

INTER-AMERICAN COURT OF HUMAN RIGHTS
CASE OF DERAS GARCÍA ET AL. v. HONDURAS
JUDGMENT OF AUGUST 25, 2022
(Merits, reparations, costs and expenses)

In the case of *Deras García et al. v. Honduras*,

the Inter-American Court of Human Rights (hereinafter “the Inter-American Court” or “the Court”), composed of the following judges:

Ricardo C. Pérez Manrique, President,
Humberto Antonio Sierra Porto, Vice President,
Eduardo Ferrer Mac-Gregor Poisot,
Nancy Hernández López,
Verónica Gómez,
Patricia Pérez Goldberg, and
Rodrigo Mudrovitsch;

also present,

Pablo Saavedra Alessandri, Registrar, and
Romina I. Sijniensky, Deputy Registrar,

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, 42, 62, 65 and 67 of the Rules of Procedure of the Court (hereinafter “the Rules of Procedure”), delivers this judgment structured as follows:

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I INTRODUCTION OF THE CASE AND CAUSE OF ACTION

1. *The case submitted to the Court.* – On August 20, 2020, 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 Herminio Deras García and family, of the Republic of Honduras (hereinafter “the State” or “Honduras”). The Commission stated that the case involved the January, 1983 extrajudicial execution of teacher Herminio Deras García, a leader of the Communist Party of Honduras and advisor to several trade unions, as well as threats, illegal detentions and acts of torture against members of his family. The Commission noted that these incidents took place in a setting of serious human rights violations that occurred in Honduras in the 1980s. The Commission also concluded that the right to freedom of movement and residence had been violated when Deras García’s brother left the country and when his sister was unable to return to Honduras because of the alleged failure to investigate and the lack of effective measures of protection from alleged acts of violence, threats and harassment of the family. Finally, the Commission held that the State of Honduras had violated the right to judicial guarantees and the right to judicial protection by failing to exercise due diligence or to observe a reasonable period in the criminal trial that was opened for the alleged execution of Deras García. The Commission therefore found violation of Articles 4(1), 5(1), 5(2), 7(1), 7(2), 7(3), 8(1), 11(2), 13(1), 16(1), 19, 22(1) and 25(1) of the American Convention on Human Rights, read in conjunction with Article 1(1) thereof.

2. *Proceedings before the Commission.* – The following proceedings took place before the Commission:

- a) *Petition.* – On February 6, 2002, Eustaquia García Alvarado¹ filed the initial petition with the Commission.
- b) *Admissibility Report.* – The Commission approved Admissibility Report No. 56/13 on July 16, 2013, holding the petition admissible,² and extended its good offices for reaching a friendly settlement.
- c) *Report on the Merits.* – The Commission approved its Report on the Merits No. 158/19 (hereinafter “Report on the Merits”) on September 28, 2019, drawing a set of conclusions and extending several recommendations to the State.
- d) *Notification to the State.* – The Commission notified the State of the Report on the Merits on November 20, 2019, and granted the State a term of two months to report back on adoption of the recommendations. The State was granted two three-month extensions and reported to the Commission on August 5, 2020, of its intention to reach an agreement on compliance. Nonetheless, “it did not request suspension of the time limit for submitting the case to the Court.”

3. *Submission to the Court.* – On August 20, 2020, the Commission submitted to the Court the full set of facts and alleged human rights violations in the case.³ It stated that its

¹ After that date, the Committee of Families of the Detained/Disappeared in Honduras (*Comité de Familiares de Detenidos-Desaparecidos en Honduras*, hereafter COFADEH) and Alba Luz Deras joined the process as petitioners before the Commission.

² The parties were notified of the report on August 1, 2013.

³ The Commission appointed Commissioner Joel Hernández García and then-Executive Secretary Paulo Abrão as its delegates before the Court, together with legal advisors, then-Assistant Executive Secretary Marisol Blanchard

submission was due to “the need to obtain justice and reparation for the failure to comply with the recommendations in the Report on the Merits.”

4. *Requests of the Commission.* – The Commission asked the Court to find and declare that Honduras was internationally responsible for the violations enumerated in the Report on the Merits (*supra* para. 1) and order the State to extend the measures of reparation requested therein (*infra* chapter VIII). This Court notes with concern that over 18 years elapsed after the originating petition was lodged with the Commission, before the case was submitted to the Court.

II PROCEEDINGS BEFORE THE COURT

5. *Notification to the State and to the representatives.* The State⁴ and the representatives of the alleged victims⁵ were notified on October 7, 2020, that the case had been submitted to the Court.

6. *Brief with pleadings, motions and evidence.* – On December 8, 2020, the representatives filed their brief of pleadings, motions and evidence (hereinafter “pleadings and motions brief”), pursuant to Articles 25 and 40 of the Rules of Procedure. The representatives agreed substantially with the Commission, adding further arguments on the merits. They also asked that Honduras be ordered to adopt several measures of reparation additional to those requested by the Commission.

7. *Brief of preliminary objections and answering brief.* – On March 15, 2021, the State submitted its answering brief to the Commission’s submission and Report on the Merits and to the pleadings and motions brief (hereinafter “answering brief”). Honduras submitted two preliminary objections in this brief and challenged the alleged violations. It also stated that it “would refrain from responding to each separate applicable measure of reparation, which could be addressed later in the event of a friendly settlement.”

8. *Public hearing.* – The President of the Court issued an order on March 31, 2022,⁶ convening the parties and the Commission to a public hearing on the preliminary objections and possible merits, reparations, and costs, to take place on May 10 and 11, 2022, at the seat of the Court in Costa Rica, during the Court’s 148th regular session.⁷ The State submitted a recognition of responsibility at the hearing (*infra* chapter IV).

Vera, then-specialist and current Assistant Secretary of the Commission Jorge Meza Flores, and Erick Acuña, specialist with the Commission’s Executive Secretariat.

⁴ The State’s designated agents for the case were Lidia Estela Cardona Padilla, then-Public Prosecutor of Honduras, and Jacobo Cáliz Hernández and Nelson Gerardo Melina Flores, staff attorneys in the Office of the Public Prosecutor of Honduras. The State sent a request on March 30, 2022, to update its roster of agents in the case, designating Manuel Antonio Díaz Galeas, Public Prosecutor of Honduras, Tomás Emilio Andrade Rodas, Assistant Public Prosecutor of Honduras, and Nelson Gerardo Molina Flores and Jacobo Calix Hernández, staff attorneys with the Office of the Public Prosecutor of Honduras.

⁵ The alleged victims were represented by the Committee of Families of the Detained/Disappeared in Honduras (*Comité de Familiares de Detenidos Desaparecidos en Honduras*, COFADEH), the International Federation for Human Rights (FIDH), Alba Luz Deras García, Irma Isabel Deras García, Luis Rolando Deras García, Otilia Flores Ortiz, Herminio Deras Flores and Lorena Deras Flores.

⁶ *Cf. Case of Deras García et al. v. Honduras. Notice of hearing.* Order of the President of the Inter-American Court of Human Rights, March 31, 2022. Available in Spanish at: https://www.corteidh.or.cr/docs/asuntos/deras_garcia_y_otros_31_03_22.pdf.

⁷ The following appeared at the hearing: (a) for the Inter-American Commission: Carlos Bernal Pulido, Commissioner; Jorge Meza Flores, Assistant Executive Secretary; and Carla Leiva and Ignacio Bollier, advisors; (b) for the representatives: Berta Oliva de Nativí, Dora Emperatriz Oliva, Meri Agurcia, Elisa Quiroz, Jimena Reyes, Lorena Deras

9. *Additional brief expanding the recognition of responsibility.* – The State submitted a brief on May 20, 2022, broadening the scope of its recognition of responsibility (*infra* para. 18).
10. *Final written arguments and observations.* – The representatives submitted their final written arguments and additional documentation on May 22 and 23, 2022. The Commission filed its final written observations on May 23, 2022. The State did not file final written arguments.
11. *Observations on the annexes to the final arguments.* - The State reported on June 3, 2022, and the Commission, on June 6, 2022, that they had no observations to offer concerning the annexes to the representatives’ final written arguments.
12. *Further helpful evidence.* – The State was asked on August 10, 2022, to submit certain documentation⁸ as further helpful evidence, pursuant to Article 58(b) of the Court’s Rules of Procedure. The State submitted the documentation as requested on August 12, 2022. The representatives submitted their comments on August 22, 2022, on the document submitted by the State, while the Commission reported that it had no observations to make.
13. *Deliberation of the case.* - The Court deliberated on the instant judgment on August 25, 2022, during its 150th regular session, in Brasilia, Brazil.

III JURISDICTION

14. The Court is competent to hear the instant case pursuant to article 62(3) of the Convention, as Honduras has been a State Party to the American Convention since September 8, 1977, and recognized the contentious jurisdiction of the Court on September 9, 1981.

IV RECOGNITION OF RESPONSIBILITY

A. Recognition of responsibility by the State and observations by the representatives and the Commission

15. During the public hearing on May 10 and 11, 2022, the **State** said that it “accepted the facts and the rights violated as reported by the [Commission] in its Report on the Merits and the representatives in their [pleadings and motions brief].” They stated, in this regard:

Flores, Alba Deras, Héctor David Hércules Ramírez, María Dolores Hércules Ramírez, Viviana Ivonne Rosado Yanes, Marlen García Pineda, Lesly Banegas Frazier, Herminio Deras Flores, Patricia Alejandra Chavarría Deras, Sandra Ivone Hernández Deras, Marlon García Barahona, Giorgio Trucchi, Noemí Esther Pérez, Tomas Nativí Oliva, Lorena Suyapa Rubí, Claudia Suyapa Amaya, and Ninoska Lizeth; and c) for the State: Carlos Roberto Aguilar Pineda, Ambassador of Honduras in Costa Rica; Manuel Antonio Díaz Galeas, Public Prosecutor of Honduras and agent of the State; Nelson Gerardo Molina Flores, attorney with the office of the Public Prosecutor of Honduras and alternate agent; Sonia Azucena Escobar, attorney with the office of the Public Prosecutor of Honduras; Colonel Elías Antonio Melgar Urbina, undersecretary of national defense in the Office of the Secretariat of National Defense; Aura Amparo Forbes, auxiliary lieutenant for military justice in the Office of the Secretariat of National Defense; Auxiliary Lieutenant for military justice in the Office of the Secretariat of National Defense; Willy Antonio Mejía Cambar, head of the Department for Convention-based Legal Review in the Office of the Secretariat of National Defense; María Daniella Rueda Carcamo, legal assistant in the Office of the Public Prosecutor of Honduras, and Eduardo Alemán, legal advisor to the Office of the Minister of the Secretariat of National Defense.

⁸ The State was asked to submit the “official record of the arrest of Marco Tulio Regalado, setting forth the date he was detained, the name of the facility where he was held, and the date he entered that facility.”

[W]e recognize that the situations as reported, concerning facts in the instant case, qualify as acts of torture, and cruel, inhuman, degrading treatment, in keeping with the Report on the Merits and the brief with pleadings, motions and evidence, [...] and ongoing acts of persecution that persisted and led to the unfortunate extrajudicial execution of Herminio Deras García on January 29, 1983, and these acts broadened to include denigration and forced exile after his death, in injury of his family. [...]

[T]he State communicates [...] its acceptance of the facts and the rights violated as stated by the [Commission] in its [R]eport on the [M]erits and the representatives in their [pleadings and motions brief], and so affirms hereby in writing. [...]

With respect to the full redress of damage, the State, in view of the case law of the Inter-American Court of Human Rights and based on the recommendations by the Inter-American Commission, acquiesces to comprehensive reparations for the victims and their family members, so as to repair the damage caused by the human rights violations.

16. Furthermore, in the document "Full Acquiescence in Case CDH-16-2020 Deras García et al [v.] Honduras,"⁹ submitted by the State on May 11, 2022, in the framework of the public hearing specified *supra*, the State reiterated this position and added:

The purpose of this document is full acquiescence in the case. [...]

