Prosecutor's Office for it to express whether it is in favor of or against releasing the evidence. In the event that the Office of the Prosecutor deems its release inappropriate, it must provide justification, and the complainant shall be able to appeal it to a higher court than the forum denying it" and "d. Issue the pertinent legal norms so that every citizen has the right to access the internal report files of police officers, regardless of who filed the complaint or if they were a victim, since they are 'public officials' and therefore the information about their conduct must also be public ".

124. Regarding this point, the Court finds that in situations such as this case, the cooperation of justice institutions is essential for an effective search for the truth. The creation of PROCUVIN is a wise step to guarantee a better and more objective investigation into the actions of the security forces. The existence of a body of the Office of the Prosecutor specializing in matters of institutionalized violence addresses the aims stated by the representatives, so the Court does not consider it necessary to order changes to the law.

125. Regarding the rest of the measures requested by the Commission and the representatives for satisfaction, such as the publication of the public hearing and the erection of a monument, the Court considers that the delivery of this judgment and the reparations ordered in this chapter are sufficient and adequate to redress the violations suffered by the victims. Therefore, it does not consider it necessary to order these additional measures, without prejudice to whether the State may decide to adopt and grant them domestically.

E.2. Measures of non-repetition

126. Regarding the guarantees of non-repetition, the ***representatives***, taking into consideration that "the police Edicts that authorized detentions based on an individual's attitude and characteristics […] were repealed and replaced by the Urban Coexistence Code," and that "recent years have seen significant setbacks in this area with security forces once again granted discretionary powers to arrest and use of force–even lethal force–on people without proper judicial control," they asked that the State "e.4 […] adapt domestic law to guarantee that arbitrary detentions based on racial profiling and extrajudicial executions do not take place."

127. The ***State*** highlighted that, indeed, "more recently, other rules that the previous national government administration sought to impose that encouraged the police to act indiscriminately were repealed by the new administration of the Ministry of Security of the Nation." However, during the public hearing, the State made reference to the fact that certain police edicts are still in force in some provinces of the country under laws that have other names but the same codification problems.

128. This Court underscores the effort made by the State to purge the provisions in its legal system that could encourage indiscriminate police action, particularly the ones in force in the City of Buenos Aires. Effectively, in March 1998, the Legislature of the City of Buenos Aires passed the Urban Coexistence Code,[162] which involved removing the Federal Police's power to detain people under police orders. Currently, this area is governed by the

[162] Law No. 10 of March 9, 1998.

Misdemeanor Code of the Autonomous City of Buenos Aires.[163] Likewise, in accordance with article 152 of the Criminal Procedure Code of the Autonomous City of Buenos Aires, the police are only to detain a person without a warrant in cases of *flagrante delicto*, and must immediately bring the case before the competent prosecutor, who must either ratify the detention or release the person.[164] Taking into account Argentina's federal system and respecting the prerogatives of the provincial legislatures, this Court finds that the measures taken by the State are sufficient to comply with the guarantees of non-repetition in regard to the specific case analyzed by this judgment.

129. Additionally, the ***representatives*** asked the Court for: "a. Installation of video cameras in all police stations of the City of Buenos Aires that cannot be manipulated by police personnel" and locate them "all along the route a detainee takes: from entry to the area where they are to be held." This footage "must be kept for a period of no less than five (5) years" and "b. Document and record all conversations over the radio and/or communication systems between police officers, patrol car teams, dispatchers, and the police stations, as well as the conversations over the phone lines of the police stations and dispatch."

130. The ***State*** clarified that, in the framework of case No. 12,854 *Ricardo Javier Kaplun and Family*, being processed before the Commission, the State had committed to "updating the detention spaces provided in the police stations for temporarily holding detainees waiting to be transferred to the judiciary or awaiting their final release to ensure they comply with applicable international standards by installing closed-circuit video surveillance systems in the internal guard area and the cell access area." The Commission indicated in its 2019 Annual Report that this commitment had been fulfilled.