[T]he State of Honduras expressly recognizes that it is responsible for violating the following rights contained in the [American Convention] : (1) right to life established in Article 4(1); (2) right to personal integrity established in Article 5(1) 5(2); (3) right to personal liberty established in Article 7(1)(2)(3); (4) right to judicial guarantees established in Articles 8(1) and 25(1); (5) right to privacy established in Article 11(2); (6) freedom of thought and expression established in Article 13(1); (7) freedom of association established in Article 16(1); (8) rights of the family established in Article 17; (9) right to special protection of children established in Article 19; (10) right to property established in Article 21; (11) freedom of movement and residence established in Article 22(1), and (12) right to participate in government established in Article 23, all in conjunction with the violation of the general obligations set forth in Article 1(1) of this international instrument, in injury of the victim and members of his family. [...]

The victims recognized in this case are those indicated in [R]eport on [M]erits No. 158/19, as follows: 1. Herminio Deras García (deceased); 2. Otilia Flores Ortiz, widow of Sr. Deras García; 3. Herminio Deras, son; 4. Lorena Deras Flores, daughter; 5. María Eustaquía García, mother (deceased); 6. Domingo Deras, father (deceased); 7. Irma Isabel Deras García, sister; 8. Luis Rolando Deras García, brother; 9. Consuelo Deras García, sister (deceased); 10. Alba Luz Deras García, sister; 11. Héctor Deras García, brother (deceased); 12. José Herminio García, nephew; 13. Sandra Ivonne Hernández Deras, niece; 14. Marlon Javier García Barahona, nephew; 15. Marlen García Pineda, cousin; 16. Julio César Chavarría Benegas, brother-in-law; 17. Cristóbal Rufino Hernández, brother-in-law, better known as H. Pérez (deceased), and 18. Elba Flores Ortiz, sister-in-law.

17. The State noted, additionally, "its full willingness to resolve this matter and honor the reparations set forth in the [acquiescence document] and in the judgment that the Court will hand down over the course of this process." Similarly, it expressed its commitment to "full redress for the victims and their family members" under the terms set forth in its acquiescence. The State therefore committed to the following measures: (a) closure of police and judicial records on family members of Herminio Deras García; (b) medical and psychological care; (c) compensatory damages to be determined by the Court; (d) publication and dissemination of the judgment; (e) a public act of recognition of international responsibility; (f) building a mausoleum in memory of Herminio Deras García; (g) conducting a "thorough and effective investigation of the human rights violations found in the" [R]eport on the [M]erits; (h) payment of costs and expenses ordered by the Court; (i) [e]nactment of

⁹ Cf. "Allanamiento Total del Caso CDH-16-2020 Deras García y otros [Vs.] Honduras", May 11, 2022 (merits file, folios 483 to 500).

a law on historical memory; (j) [e]nactment of a law for investigation of responsibility by the full chain of command; (k) [r]evision of [d]omestic legislation [o]n [t]orture; (l) development of [p]olicies for preservation of files and sites of conscience, and (m) development of [p]olicies for education on memory (*infra* chapter VIII).

18. Finally, the State found it necessary, as indicated in its brief dated May 20, 2022, to inform the Court expressly that the “Convention article on Domestic Legal Effects was added to the set of rights to which the State acquiesces and recognizes its responsibility.”

19. The **Commission** welcomed the State’s expression of recognition in the public hearing and emphasized that this acquiescence covered all the matters of fact and rights raised by the Commission in its Report on the Merits and in the representatives’ pleadings and motions brief. It also asked the Court to deliver a judgment setting forth the facts, the violations committed, and the measures of reparation that the State should adopt.

20. The **representatives** welcomed the recognition of responsibility by Honduras. They saluted the “State’s moral courage [...] and its attitude toward the victims in the public hearing” and reiterated that this “was the beginning of reparation and healing.” They also asked the Court to “clarify the facts, bearing in mind the testimonies that family members, witnesses and experts had brought before the public hearing.” They based their request on the fact that “this [would] be a landmark case in Honduras, not only because of the standing of Herminio Deras as a political and trade-union figure and journalist, but also because it [would] clearly reveal the presence of political motives behind his death and the interest of state policy in ensuring that the execution of a political opponent such as Herminio should remain unpunished.” They added that a judgment on the merits would be important to “strengthen the rule of law and the quest for justice and truth,” as well as “the political scope of the State’s recognition of responsibility.”

B. Considerations of the Court

21. In keeping with Articles 62 and 64 of the Rules of Procedure, and in the exercise of its powers of international judicial protection of human rights, which is a matter of international public order, the Court must ensure that acts of acquiescence be acceptable for the purposes sought by the inter-American system.¹⁰

B.1. The facts

22. The Court believes that the State’s assertions made at the public hearing on May 10 and 11, 2022, and its brief of “complete acquiescence” submitted to the Court at that time clearly reveal that Honduras has fully accepted the facts set forth by the Commission in its Report on the Merits and by the representatives in their pleadings and motions brief.¹¹ The Court therefore finds that the dispute on the full set of facts that make up the instant case has ended, to wit, facts involving: (a) the context of serious human rights violations under the national security doctrine in Honduras; (b) the death of Herminio Deras García; (c) facts concerning the family of Herminio Deras García, and (d) the criminal process undertaken over the death of Herminio Deras García.

¹⁰ Cf. *Case of Kimel v. Argentina. Merits, Reparations and Costs*. Judgment of May 2, 2008. Series C No. 177, *para.* 24, and *Case of Guevara Díaz v. Costa Rica. Merits, Reparations and Costs*. Judgment of June 22, 2022. Series C No. 453, *para.* 16.

¹¹ Facts presented by the representatives were not new, but instead, served to clarify and detail features in the corpus of facts contained in the Report on the Merits.

B.2. Claims of law

23. The Court finds that the State's assertions at public hearing on May 10 and 11, 2022, its brief on "full acquiescence" submitted to the Court at that time, and its brief of May 20, 2022, clearly evince Honduras' complete recognition of responsibility for the alleged human rights violations in the terms set forth by the Commission in its Report on the Merits and by the representatives in their pleadings and motions brief, and that it has recognized the need to adopt measures of reparation. The Court therefore holds that the dispute on the totality of alleged violations has ended, to wit:

- a) Violation of the right to life, the right to personal integrity, freedom of thought and expression, freedom of association, and right to participate in government, as enshrined in Articles 4(1), 5(1), 13(1), 16(1) and 23(1) of the American Convention, read in conjunction with Article 1(1) and 2 thereof, resulting from the persecution and extrajudicial execution of Herminio Deras García by agents of the State as part of the application of the Honduran national security doctrine.
- b) Violation of the right to personal integrity, the right to personal liberty, the right to privacy, dignity and a private life, rights of the family, right to property, freedom of movement and residence and rights of the child, enshrined in Articles 5(1), 5(2), 7(1), 7(2), 7(3), 11(1), 11(2), 17, 21, 22(1) and 19 of the American Convention, read in conjunction with Article 1(1) thereof, resulting from the persecution, threats, harassment, arbitrary detentions, mistreatment and torture perpetrated against several members of Deras García's family, some of whom were children at the time of the facts, illegal raids and acts of destruction of their homes and belongings, and the "situation of forced exile" of Héctor García and Alba Luz Deras García.
- c) Violation of the right to a fair trial and right to judicial protection as contained in Articles 8(1) and 25 of the American Convention, read in conjunction with Article 1(1) thereof, resulting from shortcomings and irregularities in the procedures undertaken after the death of Deras García, and the presence of a situation of impunity up through the present time for the failure to shed full light on the facts and to determine all the responsibilities for the execution of Herminio Deras García. This violation also derives from disregard of the duty to guarantee a reasonable investigation to identify and, where relevant, to sanction all those responsible for the acts against the personal integrity, the illegal and arbitrary arrests, the raids, and more, in injury of the family members of Deras García.
- d) Violation of the right to personal integrity and the rights of the family, set forth in Articles 5(1) and 17(1) of the American Convention, read in conjunction with Article 1(1) thereof, as a result of the suffering caused to Herminio Deras García's family members and the "disintegration" and "rupture" of the family.

B.3. Reparations

24. The Court notes that the State's recognition of responsibility covers "measures for comprehensive redress of the damage." It would caution, however, that although the State, at public hearing and in the acquiescence document, expressed its commitment to an array of specific measures of reparation proposed by the Commission and the representatives (*supra* para. 17), the Court must specifically define some of the details of certain measures requested by the representatives and set the amounts for damages and for costs and expenses, and it will discuss this in the relevant chapter (*infra* chapter VIII).

B.4. Analysis of the recognition of responsibility

25. The State's recognition is an acquiescence to all the facts, alleged violations, and most of the reparations requested by the Inter-American Commission in its Report on the Merits and by the representatives in their pleadings and motions brief.

26. This Court takes a very positive view of the broad acceptance of responsibility offered by Honduras and the good will and commitment the State expressed for fully redressing the victims for violations in the instant case. The Court finds that the recognition of international responsibility makes a positive and essential 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.¹² The State's acquiescence has full legal effects, pursuant to articles 62 and 64 of the Rules of Procedure of the Court, and holds considerable symbolic value for preventing the recurrence of similar incidents, especially in view of the setting in which they took place. 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 law, and the need to adopt measures of reparation.

27. Taking into account the seriousness of the facts and violations acknowledged by the State and the petition of the representatives and the Commission, the Court is compelled to deliver a judgment that establishes the facts of the case, based on evidence produced during the proceedings before this Court and the State's acceptance thereof, as this will contribute to making redress to the victims and thus prevent similar events from occurring in the future and, in short, to meeting the objectives of the inter-American human rights jurisdiction.¹³

28. The Court does not find it appropriate at this time to enter into a detailed discussion of the human rights violations that took place in injury of Deras García and his family, because these facts were expressly acknowledged by the State in its broad recognition of international responsibility, and because the claims concerning the particular rights argued and acknowledged in the instant case have already been extensively developed in the case law of the Inter-American Court. However, in view of the petition by the representatives and the Commission, and because this judgment itself can serve as a form of reparation, the Court does find it necessary to expound on its conclusions regarding the violations that have been alleged and acknowledged, in light of the facts of the case.

29. The Court also sees the need to offer its opinion on each of the measures of reparation, based on the State's acceptance of responsibility.

30. Finally, the Court would recall that the State raised two preliminary objections in its answering brief.¹⁴ In view of the scope of the State's recognition of responsibility, however, it is the view of the Court that Honduras has withdrawn these objections, and therefore it will not rule on them.

¹² 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 Guevara Díaz v. Costa Rica, supra*, para. 22.

¹³ Cf. *Case of Tiu Tojín v. Guatemala. Merits, Reparations and Costs*. Judgment of November 26, 2008. Series C No. 190, para. 26, and *Case of Digna Ochoa et al. v. Mexico. Preliminary Objections, Merits, Reparations and Costs*. Judgment of November 25, 2021. Series C No. 447, para. 25.

¹⁴ The two preliminary objections lodged by the State were: (a) legal review of [R]eport on [M]erits No. 158/19 concerning submission of the case to the contentious jurisdiction of the Inter-American Court," and (b) "partial lack of jurisdiction due to *ratione temporis*."

V EVIDENCE

A. Admissibility of documentary evidence

31. The Court received several documents submitted as evidence by the Commission, the representatives and the State, attached to their main briefs (*supra* paras. 5 to 7). As is its practice, the Court admits documents duly presented on time (Article 57 of the Rules of Procedure)¹⁵ by the parties and the Commission at the proper procedural moment, whose admissibility was neither contested nor opposed, and whose authenticity was not questioned.¹⁶

32. The Court also notes that the **representatives** submitted three annexes¹⁷ together with their final written arguments. Both the **State** and the **Commission** replied that they had no comments concerning these documents. The **Court** therefore admits the annexes, considering that they address documents submitted as confirmation of expenditures incurred by the representatives to litigate the instant case.

33. Finally, the Court had asked the State, in a note from the Registrar on August 10, 2022, to submit the “official record of the arrest of Marco Tulio Regalado, setting forth the date he was detained, the name of the facility where he was held, and the date he entered that facility.” The State submitted the documentation as requested on August 12, 2022. This evidence was deemed admissible under the terms of Article 58 of the Rules of Procedure.

B. Admissibility of evidence by witnesses and expert witnesses

34. This Court holds admissible the statements rendered before a public attestor¹⁸ and in the public hearing,¹⁹ as they are relevant to the topics set in the President’s order for submission and with the cause of this action.²⁰

VI FACTS

35. The Court, noting the broad scope of the State’s recognition of responsibility, will now discuss the facts of the case, based on the corpus of facts established in the Commission’s Report on the Merits, additional facts brought by the representatives in their pleadings and

¹⁵ Article 57(2) of the Rules of Procedure stipulates in general terms that documentary evidence should be submitted together with the briefs of submission of the case, the pleadings brief or the answering brief, whichever applies. Evidence submitted outside the procedural time limits is not admissible, except as provided in Article 57(2) of the Rules of Procedure (cases of force majeure or serious impediment) or in the case of a supervening event that occurred subsequent to the expiration of the time limit.

¹⁶ Cf. Article 57 of the Rules of Procedure; also *Case of Velásquez Rodríguez v. Honduras. Merits*. Judgment of July 29, 1988. Series C No. 4, para. 140, and *Case of Guevara Díaz v. Costa Rica, supra*, para. 24.

¹⁷ These documents are: invoices and expenditures incurred by COFADEH (annex 1); invoices and expenditures incurred by the Deras García family (annex 2), and invoices and expenditures incurred by FIDH (annex 3).

¹⁸ Statements rendered before a public attestor (affidavits) were received from Alba Luz Deras García, Herminio Deras Flores, Fabián Omar Salvioli, José Eugenio Sosa Iglesias, Carmen Lastenia Martínez García and Manuel Ollé Sesé, at the request of the representatives, and from Luz Adriana Camargo Garzón, proposed by the Commission.

¹⁹ Statements were taken from Otilia Flores Ortiz, Irma Isabel Deras García and Luis Rolando Deras García, proposed by the representatives.

²⁰ The matters to be addressed in the statements are set out in the Court President’s order of March 31, 2022.

motions brief, and evidence contained in the case file,²¹ in the following order: (a) the context of serious human rights violations in the framework of the Honduran national security doctrine; (b) the death of Herminio Deras García; (c) facts about the Herminio Deras García family, and (d) the criminal proceedings. Facts that predated Honduras' recognition of the Court's contentious jurisdiction will be given as background information.

A. Context of serious human rights violations under the national security doctrine in Honduras

36. The Court has judged previous cases²² on the context of serious human rights violations in Honduras in the 1980s, in which the facts of the instant case occurred. It has held that:

...during the 1980s and early '90s, there was a pattern of forced disappearances and extra-legal executions committed by the military forces in Honduras. These forces had a special, autonomous status, and they acted under a certain doctrine of national security, in light of which they captured "dangerous" persons or those who were "suspicious" of being alleged Honduran subversives, supporters of the Salvadoran guerrillas or of the Sandinistas. Usually these persons were detained at night, interrogated, tortured, and then given a finishing shot and buried in clandestine cemeteries or unauthorized places. The military forces, in turn, controlled the police forces, and the judges felt intimidated to effectively investigate criminal cases where human rights violations by the armed forces were alleged, and this created a climate of impunity.²³

37. Honduras concurred in the public hearing, stating that the facts alleged by the Commission and the representatives in the case at hand had taken place in "the framework of application of the grievous national security doctrine in the 1980s in the Republic of Honduras." The Honduran Truth and Reconciliation Commission (*Comisión de la Verdad y la Reconciliación*, CVR) has stated in this regard that many of the victims of national security doctrine enforcement efforts were politicians, labor activists, and teachers, as was the case of Deras García (*infra*, para. 41). Expert witness Camargo spoke along the same lines concerning:

...the systemic violence experienced in the countries known as the northern triangle of Central America (Guatemala, El Salvador, and Honduras) in the 1980s and 1990s, where national security doctrine enforcement by State security forces led to the persecution of social leaders, farm and indigenous leaders, members of trade unions and student associations, active members of center-left, socialist or communist political parties, people suspected of being 'guerrillas,' accused as 'internal enemies of the State,' who were subject to harassment of themselves and their families, whose privacy was invaded, who were subject to arbitrary detention, torture, displacement, forced disappearance and even extrajudicial execution.²⁴

38. Expert witness Sosa Iglesias said:

[d]etainees in the clandestine prisons were subjected to [...] electric shock, withholding of food and water, isolation, blindfolds, hoods, sexual abuse, use of trained dogs for torture,

²¹ Evidence of the facts held in the case file includes: statements by several victims, expert opinions, copies of portions of the file from the criminal case (judicial case file 7159-02) lodged in response to the death of Herminio Deras García, a copy of the complaint filed by Otilia Flores Ortiz on February 4, 1983, a report by Amnesty International on "human rights violations in the 1980s" in Honduras, and press reports from the time of the facts.

²² Cf. *Case of Velásquez Rodríguez v. Honduras. Merits*, *supra*, paras. 147 and 148; *Case of Godínez Cruz v. Honduras. Merits*. Judgment of January 20, 1989. Series C No. 5, para. 153; *Case of Fairén Garbí and Solís Corrales v. Honduras. Merits*. Judgment of March 15, 1989. Series C No. 6, para. 112, and *Case of Juan Humberto Sánchez v. Honduras. Preliminary Objection, Merits, Reparations and Costs*. Judgment of June 7, 2003. Series C No. 99, para. 70.1.

²³ *Case of Juan Humberto Sánchez v. Honduras*, *supra*, para. 70.1.

²⁴ Expert opinion by Luz Adriana Camargo Garzón, May 2, 2022 (evidence file, folio 2600).

immersion in water laced with feces, forced nasal inhalation of liquids, hangings, prolonged nudity, being forced to torture other detainees, mock execution with firearms, threats to kidnap their families...²⁵

39. The National Human Rights Commissioner stated in the report "Preliminary Report on Missing Persons in Honduras" that forced disappearances and extrajudicial executions from 1980 to 1993 were perpetrated by the armed forces intelligence units, particularly Intelligence Battalion 3-16 (hereinafter "Battalion 3-16"), known as one of the "death squads." The members of this security corps were trained in activities of counterinsurgency to fight against a perceived "communist threat."

40. Strict military control over the police and judiciary led to a widespread climate of impunity whenever human rights violations were reported. There is no evidence the Office of the Public Prosecutor of Honduras had initiated any proceedings against military or police personnel for these cases.

B. The death of Herminio Deras García

41. Herminio Deras García, born in September 1941, lived in the city of San Pedro Sula in the department of Cortés, Honduras. He was a teacher by profession, a political leader with the Honduran Communist Party, and advisor to several trade unions²⁶ from the northern coast of Honduras.²⁷ Herminio Deras García also wrote for his party's newspaper *Vanguardia Revolucionaria*.²⁸ At the time of his death, Deras García was serving as Second Secretary General of the Communist Party and used pseudonyms to elude repression (*supra* paras. 37 to 40), including "Diego" and "La Liebre" (the hare).

42. On the morning of November 26, 1981, the Third Infantry Battalion and agents from the National Department of Investigation (*Dirección Nacional de Investigación*, hereinafter "DNI") raided the home of Herminio Deras García and his wife Otilia Flores Ortiz,²⁹ destroyed the lock on the outer gate to the home, smashed the furniture and ceiling, and took several personal objects, all without a search warrant.³⁰ The people in the house at the time the agents arrived were Maria del Carmen Gonzales, niece of Otilia Flores Ortiz, the domestic

²⁵ Expert opinion by José Eugenio Sosa Iglesias, April 30, 2022 (evidence file, folio 2386).

²⁶ According to his sister, Alba Deras García, "[a]s advisor to the trade unions from the northern coast, [Herminio Deras García] helped the unions with collective bargaining agreements. This aroused concern because the workers were making major demands of their employers and sometimes won very good contracts. It was, in fact, a major collective bargaining process that triggered a large-scale strike in 1979, which marked the beginning of violent, systematic, lethal persecution against Herminio and other union workers and members of the Communist Party, who were murdered, went missing, or were jailed." Statement by Alba Luz Deras García, April 28, 2022 (evidence file, folios 2361 to 2362).

²⁷ Herminio Deras García was, in the words of his wife, Otilia Flores Ortiz, a "labor advisor and educator." Cf. Statement by Otilia Flores Ortiz in the public hearing on the instant case.

²⁸ His sister stated that, through this newspaper, Herminio Deras García "gave his political position on the events of the day in the country, called for a workers' struggle, a trade-union struggle, and for unity among trade unions for a better Honduras. Herminio [...] was very skillful at writing and articulating his political and ideological ideas. He always taught us to be readers, and very often we helped him distribute it [...] and he asked us to help him spread his ideas. Statement by Irma Isabel Deras García in the public hearing on the instant case.

²⁹ Otilia Flores Ortiz was 34 years old in 1981 and worked in the records office of the National Autonomous University of Honduras, at the northern regional campus. She was also an active member of the Union of Workers of the National Autonomous University of Honduras (*Sindicato de Trabajadores de la Universidad Nacional Autónoma de Honduras*, SITRAUNAH).

³⁰ Otilia Deras Flores said, "...in 1981 my house was searched, destroyed, they stole everything, they mistreated us [...]. When they raided the house, [...] [Elba Flores] protested because they were destroying everything in the house, and they were taking everything from the house. Herminio had started a book, writing a book on agrarian reform, they took it, they burned the whole thing, and I was never able to recover it." Statement by Otilia Flores Ortiz, *supra*.

worker and her daughter, and Deras García's sister-in-law, Elba Flores Ortiz,³¹ who was told that they were looking for weapons and for the whereabouts of Deras García. Herminio Deras García, his wife, and their two children, Lorena Deras Flores³² and Herminio Deras Flores, arrived during the raid.³³ Upon his entry into the house, a gun was pointed at Deras García, with threats to kill him. He managed to escape³⁴ by jumping over the outer wall that surrounded his home, and was then chased by eight police vehicles. His wife and sister-in-law were taken to the DNI offices (*infra* paras. 53 and 54).

43. The home of Herminio Deras García was "machine gunned" on January 1, 1982 by unidentified persons, leaving 18 bullet holes. The telephone lines had been malfunctioning since the night before. His home was under surveillance starting on September 23, 1982, when state security agents moved into a vacant house nearby.

44. Deras García talked to his father, Domingo Deras,³⁵ on January 26, 1983, and told him that traffic officers had stopped him and recorded his vehicle's license plate number. Later, on January 28, 1983, while he was at the home of a trade-union acquaintance, his vehicle was searched by then-officer Marco Tulio Regalado Hernández and others.

45. In the early morning hours of January 29, 1983, while Herminio Deras García was driving his vehicle through the Las Flores neighborhood in San Pedro Sula, he was stopped and searched by a traffic officer under orders by the head of Battalion 3-16, Captain R.C.N., to conduct an operation of document checks in order to "arrest a terrorist and put him in the custody of the security force." While Deras García's vehicle was being searched, two members of Battalion 3-16, including then-officer Marco Tulio Regalado Hernández, entered his car.

46. The traffic officer had reportedly seen Deras García driving his car afterward, along with the two members of Battalion 3-16, and a few moments later, while he was buying coffee at a nearby market, the traffic officer heard gunfire. He went to the scene and found Herminio Deras García lifeless inside the vehicle. According to eyewitnesses, one of the individuals said to Deras García: "you're the troublemaker we have been looking for," whereupon Deras García had started a fistfight with his captors, who were attempting to move him into another vehicle, and when they could not do it, they had shot him multiple times and killed him.