131. The Court determined that the reasons for which José Delfín Acosta Martínez died were never established by the domestic courts in Argentina. It therefore deems important to install video cameras in the areas where the detainees are held in the police stations of the City of Buenos Aires, a measure that has already been complied with. With respect to the other requests of the representatives, the Court finds that the measures granted and the ones the State has already complied with are sufficient to guarantee the aim of non-repetition of the violations.

F. Compensation

F.1. Pecuniary damage

132. In its case law, this Court has developed the concept that pecuniary damage includes the loss of, or detriment to, the income of the victims, the expenses incurred as a result of the facts, and the consequences of a pecuniary nature that have a causal nexus with the facts of the case[165]—that is, it includes indirect damages and loss of future earnings.

133. The ***Commission*** asked the Court to order comprehensive pecuniary damages to the victims.

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163 Law No. 1,472 of September 23, 2004.

164 *Cf.* Criminal Procedure Code of the Autonomous City of Buenos Aires, Law No. 2303 of April 30, 2007 (evidence file, folio 1581).

165 *Cf. Case of Bámaca Velásquez v. Guatemala. Reparations and Costs.* Judgment of February 22, 2002. Series C No. 91, para. 43, and *Case of Petro Urrego v. Colombia. Preliminary Objections, Merits, Reparations, and Costs*. Judgment of July 8, 2020. Series C No. 406, para. 160.

134. The ***representatives*** asked the Court to order compensatory damages for the material harm suffered by Ángel Acosta Martínez and Blanca Rosa Martínez. They indicated that "throughout the process to exhaust domestic remedies and pursue international actions, the family of José Delfín Acosta Martínez incurred expenses that included travel to and from Uruguay, starting with the trip of Blanca Rosa Martínez at the time of the death of José Delfín Acosta Martínez, the steps taken to repatriate the remains, and the legal actions taken in Uruguay to obtain the second autopsy, as well as repeated and countless trips throughout the subsequent process." They likewise indicated that "Ángel Acosta Martínez had to stop working and go into exile as a result of the attacks and physical injuries suffered, having to pay for not only the journey to Spain, but the return trip and the moving costs" as well as "[t]he funeral expenses of José Delfín Acosta Martínez."

135. Following its acknowledgment of responsibility, the ***State*** did not issue any statement specifically on this measure of reparations.

136. In view of the circumstances of this case, the Court considers it reasonable to order the State to pay compensation for pecuniary damages to the victims. Because the representatives did not provide information making it possible to establish with certainty the amount of pecuniary damages caused by the facts under examination in this case, this Court sets, in equity, the amount of US$64,000 (sixty-four thousand dollars of the United States of America) for the loss of income of José Delfín Acosta Martínez, to be divided equally between his mother and his brother.

137. Likewise, taking into account the physical damages suffered, the loss of income, and the expenses incurred from travel and securing expert opinions and pursuing legal actions, the amount of US$15,000 (fifteen thousand dollars of the United States of America) is set for indirect damages to the benefit of Ángel Acosta Martínez and US$10,000 (ten thousand dollars of the United States of America) to the benefit of Blanca Rosa Martínez. Both payments shall be made directly to the victims.

F.2. Non-pecuniary damage

138. In its case law, this Court has developed the concept of non-pecuniary damage and has established that this may include both the suffering and affliction caused to the direct victim and his family, and also the impairment of values of great significance for the individual, as well as the alterations of a non-pecuniary character in the living conditions of victims or their families.[166]

139. The ***Commission*** asked the Court to order comprehensive non-pecuniary damages for the victims.

140. The ***representatives*** asked the Court to "establish compensatory reparations commensurate with the sufferings and afflictions experienced" as a result of the fact that "José Delfín Acosta Martínez lost his life and his family had to start down a difficult path of loss and struggle, to which the facts described caused irreparable harm." As for Blanca Rosa Martínez, they indicated that she "had to fight an unequal battle from abroad, in which there was no rest until now [because] not only did she lose her son José Delfín Acosta Martínez, but she had to suffer the absence of her other son, Ángel Acosta Martínez, and fear for his safety." Lastly, regarding Ángel Acosta Martínez, they indicated that he "had to […] handle