47. The commander of the Third Police Precinct of the Las Flores neighborhood arrived on the scene. The body of Herminio Deras García was moved to the Leonardo Martínez Hospital morgue, but not taken inside. After the body was examined by the coroner, the commander told the press that the vehicle of the "criminals" had passed in front of his police station. Later on, Otilia Flores Ortiz had gone to the morgue to claim her husband's body³⁶ and learned that there had been no autopsy; she subsequently requested the services of Dr. Turcios for this

³¹ Elba Flores Ortiz was 23 years old at the time.

³² Lorena Deras Flores was 11 years old at the time.

³³ Herminio Deras Flores was 7 years old at the time.

³⁴ Otilia Flores Ortiz said, "...that time Herminio got away thanks to the fact that when they were about to attack him with the machine guns they were pointing at him, my children threw their arms around him and then they couldn't shoot at him." Statement by Otilia Flores Ortiz in the public hearing on the instant case.

³⁵ Domingo Deras was a builder by trade, and in 1983, he had a business in cement blocks and tile, as well as a carpentry business since 1981. He lived with his family in the San Francisco del Progreso neighborhood, Yoro.

³⁶ Otilia Flores Ortiz described the experience as follows: "I went to pick up [Herminio Deras García] where I was told he had fallen, I took my children along [...] to have them with me. When I arrived, they had already taken him to the morgue. They didn't want to admit him into the morgue, and when I arrived, he still had gunshot wounds, they had him in the bed of the vehicle, gunned down, and my children saw that, all I remember is Lorena crying, and little Herminio clutching his little fists, clenching his teeth, crying, it was terrible, and I can never forget it, it is etched into my mind." Statement by Otilia Flores Ortiz, *supra*.

purpose. When Flores Ortiz arrived at the morgue for the body, the soldiers³⁷ told her to take "that thug."³⁸

C. Facts about the family of Herminio Deras García

48. At the time Deras García died, his family consisted of: (i) his wife, Otilia Flores Ortiz;³⁹ (ii) his children, Herminio and Lorena Deras Flores; (iii) his parents, Eustaquia García Alvarado⁴⁰ and Domingo Deras Henríquez;⁴¹ (iv) his siblings, Alba Luz Deras García, Irma Isabel Deras García, Consuelo Deras García, Héctor García⁴² and Luis Rolando Deras García, and (v) his nephews and niece, cousin, and sister- and brothers-in-law, José Herminio García,⁴³ Sandra Ivón Hernández Deras, Marlon Javier García Barahona, Marlen García Pineda,⁴⁴ Julio Cesar Chavarría Banegas,⁴⁵ Elba Flores Ortiz and Cristóbal Hernández Pérez.

49. Alba Deras García had traveled to Romania in 1975 to study. When she completed her studies, she was unable to return to Honduras because of the political situation in the country and the persecution against her family, so she lived in Cuba until her return to Honduras in 1993.⁴⁶ She had to leave the country again, however, because of the continued political intolerance in Honduras. Alba Deras García decided to return to Honduras in the year 2000

³⁷ Otilia Flores said: "they themselves, the soldiers, took [Deras García's body to the Deras Flores family home]. They were going to dump him onto the floor, I told them please to wait for me, and ran and spread a plastic sheet on the sofa so they could put him there." Statement by Otilia Flores Ortiz, *supra*.

³⁸ Herminio Deras Flores stated, "[t]he day my father died in 1983, I remember that my mother woke me up and told us, my sister and me, '...get up, they have killed your father.' My mother was very upset and crying, and also she was angry, furious. I felt like a zombie; I watched everything happening around me, but I felt nothing." "[W]e drove to the morgue, which I think was at the hospital. I remember there I saw my father in the back part of a pickup, with his shirt covered in blood. He was lying down and there were police all around the car. My mother was crying. I remember there was a man dressed in a police uniform who said something like "you're finally gone, you pig." The image will torment me for the rest of my life." Statement by Herminio Deras Flores, May 2, 2022 (evidence file, folios 2371 and 2372).

³⁹ This person is identified in the Report on the Merits as "Otilia Flores." The Court finds, however, that her name is consistent with the evidence submitted by the representatives. *Cf.* Verified birth certificate of Otilia Flores Ortiz (evidence file, folio 2001).

⁴⁰ This person is identified in the Report on the Merits as "María Eustaquia García." The Court finds, however, that her name is consistent with the evidence submitted by the representatives. *Cf.* Verified death certificate of Eustaquia García Alvarado (evidence file, folio 2015).

⁴¹ This person is identified in the Report on the Merits as "Domingo Deras." The Court finds, however, that her name is consistent with the evidence submitted by the representatives. *Cf.* Verified death certificate of Domingo Deras Henríquez (evidence file, folio 2014).

⁴² Some of the briefs in the case file name "Héctor Deras García," but his birth certificate and death certificate say only "Héctor García." *Cf.* Verified birth certificate of Héctor García (evidence file, folios 2005 and 2006), and death certificate of Héctor García (evidence file, folio 2007).

⁴³ This person is identified in the Report on the Merits as "José Herminio Deras García" or "José Herminio Deras Barahona." The Court finds, however, that his name is consistent with the evidence submitted by the representatives. *Cf.* Proxy for representation issued by Herminio García (evidence file, folio 1821).

⁴⁴ This person is identified in the Report on the Merits as "Marlen García." The Court finds, however, that her name is consistent with the evidence submitted by the representatives. *Cf.* Verified birth certificate of Marlen García Pineda (evidence file, folio 2009).

⁴⁵ This person is identified in the Report on the Merits as "Julio Cesar Chavarría Banegas" or "Julio Cesar Chavarría Banegas." The Court finds, however, that his name is consistent with the evidence submitted by the representatives. *Cf.* Verified birth certificate of Julio Cesar Chavarría Banegas (evidence file, folio 2012).

⁴⁶ Alba Deras stated, in this regard: "[I] left Honduras to study in Romania in 1975. Afterward I married a Cuban, and in 1981 I went to Cuba to live [...] I thought about returning to Honduras during those years, after I finished my studies, but there was a very terrible situation of repression against my family, so that a safe return would be impossible. I could not even go for a visit for many years; the first time I went back for a visit after I left in 1975 was 18 years later, in 1993, and with great fear [...] I had not gone before that because my family was always under threat. My own family told me that I could not go back because it was too dangerous, especially because I had lived in Cuba and that meant even more stigma." Statement by Alba Luz Deras García, *supra* (evidence file, folio 2363).

and settled in Tegucigalpa and La Esperanza, where she was less well-known. She moved to El Progreso in 2008 and worked with the Ministry of Reflection of the Catholic Church (*Equipo de Reflexión de la Iglesia Católica*, hereinafter ERIC). She was photographed and received threats in 2009, in a setting of political violence, when she took part in the resistance process together with the ERIC.⁴⁷

50. The military raided the home of Eustaquia García Alvarado and Domingo Deras Henríquez in 1977, looking for their son Herminio Deras García and for a mimeograph machine that allegedly belonged to his older brother, Héctor García.⁴⁸ When they could not find the mimeograph machine, the officers seized books and magazines that allegedly attested to the political activism of Herminio Deras García and Héctor García. During the raid, Eustaquia García Alvarado was taken to the back yard of her house, where they beat her around the head with their pistol butts and threatened to kill Herminio Deras García if the mimeograph machine did not turn up. Meanwhile, Irma Deras García, 15 years old, was crying and trembling as she clung to her mother's legs. Domingo Deras was taken from the house while the soldiers were beating him, and they accused him of having a clandestine radio station in his home. Irma Deras García witnessed these events. That same year, 1977, Irma Deras García and two of her classmates were detained by soldiers, supposedly for distributing the newspaper *Vanguardia Revolucionaria*. She was then taken to the cells of the Public Security Force, and later, to the cells of the DNI, where she was blindfolded, bound hand and foot, and threatened to "take that newspaper out of your stomach if you don't give us a copy" and take her out to the killing fields in the sugar-cane plantations.

51. On November 26, 1981—after the raid on the home of Herminio Deras García and Otilia Flores Ortiz (*supra* para. 42)—military, police and DNI agents entered the residence of Irma Deras García, who was 19 years old at the time,⁴⁹ looking for her brother Herminio Deras García. They threw her to the floor, insulted her, shoved her and threatened her. During the raid, the agents apprehended her other brother, Luis Deras García,⁵⁰ and took him to the DNI building in El Progreso, where he was beaten and interrogated concerning the whereabouts of Herminio Deras García.⁵¹ He was then taken handcuffed in the back of the vehicle to San Pedro Sula. When he arrived at the DNI, they took him to a cell and repeatedly placed a rubber bag over his head until he showed signs of asphyxiation,⁵² while asking him where his brother was. He was also beaten in the abdomen and ribs and was not allowed to use the bathroom or eat any food.⁵³

52. After Luis Deras García was taken, his family members Domingo Deras Henríquez, Eustaquia García Alvarado and Irma Deras García went to several different police and DNI stations to find out where he was but were given no information. After that, they went to the

⁴⁷ Alba Deras García stated: "At the time of the coup d'état en 2009, I was in El Progreso working with a Jesuit radio station, *Radio Progreso*. I was very frightened and wondered whether it was a mistake to have returned to Honduras. I started going to the protests. Then they shut down *Radio Progreso*, where I worked, and that was when I began to receive threats." Statement by Alba Luz Deras García, *supra* (evidence file, folio 2365).

⁴⁸ Héctor García was a member of the Workers' Union of the Tela Railroad Company, where Herminio Deras García served as an advisor.

⁴⁹ Irma Deras stated, "I was asleep, it was midnight, I heard someone forcing the window and footsteps on the tin roof [...] they started to upend the bedrooms, the beds, even the crib where my children were sleeping; they were newborns, about eight months old." Statement by Irma Isabel Deras García, *supra*.

⁵⁰ Luis Deras García, who was 23 years old, is the younger brother of Herminio Deras García.

⁵¹ Luis Deras García emphasized that he was "savagely tortured" in the DNI cells.

⁵² According to Luis Deras García and the representatives, this was "a practice of torture known as 'the hood.'"

⁵³ Luis Deras García said, in this regard, that he was held prisoner there for three days, and they kept him "isolated, after they tortured me they never gave me anything to eat or drink, and I had to urinate and defecate right there."

house of Herminio Deras García and Otilia Flores Ortiz, where they found around 20 armed agents guarding the house and using it as a center of operations. Lorena Deras Flores, who was 11, and her brother Herminio Deras Flores, seven, told them that their mother Otilia Flores Ortiz (*infra* para. 53) had been captured, so they tried to enter the house, but the officers blocked them. Domingo Deras Henríquez objected to the behavior of the officers, who reacted by shoving him outside. They did the same to Eustaquia García Alvarado, who was asking them to let her stay with her grandchildren Lorena and Herminio Deras Flores.

53. Otilia Flores Ortiz was detained on November 26, 1981, at 4:00 p.m., by soldiers from the Third Infantry Battalion, DNI agents and the police, who forced her to sit on a chair in her home while they tried to discover her husband's whereabouts. When they failed, she was taken, along with her sister Elba Flores Ortiz, who was also in the home, to the DNI cells in San Pedro Sula, where they were interrogated several times to find out where Herminio Deras García was. Otilia and Elba Flores Ortiz were then bound hand and foot, blindfolded, and taken to the Casamata police station in Tegucigalpa, where they were lined up for a mock firing-squad execution. The Flores sisters were lying down on the seats of the bus, and armed officers pointed guns at them the whole time.