[166] *Cf. Case of the "Street Children" (Villagrán-Morales et al.) v. Guatemala. Reparations and Costs.* Judgment of May 26, 2001. Series C No. 77, para. 84, and *Case of Valle Ambrosio et al. v. Argentina*, *supra*, para. 77.

the public accusations on behalf of his family, seek legal support, and risk his life in continuing the search for truth and justice to this day. The injuries caused by the attacks described made it physically impossible for him to continue working. At the same time, the persecution forced him to move repeatedly and constantly fear for his life. He had to leave the country where he had chosen to live with his brother and go into exile in Spain, where he was not able to put down roots, according to the facts described. He returned from exile to Uruguay as his mother fell ill, and to this day he has not been able to pick up from where he had started at age 20, neither in his work life nor in his social life."

141. Following its acknowledgment of responsibility, the ***State*** did not issue any statement specifically on this measure of reparations.

142. The Court found in its judgment that José Delfín Acosta Martínez was the victim of arbitrary detention and as a result of it lost his life, all in a context of violence against the Afro-descendant population in Argentina (*supra* paras. 31 to 40). This caused profound suffering for both his mother, Blanca Rosa Martínez, and for his brother, Ángel Acosta Martínez. In her testimony, Ms. Martínez stated "How is my life? Enormously sad. They took a piece of my heart after the death of my son," which "greatly affected my health [because of the] great sadness I had."[167] In the same way, the psychological evaluation of Ángel Acosta Martínez determined that "[i]n the case of Ángel, the prolonged impunity for the death of his brother, which has been before the national justice system for 24 years now, makes it impossible for the natural mourning process to play out. Instead, it inhibits the possibility of registering in the psyche and rearranging resources to direct them to something different, one's self, not linked to victimhood. The effects of the fight against impunity manifest in feelings of impotence, frustration, and fatigue, reemerging in him with each new legal obstacle, delay, and setback."[168]

143. In view of the circumstances of the case and in consideration of the suffering caused to the victim by his arbitrary detention and the harm to his bodily integrity, the Court deems it pertinent to establish, in equity, the amount of US$75,000 (seventy-five thousand dollars of the United States of America) for nonpecuniary damages to the benefit of José Delfín Acosta Martínez. Additionally, in view of the expert opinion summarized here, as well as the testimonies of the victims, the Court finds that Blanca Rosa Martínez and Mr. Ángel Acosta Martínez suffered serious non-pecuniary damage. Therefore, and based on the circumstances of the case and the violations declared, the Court finds it pertinent to establish, in equity, the sum of US$20,000.00 (twenty thousand United States dollars) for Blanca Rosa Martínez and the amount of US$20,000 (twenty thousand United States dollars) for non-pecuniary damages to Ángel Acosta Martínez. The compensation to José Delfín Acosta Martínez shall be divided equally between the mother and the brother.

G. Costs and Expenses

144. The ***representatives*** requested that, when determining costs and expenses, this Court consider the "fees that the Acosta Martínez family owes to lawyers and experts," as well as "the fees and costs involved in the judicial processes in which the family of José Delfín Acosta Martínez has participated as plaintiffs/complainants." They additionally pointed out that "both locally and internationally, the Acosta Martínez family was represented by CISALP, jointly in succession with COFAVI, and then the Asociación Civil El Trapito, non-

[167] Statement made before a notary public by Blanca Rosa Martínez on February 28, 2020 (evidence file, folio 1459).

[168] Expert opinion given before a notary public by Víctor Manuel Rodríguez González on February 28, 2020 (evidence file, folio 1472)

governmental organizations that used their own resources to cover the basic costs of processing the case in both forums."

145. The Court reiterates that, based on its case law, costs and expenses form part of the concept of reparation, because the efforts made by the victims to obtain justice, both at national and international level, entail disbursements that must be compensated when the State's international responsibility has been declared in a condemnatory judgment. Regarding the reimbursement of costs and expenses, it is for the Court to prudently assess their scope, which includes expenses incurred before the authorities of the domestic courts and those generated during the proceedings before the Inter-American system, taking into account the circumstances of the specific case and the nature of the international jurisdiction for the protection of human rights. This assessment may be based on the principle of equity, taking into account the expenses indicated by the parties, provided that their *quantum* is reasonable.[169]

146. This Court notes that the representatives have not requested a specific monetary sum for reimbursement of expenses and costs, nor did they provide the necessary supporting documentation for the totality of the expenses incurred. Consequently, the Court decides, on deeming it reasonable, to establish, in equity, the payment of a total amount of US$5,000 (five thousand dollars of the United States of America) for costs and expenses to CISALP and a total amount of US $5,000.00 (five thousand dollars of the United States of America) for costs and expenses to El Trapito. These amounts shall be delivered directly to the organizations. In the procedure to supervise compliance with this judgment, the Court may order reimbursement by the State to the victims or to their representatives of expenses reasonably and duly documented at each procedural stage.[170]

H. Reimbursement of expenses to the Legal Assistance Fund

147. In this case, by means of a note dated January 22, 2020, the President of the Court declared admissible the request presented by the alleged victim, through her representatives, to avail herself of the Legal Assistance Fund. The communication resolved that the necessary financial assistance would be granted for the presentation of two statements—one at the hearing and the other by means of an affidavit—and for the participation of a legal representative in the public hearing.

148. On February 12, 2020, the representatives requested the reconsideration of the decision because "it [was] possible […] for them to pay the expenses arising from the statement by affidavit of Ms. Martínez, in the Eastern Republic of Uruguay," requesting instead that the resources be reallocated to cover the "travel and accommodation of witness Andrés Alberto Fresco." In response to this request, the Court, following instructions from the Presidency, notified the parties and the Commission that it was impossible to "carry out this reallocation without affecting the Victims 'Legal Assistance Fund," and therefore, "the representatives' request was not granted."

149. On June 10, 2020, the Report on Application of the Victims' Legal Assistance Fund was sent to the parties in accordance with the provisions of Article 5 of the Court's Rules of Procedure on the operation of that fund. The State reported in writing on June 23, 2020,

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169 *Cf. Case of Garrido and Baigorria v. Argentina. Reparations and Costs.* Judgment of August 27, 1998. Series C No. 39, paras. 79 and 82, and *Case of Petro Urrego v. Colombia*, *supra*, para. 164.

170 *Cf. Case of the Xákmok Kásek Indigenous Community v. Paraguay. Merits, Reparations, and Costs.* Judgment of August 24, 2010. Series C No. 214, para. 331, and *Case of Petro Urrego v. Colombia*, *supra*, para. 165.

that it had no observations on the expenditures made in application of the Victims' Legal Assistance Fund.

150. As the State had no objections, in view of the violations recognized and declared in this judgment, the Court orders the State to reimburse the sum of US$2,718.75 (two thousand seven hundred and eighteen dollars of the United States of America and seventeen cents) to the fund for the expenses incurred. This sum must be reimbursed within six months of notification of this judgment.

I. Method of compliance with the payments ordered

151. The State shall make the payments for compensation of pecuniary and non-pecuniary damage, as established in this judgment, directly to the persons and institutions indicated herein, within one year of notification of this judgment, or it may bring forward the full payment, pursuant to the following paragraphs.

152. If the beneficiaries are deceased or die before they receive the respective compensation, this shall be delivered directly to their heirs, in accordance with applicable domestic law.

153. The State shall comply with the monetary obligations by payment in United States dollars or, if this is not possible, in the equivalent in Argentine currency, using the highest and most beneficial rate for the beneficiaries allowed by its domestic law at the time of the payment to make the respective calculation. During the stage of monitoring compliance with the judgment, the Court may make a prudent readjustment of the equivalent of the respective sums in Argentine currency in order to avoid exchange variations substantially affecting their purchasing power.

154. If, for causes that can be attributed to the beneficiaries, it is not possible to pay the amounts established within the indicated timeframe, the State shall deposit the said amount in their favor in a deposit account or certificate in a solvent Argentine financial institution, in United States dollars, and in the most favorable financial conditions permitted by banking laws and practice. If the corresponding amount is not claimed after ten years, the amounts shall be returned to the State with the interest accrued.