54. When they reached police headquarters in Casamata, they were not allowed to have water⁵⁴ or food, and every hour the interrogator had guns fired within their hearing to frighten them.⁵⁵ The Flores sisters remained in that facility from the night of Saturday, November 26 through Monday, November 28, 1981. When they returned home, the Flores sisters found Lorena and Herminio Deras Flores traumatized and nervous, and Elba Flores Ortiz' newborn daughter, crying. Their children had been in the custody of police, military, and investigation officers the whole time the women were being held.⁵⁶

55. Otilia Flores Ortiz sent a letter to the provisional President of Honduras on December 6, 1981, reporting the illegal raid on her home and the seizure of books and personal effects. The President did not answer her letter or order an investigation.

56. Members of the police and army, along with DNI agents, raided the Deras García family home in the city of El Progreso on June 8, 1984. The agents forced Irma Deras García to go outside in her sleepwear, bound her wrists and apprehended her, along with members of her family: her niece Sandra Hernández Deras,⁵⁷ who was 19 years old, her sister Consuelo Deras García,⁵⁸ her cousin Marlen García Pineda,⁵⁹ her brother-in-law Cristóbal Hernández Pérez,⁶⁰

⁵⁴ Otilia Flores said: "My period started, and they took me to a room with no doors to get changed, [...] they never gave us or offered us anything the whole three days, not even water." Statement by Otilia Flores Ortiz, *supra*.

⁵⁵ In the words of Otilia Flores, "when we arrived in Tegucigalpa, they shut us into a cell, all full of mud because it was the rainy season, it was very cold, [...] we were there for three days, tied up, blindfolded, with nothing to eat or drink, when we arrived in Tegucigalpa they lined up all of us who were there, we heard them firing weapons as if they were going to execute us, it was terrible psychological harassment and I have not been able to get over it [...] I thought it would never see my children again." Statement by Otilia Flores Ortiz, *supra*.

⁵⁶ Herminio Deras Flores said in a statement that he had been "held captive with soldiers in my house, together with my sister Lorena and my cousin María del Carmen [...] there were some three to five young soldiers. They were in our rooms in the house. I remember that the soldiers were in my mother's room and they didn't let us move around inside the house—only to certain places at certain times. I hardly ate at all during those days. I remember that I ate sometimes, sitting cross-legged on the floor with the plate in my lap. I also remember going to sleep in the bed and feeling the absence of my parents. I did not understand why there were people in my house all the time, in uniforms, and I felt very frightened: fear because of uncertainty, I did not know what was happening or what was going to happen. [...] I realized I could not speak freely, even young as I was. I was afraid they would hurt me." Statement by Herminio Deras Flores, (evidence file, folios 2370 and 2371).

⁵⁷ Daughter of Consuelo Deras García and niece of Herminio Deras García.

⁵⁸ Consuelo Deras García was still recovering from a stroke that had sent her to the hospital.

⁵⁹ Cousin of the Deras García siblings, who lived with the Deras García family because of her job.

⁶⁰ Husband of Consuelo Deras García and brother-in-law of Herminio Deras García.

her nephew José Herminio García,⁶¹ 16, her husband Julio Chavarría Banegas,⁶² and her nephew Marlon García Barahona,⁶³ 11.

57. Irma Deras García told how a large number of armed soldiers entered the home at that time and...

"they shoved me to one side. I was in my nightgown, they left me on the sidewalk outside the house and went in, I heard how they took my whole family, they took Consuelo Deras, who was disabled, she had a humpback [...] I was wearing a bathrobe and I told them, let me get out of these clothes, [...] and one of them said, I will go with you, and I went up the stairs, and because I was in my nightgown, they fondled me."⁶⁴

58. Afterward they were all taken on foot to the police station. That same night, the family business that sold cement blocks and tiles was raided; Domingo Deras was there and they apprehended him.

59. When Héctor García⁶⁵ went to the home of the Deras García family to tell them that his father had been caught, he was detained and taken with the rest of the family to the police station which was being guarded by some 25 "cobra agents," all of them armed with Galil and M-16 assault rifles. They took them to a cell and made them all stand with their faces pressed against the wall. They were together for a few moments at first, but then they took Irma Deras García out of the cell, took photographs and fingerprints, and then blindfolded her and questioned her about her participation in a guerrilla cell. When she denied the charges, they beat her around the face and another agent said, "pull out her tongue[;] she is the sister of the dead communist." Then they were all blindfolded, tied up and taken to the San Pedro Sula air base, where they were forced into a military airplane and taken to Tegucigalpa. They were hit and kicked the whole time. When Irma Deras was interrogated, she heard the screams of her family members being beaten and frequently being made to stand against the wall and given death threats.⁶⁶

60. Domingo Deras, José Herminio García and Consuelo Deras García were released on June 9, 1984. While they were in custody, Consuelo Deras García "had a nervous breakdown because of what was happening to her and the uncertainty of not knowing any of the things they were asking her." Afterward she passed away.

⁶¹ Son of Héctor Deras García and brother of Marlon Javier García Barahona.

⁶² Husband of Irma Deras García and brother-in-law of Herminio Deras García.

⁶³ Son of Héctor García and brother of José Herminio García Barahona.

⁶⁴ Statement by Irma Isabel Deras García, *supra*.

⁶⁵ Cf. Statement rendered in public hearing by Irma Isabel Deras García on May 10 and 11, 2022.

⁶⁶ In the words of Irma Deras García: "[t]hey took us in a bus with the windows covered, and they took us in one at a time, we started off and then we reached the air base in San Pedro Sula [...] when we were on the bus, the handcuffs were pulled so tight, here it still shows, I asked if they would move them because I was bleeding, one of them said we were causing trouble, I also told him that I heard a man vomiting, and I told him it was my father, I thought then that my father were being held, I told him my father has high blood pressure, please give him water, because he was like vomiting, so he told me, yes, we will give it to him but quit being such a pain. We went to the airplane blindfolded and handcuffed [...] I heard Marlen crying, Sandra crying, and I said I can't ... they are younger, I need to set the example [, ...] in the airplane they told me we are going to throw you out, you and the whole family, out into empty space, you will never see your children again." "They took us to Tegucigalpa, [...] they took us to a place, I never found out where we were, and then we were interrogated often, they asked where the guns were, what was the name of our guerrilla cell, that we wanted to blow up the Democracy Bridge, where was the dynamite, we were interrogated so much, we had no water to drink, they didn't give us any food, and there was a time at around 4:00 a.m. the next day, when they let us rest." "At one point they tied me, they put a hood over my head and then also they took us out to dig our grave, they said, they gave us a shovel and said, dig the hole, because here you will end up dead." Statement by Irma Isabel Deras García, *supra*.

61. The remaining members of the Herminio Deras García family were released on June 11, 1984, with the help of an attorney and the defense collective of the families of other detainees and social organizations. The family was released on bail, but they needed to pay a group bond for the crime of sedition. As a result of this detention, Sandra Hernández Deras lost her job in the *Estrella* store. The owner felt that she was a “risk” to the store because she was a “communist.” Marlen García Pineda was also fired from her job for the same reason.

62. Héctor García was forced to leave the country in September 1984, after a DNI agent told his father, Domingo Deras Henríquez, that there was a plan to kill him. He had to leave his children in the care of his mother, Eustaquia García Alvarado. He did not see his family again for 16 years. Héctor García died in exile in 2010, the day after he had returned from a visit to his ailing mother in Honduras.

63. Domingo Deras Henríquez committed suicide on June 12, 1987, at the age of 72, after suffering severe depression as a result of the murder of his son.

64. The family members had trouble finding work for years because of the stigma of their surnames.⁶⁷ Herminio Deras García’s mother “went into profound depression, which triggered her focal epilepsy.” In addition to the frequent epileptic seizures and breakdown of her health, she “was depressed” by the family financial problems, and her husband’s business went bankrupt.

65. On February 6, 2000, while Otilia and Elba Flores Ortiz⁶⁸ were in the Third Criminal Trial Court in San Pedro Sula to make statements as part of the criminal proceedings (*infra* paras. 69 to 77), they received threats from family members of Marco Tulio Regalado Hernández, an agent with Battalion 3-16 who had been charged by the Public Prosecutor for the death of Deras García, and they needed to be escorted out by the prosecutor.

66. The home where Otilia Deras Ortiz lived with her daughter Lorena Deras Flores was broken into on March 9, 2009, by three armed men wearing ski masks. They destroyed “everything in the house” and took personal documents and other things. The 15-year-old son of Lorena Deras Flores was violently taken from his bed with a weapon against his temple. The individuals took the car. Lorena Deras Flores did not report the break-in because she did not trust the authorities. Herminio Deras Flores decided to leave the country in August, 2009, and moved to Canada, where he currently resides.⁶⁹

67. That same year, Patricia Alejandra Chavarría, the 15-year-old daughter of Irma Deras García, was filmed and threatened by DNI agents; Alba Deras García, who worked for the Jesuits, received death threats because of the militarization of the radio station *Radio Progreso*; and the home of Luis Deras García was under surveillance by unknown persons who traveled in a green Chevrolet automobile with polarized windows and no license plates, that generally patrolled from 7:30 p.m. to 9:30 p.m.

68. The Deras García family remained separated for 18 years, resulting in family breakdown. During that time, they were able to get together only twice, in Nicaragua. Héctor

⁶⁷ Alba Deras García said that the “constant persecution” of their families “is not something that was experienced only by Herminio’s immediate family, but also his descendants—his children and grandchildren, and the children of my brother Luis. Everyone in our family has felt this persecution, this impact on their lives, and even the inability to get jobs simply because they carry the Deras name.” Statement by Alba Luz Deras García, *supra* (evidence file, folio 2366).

⁶⁸ Irma and Luis Deras García were also with them.

⁶⁹ He said, “[i]t was not easy to leave Honduras. It meant leaving my family, everything I knew, my business, and go into the unknown.” Statement by Herminio Deras Flores, *supra* (evidence file, folio 2375).

García was unable to join his family for the funeral of his father, Domingo Deras García, in 1987, and Alba Deras García was unable to return to the country for the funerals of her brother, Herminio Deras García, and her father, nor could she be a help to her mother as she grieved the two losses.

D. The criminal proceedings

69. Otilia Flores Ortiz appeared before the First Criminal Court on February 4, 1983, reporting the murder of her husband Herminio Deras García. She described the events of January 29, 1983, and summarized the complaint already lodged on September 30, 1982, when her house was machine-gunned (*supra* para. 43). She also asked the judge to begin investigations to locate the people responsible for the murder. Her complaint was never processed, and neither Otilia Flores nor the witnesses were ever called to make a statement.

70. The Public Prosecutor filed charges against three members of Battalion 3-16 on July 30, 1998: Marco Tulio Regalado Hernández, R.C.N., and A.R.H.S., for the murder of Herminio Deras García. The Third Criminal Court of San Pedro Sula admitted the charges that same day.

71. Otilia Flores Ortiz made a statement before the Third Criminal Court on August 12, 1998 and reported that the investigation had not been pursued after she had lodged her complaint on February 4, 1983. Luis Deras García and Irma Deras García rendered statements that same day. Witness F.R.R.C.⁷⁰ made a statement before the Third Criminal Court on October 28, 1998.

72. The Third Criminal Court of San Pedro Sula issued a warrant on January 19, 1999 for the arrest and rendition of the accused, Marco Tulio Regalado Hernández, at the request of the Public Prosecutor. Regalado Hernández was arrested on October 5, 1999, and made his initial statement.

73. The prosecution filed formal charges on December 9, 1999. The defense reiterated its plea to vacate the arrest warrant on January 26, 2000. The court denied the plea on January 28, 2000. The prosecution submitted evidence on February 22, 2000. The defense submitted its own evidence on March 1, 2000. The prosecution filed a brief on March 8, 2000, requesting formal closure of the first evidentiary cycle, such that the second evidentiary cycle could proceed.

74. The Judicial District Court of San Pedro Sula delivered a judgment on March 17, 2004, acquitting Marco Tulio Regalado Hernández of all criminal liability in the murder of Herminio Deras García. The verdict said, "having examined and weighed all the evidence brought during the proceedings, this Court is not convinced that the accused was the perpetrator and therefore finds that a verdict of acquittal is the proper course."