155. The amounts allocated in this judgment as compensation for pecuniary and non-pecuniary damage, and to reimburse costs and expenses, shall be delivered in full to the persons and organizations indicated, as established in this judgment, without any deductions arising from possible taxes or charges.

156. If the State should fall in arrears, including in the reimbursement of expenses to the Victims' Legal Assistance Fund, it shall pay interest on the amount owed corresponding to banking interest on arrears in the Argentine Republic.

IX
OPERATIVE PARAGRAPHS

157. Therefore,

THE COURT

DECIDES,

Unanimously:

1. To accept the acknowledgment of responsibility made by the State, pursuant to paragraphs 19 to 26 of this judgment.

DECLARES,

Unanimously, that:

2. The State is responsible for the violation of the rights contained in articles 4(1), 5(1), and 5(2) of the American Convention on Human Rights, in relation to article 1(1) of the same instrument, to the detriment of José Delfín Acosta Martínez, pursuant to the terms of paragraphs 21 and 26 of this judgment.

3. The State is responsible for the violation of the rights contained in articles 7(1), 7(2), 7(3), 7(4), and 24 of the American Convention on Human Rights, in relation to articles 1(1) and 2 of the same instrument, to the detriment of José Delfín Acosta Martínez, pursuant to the terms of paragraphs 21, 25, and 102 to 103 of this judgment.

4. The State is responsible for the violation of articles 8(1) and 25(1) of the American Convention on Human Rights, in relation to article 1(1) of the same instrument, to the detriment of José Delfín Acosta Martínez, pursuant to the terms of paragraphs 21 and 26 of this judgment.

5. The State is responsible for the violation of article 5(1) of the American Convention on Human Rights, in relation to article 1(1) of the same instrument, to the detriment of Ángel Acosta Martínez and Blanca Rosa Martínez, pursuant to the terms of paragraphs 21 and 26 of this judgment.

AND ORDERS:

Unanimously, that:

6. This judgment constitutes, *per se*, a form of reparation.

7. The State shall facilitate and continue the investigations necessary to identify, prosecute, and, where appropriate, punish those responsible for the arbitrary detention and death of José Delfín Acosta Martínez, pursuant to the terms of paragraphs 110 and 111 of this judgment.

8. The State shall issue the publications indicated in paragraph 114 of this judgment.

9. The State shall include training on the issue of racial discrimination and awareness on the use of profiling in the regular training of the Police of the Autonomous City of Buenos Aires and of the Argentine Federal Police, in accordance with the provisions of paragraph 118 of this judgment.

10. The State shall implement a mechanism for control and documentation of complaints, pursuant to the provisions of paragraph 121 of this judgment.

11. The State shall pay the amounts established in paragraphs 136, 137, 143, and 146 of this judgment as compensation for pecuniary and non-pecuniary damage, and to reimburse costs and expenses, pursuant to paragraphs 151 to 156 of this judgment.

12. The State shall reimburse the Victims' Legal Assistance Fund of the Inter-American Court of Human Rights the sum disbursed during the processing of this case, pursuant to paragraph 150 of this judgment.

13. The State shall, within one year of notification of this judgment, provide the Court with a report on the measures adopted to comply with it, in accordance with the provisions of paragraph 114 of this judgment.

14. The Court will monitor full compliance with this judgment, in exercise of its authority and in compliance with its obligations under the American Convention on Human Rights, and will consider this case closed once the State has complied fully with its provisions.

DONE, at San José, Costa Rica, on August 31, 2020, in the Spanish language.

I/A Court HR. *Case of Acosta Martínez et al. v. Argentina.* Merits, reparations and costs. Judgment of August 31, 2020. Judgment adopted in San José, Costa Rica, in a virtual session.

Elizabeth Odio Benito
President

L. Patricio Pazmiño Freire

Eduardo Vio Grossi

Humberto Antonio Sierra Porto

Eduardo Ferrer Mac-Gregor Poisot

Ricardo C. Pérez Manrique

Pablo Saavedra Alessandri
Secretary

So ordered,

Elizabeth Odio Benito
President

Pablo Saavedra Alessandri
Secretary