75. Actions were pursued from April 1, 2004, through May 23, 2005, to process the appeal filed by the Public Prosecutor. The District Court of Appeals of San Pedro Sula (hereinafter "Court of Appeal") delivered its decision on May 23, 2005, to reverse the verdict of March 17, 2004, and sentenced Marco Tulio Regalado Hernández to 12 years in prison for the murder of Herminio Deras García.

⁷⁰ This witness was the traffic officer who had stopped Herminio Deras García's vehicle on January 29, 1983, witnessed Marco Tulio Regalado Hernández and other agents entering Deras García's vehicle, and found Deras García's lifeless body after hearing the gunshot.

76. Regalado Hernández' defense lodged a remedy of cassation, and the Supreme Court delivered its decision on March 8, 2007, upholding the May 23, 2005 verdict of the Court of Appeal.⁷¹ The Judicial District Court of Execution of Sentence of San Pedro Sula issued a warrant for the arrest of Marco Tulio Regalado Hernández on February 27, 2009, because he had been issued a release by the first trial court⁷² on the argument that it was unaware of the appeal against the March 17, 2004 verdict.

77. Marco Tulio Regalado Hernández had fled. He was caught on November 16, 2016, and held in detention at the San Pedro Sula prison. He was later transferred to the Tela prison to serve his 12-year sentence for the crimes of murder, abuse of authority, infringement of the duties of public officers and false arrest, against Herminio Deras García. He was released on probation on March 25, 2021.

VII MERITS

78. Herminio Deras García was a leader in the Communist Party of Honduras and a union activist. As a result, he was persecuted for several years and finally executed on January 29, 1983, by members of Battalion 3-16, in a setting of serious human rights violations in 1980s Honduras, under the "national security doctrine." The Court thus finds that Herminio Deras García was the victim of extrajudicial execution due to his political and union activities. More specifically, the raids on his home, persecution of himself and his family, and finally, the taking of his life, constituted a deliberate action to silence his voice of opposition and put a stop to his political and labor-union activism.

79. The Court has held, in this regard, when the violation is linked to the exercise of freedom of association or political rights, as in the case of Deras García, it can also strike fear into their organizations, reducing their capacity to defend their interests as a group, which can be aggravated in contexts of impunity.⁷³ Moreover, this Court has maintained that worker representatives, such as union workers, require a higher degree of protection over freedom of expression.⁷⁴

80. The Court finds that Deras García was made to suffer anguish and profound fear, faced with the real, imminent danger that the aggressions and other acts being committed against him would culminate in his death at the hands of agents of the state. Thus, besides the threats and harassment after he was caught and before he was executed, Deras García had already experienced persecution and knew that agents of the state were still looking for him and had threatened his family, so that, when he was caught by Marco Tulio Regalado and other yet unidentified military personnel, he was fully aware of his likely fate, especially in view of the

⁷¹ The remedy of cassation lodged by the Regalado Hernández defense was held inadmissible on March 5, 2009.

⁷² According to the representatives, the prosecution for the case had at that time told the family of Herminio Deras García that the court had misplaced documents of substance, including the motion to appeal the March 17, 2004 acquittal of Marco Tulio Regalado Hernández.

⁷³ *Cf. Case of Movilla Galarcio et al. v. Colombia. Merits, Reparations and Costs.* Judgment of June 22, 2022. Series C No. 452, para. 120.

⁷⁴ *Cf. Case of Lagos del Campo v. Peru. Preliminary Objections, Merits, Reparations and Costs.* Judgment of August 31, 2017. Series C No. 340, para. 96, and Rights to freedom to organize, collective bargaining, and strike, and their relation to other rights, with a gender perspective (interpretation and scope of articles 13, 15, 16, 24, 25, and 26 in relation to articles 1(1) and 2 of the American Convention on Human Rights; articles 3, 6, 7, and 8 of the Protocol of San Salvador; articles 2, 3, 4, 5, and 6 of the Convention of Belém do Pará; articles 34, 44, and 45 of the Charter of the Organization of American States; and articles II, IV, XIV, XXI, and XXII of the American Declaration on the Rights and Duties of Man). Advisory Opinion OC-27/21 of May 5, 2021. Series A No. 27, para. 138.

political climate at the time. The Court concludes that the State of Honduras thereby violated the right to life, right to personal integrity, right to freedom of thought and expression, freedom of association, and political rights, as set forth in Articles 4(1), 5(1), 13(1), 16(1) and 23(1) of the American Convention, read in conjunction with Article 1(1) and 2⁷⁵ thereof, in injury of Herminio Deras García.

81. The Court notes, furthermore, that several members of the Deras García family, some of them still children or teenagers at the time of the incidents, were targeted for persecution, illegal arrest, mistreatment and torture, raids on their homes, and destruction of their property, all of which ended in breakdown of the family.

82. Specifically, the Deras Flores family home was raided on November 26, 1981. Deras García's wife, Otilia Flores Ortiz, and her sister, Elba Flores Ortiz, were illegally arrested and subjected to acts of torture by agents of the state. They were held for three days, deprived of water and food, repeatedly interrogated about the whereabouts of Herminio Deras García, beaten and threatened with death. While this was happening, the small son and daughter of Herminio Deras García and Otilia Flores Ortiz, Lorena and Herminio Deras Flores, were in the home under the full-time watch of agents of the state, unable to go out and bereft of contact with or news of their parents or other family members.

83. Also on the same date, Herminio Deras García's younger brother, Luis Deras García, was arbitrarily and violently detained and subjected to acts of torture, including "the hood" and death threats. He was held without food or water, not allowed to use the bathroom, and suffered other human rights violations.

84. The Deras García family home was raided on June 8, 1984, by agents of the state who arbitrarily detained eight members of the family with the use of excessive force: Irma Deras García, Consuelo Deras García, Cristóbal Hernández Pérez, Julio Chavarría Banegas, Marlen García Pineda, Sandra Hernández Deras, José Herminio García, and Marlon García Barahona. Héctor Deras García and Domingo Deras were also detained the same day. Besides the arbitrary detentions, they were physically and verbally attacked and threatened with death for "being communists." Irma Deras García underwent acts of torture as she was repeatedly interrogated and beaten, hung by her hands while a hood was placed over her head, forced to dig her own grave, threatened with death, and kept in forced separation from her small children, including an eight-month-old baby after she was detained.

85. The Court has weighed the 30 years of persecution of the Deras García family, the extrajudicial execution of Herminio Deras García, the forced exile in which several members of the family lived for many years (*infra* para. 87), the arbitrary arrests, torture, and cruel, inhuman and degrading treatment they received, including possible acts of sexual violence, and concludes that a deliberate attack was carried out against the Deras García family, producing profound consequences for family dynamics and injuring the psychological health of family members. The Court would point to the relevant conclusions of expert witness Carmen Lastenia Martínez García⁷⁶ following her analysis of the psychological impact on these family members: "[t]he consequences of the traumatic experiences can be seen in individual, family and psychosocial terms. Together they combine to leave the imprint of trauma, with

⁷⁵ The representatives claimed violation of Article 2 of the American Convention based on the fact that the extrajudicial execution of Herminio Deras García took place in the framework of institutionalization of the so-called national security doctrine and the targeting of certain persons as enemies or as dangerous. The Court concurs with the State's own recognition of responsibility for violating Article 2 of the Convention (*supra* para. 18).

⁷⁶ Expert witness statement by Carmen Lastenia Martínez García, March 30, 2021 (evidence file, folios 2450 to 2452).

the later appearance of symptoms, undermining individual, family, and even social life, and impairing financial prospects.” She stressed, “[i]nterviews revealed a powerful impact on family dynamics due to the persistent threats against family members in a setting of organized state violence that persisted over time.” She added, “[t]he trauma has affected members of several generations, becoming intergenerational.” The expert witness concluded, saying:

members of the Deras family are suffering from post-traumatic stress syndrome, serious depression and generalized anxiety because of the damage done, with its long-term individual, family, and intergenerational after-effects. This damage was intensified because, since the time of the incidents—persecution and the murder of Herminio Deras—the justice system in Honduras did not impart justice, and the case has remained in impunity. There is exhaustion, discouragement, frustration, and feelings of helplessness because of the slow pace in the search for justice. There is emotional pain due to grief over the violent loss of Herminio Deras, the suicide of Domingo Deras, and the deaths of Héctor Deras and Consuelo Deras, all of them correlated as a direct consequence that this case had for the members of the family.

86. Considering all this, the Court concludes that the State of Honduras is responsible for violating the right to personal integrity, the right to personal liberty, the right to protection of honor, dignity, and privacy, rights of the family, the rights of the child and the right to property, set forth in Articles 5(1), 5(2), 7(1), 7(2), 7(3), 11(1), 11(2), 17(1), 19 and 21 of the American Convention, read in conjunction with Article 1(1) thereof, in injury of 16 members of the family of Herminio Deras García.⁷⁷

87. The Court finds that Héctor García and Alba Luz Deras García experienced forced exile because of the persecution and threats against their brother Herminio Deras García, their family, and specifically, against themselves. Héctor García was therefore forced to leave his country and his family, including his small children, while Alba Deras García, who was living abroad, was unable to return to Honduras for the same reason. The Court finds that the State of Honduras violated the right to freedom of movement and residence set forth in Article 22(1) of the Convention, read in conjunction with Article 1(1) thereof, in injury of Héctor García and Alba Luz Deras García.

88. The Court confirms that 26 years elapsed from the time of the extrajudicial execution of Herminio Deras García until the final, unappealable conviction of Marco Tulio Regalado, and seven more years passed before he began to serve his sentence. It notes that this delay in prosecuting the criminal case can be attributed to state authorities. It also notes that the investigation was never extended to the other two suspects in the death of Herminio Deras García. Moreover, the State failed to acceptably honor its obligations to investigate and prosecute with due diligence. As an example, it did not conduct an autopsy of Deras García’s body and did not preserve the scene of the crime. It is also clear that there was no investigation whatsoever of the events associated with the arbitrary detentions of Deras García’s family members, the acts of torture, mistreatment, raids on their homes, and seizure or destruction of their possessions. For all these reasons, the State is responsible for violating the right to judicial guarantees and judicial protection, enshrined in Articles 8(1) and 25 of the American Convention, read in conjunction with Article 1(1) thereof, in injury of the 17 members of the Herminio Deras García family identified in paragraph 94 of this judgment.

⁷⁷ Otilia Flores Ortiz, Lorena Deras Flores, Herminio Deras Flores, Eustaquia García Alvarado, Domingo Deras Henríquez, Irma Isabel Deras García, Consuelo Deras García, Luis Rolando Deras García, Héctor García, Marlen García Pineda, José Herminio García, Sandra Ivón Hernández Deras, Marlon Javier García Barahona, Julio Cesar Chavarria Banegas, Elba Flores Ortiz, and Cristóbal Rufino Hernández Pérez. The only family member not held as a victim of these specific violations is Herminio Deras García’s sister, Alba Luz Deras García, because she was outside the country in forced exile at the time (*supra* para. 87), such that she was not subject to the raids on the family homes, the arbitrary detentions, torture and other declared violations.

89. The Court would note that, because of the profound suffering inflicted on the family members of Herminio Deras García due to his extrajudicial execution and the persistence of absolute impunity for many years, in addition to the other violations against various members of the family, the arbitrary arrests of many of them, and the situation caused by the forced exile of two of the family members, including their inability to attend the funerals of their loved ones, the State is responsible for violating the right to personal integrity set forth in Article 5(1) of the American Convention, read in conjunction with Article 1(1) thereof, in injury of the 17 family members of Herminio Deras García named in paragraph 94 of this judgment.

VIII REPARATIONS

90. Pursuant to the provisions of Article 63(1) of the American Convention, the Court has held that every violation of an international obligation which results in harm creates a 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.⁷⁸

91. Reparation of harm brought about by the violation of an international obligation means full restitution (*restitutio in integrum*), which includes the restoration of the prior situation. If this is not possible, as in most cases of human rights violations, the Court will order measures to guarantee the rights that have been violated and to redress the consequences of the violations.⁷⁹ It has seen the need to award different measures of reparation in order to provide comprehensive redress for the harm; thus, in addition to pecuniary compensation, the measures of restitution, rehabilitation and satisfaction, as well as guarantees of non-repetition, are particularly relevant to the harm caused.⁸⁰

92. This Court has established that reparations must have a causal nexus with the facts of the case, the alleged violations, the proven damages, as well as with the measures requested to repair the resulting damage. Therefore, the Court must observe such congruence in order to adjudge and declare according to law.⁸¹

93. In view of the violations of the American Convention declared in the above chapters, and in light of the standards established in the Court's case law on the nature and scope of the obligation to redress,⁸² the Court will examine the claims submitted by the Commission and the representatives, as well as the State's arguments, and in the following paragraphs order measures of reparation for these violations. With regard to the position taken by Honduras, it should be emphasized that the State expressed its willingness to adopt most of the measures of redress proposed by the Commission and the representatives and pledged to provide them. However, certain details of some of the measures requested by the representatives were not specifically addressed in the State's brief of acquiescence. The Court notes that the State, in its brief of "full acquiescence in the case," stated that one of the purposes of its recognition was to "reach agreement on measures for comprehensive redress of the damage, as will be set forth in

⁷⁸ Cf. *Case of Velásquez Rodríguez vs. Honduras. Reparations and Costs*. Judgment of July 21, 1989. Series C No. 7, para. 25, and *Case of Guevara Díaz v. Costa Rica*, *supra*, para. 83.

⁷⁹ Cf. *Case of Velásquez Rodríguez v. Honduras*, *supra*, para. 26, and *Case of Movilla Galarcio et al. v. Colombia*, *supra*, para. 190.

⁸⁰ Cf. *Case of Cantoral Benavides v. Peru. Reparations and Costs*. Judgment of December 3, 2001. Series C No. 88, para. 79 to 81, and *Case of Movilla Galarcio et al. v. Colombia*, *supra*, para. 190.

⁸¹ Cf. *Case of Ticona Estrada v. Bolivia. Merits, Reparations and Costs*. Judgment of November 27, 2008. Series C No. 191, para. 110, and *Case of Guevara Díaz v. Costa Rica*, *supra*, para. 83.

⁸² Cf. *Case of Velásquez Rodríguez v. Honduras. Reparations and Costs*, *supra*, paras. 25 and 27, and *Case of Movilla Galarcio et al. v. Colombia*, *supra*, para. 192.

the judgment.” The following paragraphs will outline the position of the parties regarding only those requests for reparations to which the State did not commit or on which it offered no specific comment.

A. Injured Party

94. The Court reiterates that, pursuant to Article 63(1) of the Convention, it holds as an injured party anyone who has been declared victim of the violation of a right recognized in the judgment. The Court therefore holds Herminio Deras García as an “injured party,” along with the following members of his family: Otilia Flores Ortiz (wife), Lorena Deras Flores (daughter), Herminio Deras Flores (son), Eustaquia García Alvarado (mother), Domingo Deras Henríquez (father), Alba Luz Deras García (sister), Irma Isabel Deras García (sister), Consuelo Deras García (sister), Luis Rolando Deras García (brother), Héctor García (brother), Marlen García Pineda (cousin), José Herminio García (nephew), Sandra Ivón Hernández Deras (niece), Marlon Javier García Barahona (nephew), Julio Cesar Chavarría Banegas (brother-in-law), Elba Flores Ortiz (sister-in-law), and Cristóbal Rufino Hernández Pérez (brother-in-law).

95. Based on the information in the hands of the Court, several of these persons are deceased, as follows: Herminio Deras García, Eustaquia García Alvarado, Domingo Deras Henríquez, Consuelo Deras García, Héctor García, and Cristóbal Rufino Hernández

B. Obligation to investigate the facts and identify, prosecute and, if applicable, sanction those responsible

96. In response to the measures of reparation requested by the **Commission** and the **representatives**, the **State**, in its brief of acquiescence, undertook as follows:

through the Office of the Public Prosecutor, the institution in charge of criminal cases, to continue investigating the facts that led to this acquiescence, in keeping with recommendation number three of the Commission’s Report on the Merits, which reads: “Conduct a thorough and effective investigation of the human rights violations found in the instant report. That must entail: i) making every effort needed to capture Marco Tulio Regalado to ensure that he serves the sentence imposed; and ii) that all other responsibilities are investigated by the ordinary criminal justice system.” It must inform the Inter-American Court of progress made in the investigations.

The State affirms for the record that Marco Tulio Regalado Hernández was arrested on November 16, 2016, for the crimes of murder, abuse of authority, breach of the duty of public officers and false arrest, for the events that gave rise to the instant case, and given a 12-year prison sentence.

97. This **Court** therefore orders the State to proceed, within a reasonable period and with all due diligence, to investigate, identify, prosecute and, if relevant, punish all those responsible for the extrajudicial execution of Herminio Deras García and the other human rights violations declared herein, and include all persons who were part of the chain of command. In so doing, the State must guarantee the victims full access and the capacity to act by the victims during all stages of the investigations.⁸³

98. The Court notes that the instant case fits into a context of “selective” and “systematic” campaigns of extrajudicial executions by military intelligence squads, particularly the 3-16 Battalion, against individuals with a certain profile, such as “mass leaders.” The Court therefore finds it would be consistent and necessary, when investigating all the individuals in

⁸³ Cf. *Case of the Caracazo v. Venezuela. Reparations and Costs*. Judgment of August 29, 2002. Series C No. 95, para. 118, and *Case of Movilla Galarcio et al. v. Colombia, supra*, para. 200.

the chain of command involved in the human rights violations declared herein, to consider differentiated approaches so as to avoid masking certain patterns of behavior, such as violations committed for political reasons, and that the Court's own provisions established in the Case of *Cepeda Vargas v. Colombia* be taken into account:

As part of the obligation to investigate extrajudicial executions such as the one perpetrated in the instant case, the State authorities must determine, by due process of law, the patterns of collaborative action and all the individuals who took part in the said violations in different ways, together with their corresponding responsibilities. It is not sufficient to be aware of the scene and material circumstances of the crime; rather it is essential to analyze the awareness of the power structures that allowed, designed, and executed it, both intellectually and directly, as well as the interested persons or groups and those who benefited from the crime (beneficiaries). This, in turn, can lead to the generation of theories and lines of investigation, the examination of classified or confidential documents and of the scene of the crime, witnesses, and other probative elements, but without trusting entirely in the effectiveness of technical mechanisms such as these to dismantle the complexity of the crime, since they may not be sufficient. Hence, it is not a question of examining the crime in isolation, but rather of inserting it in a context that will provide the necessary elements to understand its operational structure.⁸⁴

99. Furthermore, in the interest of ensuring due diligence in the investigation of the chains of command, the State must: (i) provide the investigating authority with the necessary budgetary and technical resources; (ii) ensure that the investigating authority is empowered to obtain all the information necessary for the investigation and has the authority to subpoena witnesses and officials allegedly involved in the extrajudicial executions to give their testimony; (iii) inform victims and their representatives about the progress of the investigation, and (iv) hold hearings where the victims can submit other evidence that may facilitate identification of the perpetrators.⁸⁵

100. Additionally, the results of the relevant proceedings must be made public,⁸⁶ so that Honduran society is aware the facts of this case, as well as who was responsible.⁸⁷

101. Finally, given the circumstances of the case, the State must refrain from resorting to figures such as the *ne bis in idem* principle or any similar release of liability to excuse itself from its obligation,⁸⁸ and must remove all obstacles⁸⁹ and mechanisms of fact and of law that prolong impunity.⁹⁰

⁸⁴ Cf. *Case of Cepeda Vargas v. Colombia. Preliminary Objections, Merits, Reparations and Costs*. Judgment of May 26, 2010. Series C No. 213, para. 119.

⁸⁵ *Mutatis Mutandis*. Expert opinion by Luz Adriana Camargo Garzón (evidence file, folio 2586 to 2602).

⁸⁶ The representatives, pointing to the alleged obligation to investigate the facts of the case, asked that the State disseminate the findings of the investigations widely and publicly so that all Honduras can be aware of them, as this measure will benefit not only the family members, but also the rest of society.

⁸⁷ Cf. *Case of the Caracazo v. Venezuela. Reparations and Costs, supra*, para. 118, and *Case of Maidanik et al. v. Uruguay. Merits and Reparations*. Judgment of November 15, 2021. Series C No. 444, para. 215.

⁸⁸ Cf. *Case of Barrios Altos v. Peru. Merits*. Judgment of March 14, 2001. Series C No. 75, para. 41, and *Case of Casierra Quiñonez et al. v. Ecuador. Preliminary Objection, Merits and Reparations*. Judgment of May 11, 2022. Series C No. 450, para. 177.

⁸⁹ The Court recalls the words of expert witness Salvioli concerning the need to "clarify the frameworks of action of the Special Human Rights Prosecutor, so that its work will not be impeded by the Special Prosecutor on Crimes against Life, which should refrain from involvement in any matters that point to possible direct or indirect action of agents of the state, as this could relieve the State of responsibility for human rights violations." Expert opinion by Fabián Omar Salvioli, April 21, 2022 (evidence file, folio 2358).

⁹⁰ Cf. *Case of Velásquez Rodríguez v. Honduras. Merits, supra*, para. 174; *12 Guatemalan Cases v. Guatemala. Monitoring compliance with judgment*. Order of the Inter-American Court of Human Rights of November 24, 2015, para. 40, and *Case of the Village of Los Josefinos Massacre v. Guatemala. Preliminary Objection, Merits, Reparations and Costs*. Judgment of November 3, 2021. Series C No. 442, para. 143.

C. Measure of restitution

102. In response to the measures of reparation requested by the **Commission** and **therepresentatives**, the **State**, in its brief of acquiescence, undertook as follows:

immediate closure of the November 26, 1981, police record on Otilia Flores Ortiz and Elba Flores Ortiz, and closure of the June 9, 1984, police and judicial records on members of the Herminio Deras García family. The removal of these records will also be announced publicly on the official websites of the judiciary, the Secretariat of Foreign Affairs and International Cooperation, the Office of the Public Prosecutor, the Secretariat of National Defense, the Secretariat of Security, the Solicitor General, and the Secretariat of Human Rights.

103. The **Court** now orders the State to proceed within three months with final closure of the November 26, 1981 police record on Otilia Flores Ortiz and Elba Flores Ortiz, and the June 8, 1984 police and judicial records on family members of Herminio Deras García.⁹¹ Similarly, the Court orders the State to proceed, over a period of six months, to remove any judicial, administrative, criminal, or police files still being held on the victims as a consequence of the records specified above, and to notify the relevant authorities accordingly.⁹² It must also announce the closure of these records publicly on the official websites of the judicial branch, the Secretariat of Foreign Affairs and International Cooperation, the Office of the Public Prosecutor, the Secretariat of Security, the Solicitor General and the Secretariat of Human Rights.

D. Measures of rehabilitation

104. In response to the measures of reparation requested by the **Commission** and the **representatives**, the **State**, in its brief of acquiescence:

undertakes, through its specialized public health facilities, to provide physical and psychological health care, immediately and free of charge, to the family members of Deras García listed in clause five of this document, to be delivered with the consent and agreement of the family members and representatives; a psychological, psychiatric, physical assessment should be developed so that treatment provided is suited to the specific conditions of each victim, for as long as necessary and including cost-free supplies of any needed medications.

105. This **Court** accordingly orders the State to provide appropriate, effective medical, psychological and/or psychiatric treatment, immediately and free of charge, through its specialized health-care facilities, to the victims identified in the instant judgment if they so require, and to include supplies of any medications they may need. In providing the treatments, the special circumstances and needs of each victim should be considered, in

⁹¹ Following the detention on June 8, 1984, the Deras García family members and other “detained persons” were “accused of being terrorists and of attacking state security under the crime of sedition.” The relatives of the detainees and the attorney and wife of another person who was also detained lodged a remedy of habeas corpus with the trial judge in the El Progreso District Court, and it was rejected. On June 11, 1984, “the members of the Deras family and the other detainees were taken [...] to the District Court of El Progreso Yoro,” but “given the lack of evidence, the detainees were released on bail and “had to pay a collective bond for the crime of sedition.” The total number of detainees was initially 24 people, but the next day, June 9, 1984, Domingo Deras Henríquez, José Herminio García and Consuelo Deras García were released. Irma Deras García, Marlen García Pineda, Sandra Ivón Hernández, Julio Cesar Chavarría Banegas, Cristóbal Rufino Hernández and Hector García were released on June 11, 1984. On November 26, 1981, Otilia Flores and Elba Flores Ortiz “were forced to sign a blank sheet of paper; they were booked and photographed in mug shots wearing badges with their numbers around their necks.” Cf. Brief with pleadings, motions and evidence (merits file, folios 109 and 166), article headlined “Liberan bajo fianza a arresta” (“Released on bond”) from the *Tiempo* newspaper, June 12, 1984 (evidence file, folio 1954).

⁹² *Mutatis Mutandis. Case of Palacio Urrutia et al. v. Ecuador. Merits, Reparations and Costs.* Judgment of November 24, 2021. Series C No. 446, para. 171.

agreement with the victim after an individual evaluation.⁹³ Likewise, as has been the position of this Court, insomuch as possible, the treatments must be provided in facilities located closest to the beneficiaries' places of residence, for as long as necessary.⁹⁴ If there are no health-care facilities nearby, the State must cover the costs of transportation and meals. The victims have 18 months from notification of this judgment to claim this treatment from the State.⁹⁵

E. Measures of satisfaction

106. In response to the measures of reparation requested by the **Commission** and **therepresentatives**, the **State**, in its brief of acquiescence, pledged as follows:

Within six months of its release, the State undertakes to publish the official summary of the judgment by the I/A Court HR in the official gazette *La Gaceta* and in at least two newspapers with nationwide circulation. Also, within a period of six months, the State undertakes to have the full judgment posted on the websites of the major government institutions associated with the facts of the case, such as: the judiciary, the Secretariat of Foreign Affairs and International Cooperation, the Office of the Public Prosecutor, the Secretariat of National Defense, Secretariat of Security, Solicitor General, and Secretariat of Human Rights; it will remain on these websites for one year.

[...]

Pending agreement with the victims and their representatives, the State undertakes, once the judgment has been delivered, to hold a public act of recognition of international responsibility and amends for the victims of human rights violations in the instant case, with the participation of the highest authorities or their representatives holding a high position in each particular institution, including at least the Supreme Court, the executive branch, the Office of the Public Prosecutor, the Secretariat of National Defense, the Solicitor General, and the Secretariat of Human Rights. Moreover, in this public act, the State will express its commitment to protect and guarantee the rights of justice operators and human rights defenders. The date, place and form of the act will be determined in agreement with the victims and their representatives to ensure their attendance, and the State must cover all related expenditures and convene the parties in advance. The specific details of the act and the content of the message to be delivered verbally during the activity will be worked out in agreement with the victims and their representatives. The State commits to broadcast the act over the state television channel, *Televisión Nacional de Honduras*, and over a radio station that has nationwide coverage, during peak viewing hours.

[...]

The State undertakes to honor the memory of Herminio Deras García by building a mausoleum for his remains, and it will be designed with the consent of his family members and their representatives. It will be built under the charge of architects or civil engineers, it may be constructed by architecture or civil engineering students from the state university, Universidad Nacional Autónoma de Honduras (UNAH), and the State will cover the expenses. This act will take place within two years of the date of notification of this judgment.

107. In view of these proposals, the **Court** will now order the measures of satisfaction that the State must adopt.

E.1. Publication and dissemination of the judgment

⁹³ Cf. *Case of Kawas Fernández v. Honduras. Merits, Reparations and Costs*. Judgment of April 3, 2009. Series C No. 196, para. 209, and *Case of Casierra Quiñonez et al. v. Ecuador, supra*, para. 188.

⁹⁴ See, for example, *Case of Maidanik et al. v. Uruguay. Merits and Reparations*, para. 227, and *Case of Casierra Quiñonez et al. v. Ecuador, supra*, para. 188.

⁹⁵ Cf. *Case of Manuela et al. v. El Salvador. Preliminary Objections, Merits, Reparations and Costs*. Judgment of November 2, 2021. Series C No. 441, para. 282.

108. As it has in other cases,⁹⁶ the Court orders the State to publish the following, within six months of notification of this judgment and in a font that is legible and appropriate: (a) the official summary of this judgment prepared by the Court, to run once only in the official gazette *La Gaceta* and in two newspapers with nationwide circulation, and (b) this judgment in its entirety, available for one year, on the official websites of the judiciary, the Secretariat of Foreign Affairs and International Cooperation, the Office of the Public Prosecutor, the Secretariat of National Defense, the Secretariat of Security, the Office of the Solicitor General and the Secretariat of Human Rights. The State must report to this Court as soon as it has proceeded with each of the publications ordered, without awaiting the one-year term to submit its first report as stipulated in operative paragraph nine of the instant judgment.

E.2. Public act of recognition of international responsibility

109. The Court also orders the State to hold a public act of recognition of international responsibility for the incidents in the instant case, within one year of the date of notification of this judgment. The human rights violations declared in this judgment should be named in the ceremony, as well as the context involving enforcement of the national security doctrine. The act should take the form of a public ceremony in the presence of the victims declared herein and their representatives, if they so desire. The State must cover any expenditures they may incur for this purpose. It will also guarantee the participation of high-level officials of at least: the Supreme Court, the Executive Branch, the Office of the Public Prosecutor, the Secretariat of National Defense, the Office of the Solicitor General, and the Secretariat of Human Rights. The date of the act, place where it will be held, what it will include, and the content of the spoken message that will be given in the ceremony should be determined by advance agreement with the victims and/or their representatives. The State must broadcast the ceremony over the state television station, *Televisión Nacional de Honduras*, and a radio station that has nationwide coverage.⁹⁷

E.3. Construction of a mausoleum

110. The Court orders the State to proceed, within two years of the date of notification of the judgment, to build a mausoleum on Herminio Deras García's grave site as a means of keeping his memory alive. Herminio Deras García's family members must be in agreement with the design of the mausoleum. The mausoleum should be unveiled in a ceremony broadcast over the state television channel, *Televisión Nacional de Honduras*, and a radio station with nationwide coverage, and it should be attended by governmental authorities. The State must also provide for attendance by those family members of Deras García who have also been declared victims by this Court, if they so wish.

F. Guarantees of non-recurrence

111. In response to the measures of reparation requested by the **Commission** and the **representatives**, the **State**, in its brief of acquiescence, pledged as follows:

to implement the guarantees of non-recurrence outlined by the applicants in their brief with pleadings, motions and evidence in the Case of *Deras García et al. v. Honduras*, consisting of recommendations for public policies of memory in at least three subject areas:

⁹⁶ Cf. *Case of Cantoral Benavides v. Peru. Reparations and Costs*. Judgment of December 3, 2001. Series C No. 88, para. 79, and *Case of Guevara Díaz v. Costa Rica, supra*, para. 92.

⁹⁷ See, for example, *Case of the Miguel Castro Castro Prison v. Peru. Merits, Reparations and Costs*. Judgment of November 25, 2006. Series C No. 160, para. 445, *Case of Pavez Pavez v. Chile. Merits, Reparations and Costs*. Judgment of February 4, 2022. Series C No. 449, para. 173, and *Case of Movilla Galarcio et al. v. Colombia, supra*, para. 225.

preservation of archives and other material sources of memory; commemoration of the events, and educational policies for preserving memory and enshrining its value.

7.1 Enacting a law on historical memory

This law should guarantee access to justice for all victims of the enforcement of the national security doctrine, and the development of public policies designed to rehabilitate and honor the memory and the values of those who were victims of these practices of state terrorism. It should satisfy the standard qualities of transitional justice, it should ensure investigation of facts comprising serious human rights violations during the repression, it should meet the requirements of truth and the right of victims to know, including both the right of access to information, and the right to know the identity and whereabouts of the perpetrators of the extrajudicial executions, acts of torture and sexual violence, and the whereabouts of the people who were detained and went missing.

Specifically, this law should guarantee: truth, justice, reparation, guarantees of non-recurrence, construction and preservation of historical memory, including a law for victims and a program for comprehensive reparation of victims of the enforcement of the national security doctrine.

7.2 Enacting a law for investigation of responsibilities along the entire chain of command

A law making it possible to investigate persons in the chain of command who were involved in the politically motivated crimes in the 1980s, and particularly the murder of Herminio Deras, with the coordinated participation of various agents at different levels and hierarchical structures who hold a variety of positions.

7.3 Amending domestic laws on torture

The current criminal code should be revised in its sentencing provisions for aggravating or mitigating circumstances, to be consistent with Article 4(2) of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, to guarantee that justice is served in cases of extrajudicial execution, acts of torture, and cruel, inhuman or degrading treatment.

7.4 Policies to preserve archives and sites of conscience

For the purpose of preservation, the State can consider creating a document collection on human rights violations committed from the 1980s to the present, identifying documents in the possession of security forces and other public institutions concerning human rights violations.

The development of this document collection would require the implementation of principles of government transparency and access to information, including a declaration to repeal all rules and regulations that could block declassification of information on human rights violations. It should particularly stipulate that the concept of "national security" cannot be used to block access to information on human rights violations.

The document collection must be open to receive donations from social organizations and individuals, such as human rights defense agencies, victim groups, and the media.

7.5 Policies for education on memory

Primary and secondary education in Honduras must include multiple instances for teaching the history of the periods of violence, using dynamic, pedagogically sound, creative approaches. Instruments such as the report by the human rights ombudsman on forced disappearance and the work of the Truth and Reconciliation Commission should be incorporated into the educational curriculum, facilitating their adaptation and synthesis for various formats and models, including school textbooks, comic-book format, short stories, multimedia presentations, oral history, and the like.

On this basis, the Office of the Public Prosecutor will work with relevant institutions and those that are empowered to enact laws, to foster the issuing of public policies and legislation regulating these matters.

112. In view of all the above, the **Court** will now order the guarantees of non-recurrence that the State must adopt.

F.1. National policy on historical memory

113. The Court will order the State to proceed, within two years, to design and implement a national policy on historical memory⁹⁸ that guarantees that all victims of the enforcement

⁹⁸ The representatives requested, as part of a comprehensive public policy to promote historical memory that the State: (a) "adopt a public policy of memory to cover those citizens it acknowledges as victims and recognize that processes have been pursued historically to ignore them, and offer them this recognition along with guarantees," and "including sufficient guarantees to protect victims so they can participate;" (b) adopt "active strategies for

of the national security doctrine and their families will receive truth, justice and comprehensive redress for the human rights violations committed against them, and that also seeks to rehabilitate and honor the memory and values of those who were victims.⁹⁹ For this purpose, it must uphold all international standards on the subject and ensure exhaustive investigation of the serious human rights violations, to include all members in the chain of command for these violations.

F.2. Amendment of the Honduran criminal code

114. The Court orders the State to amend the current criminal code to be consistent with the Inter-American Convention to Prevent and Punish Torture.

F.3. Policy to preserve archives and sites

115. The Court orders the State to create and implement a policy for preservation of archives and sites on human rights violations committed from the 1980s to the present, identifying documents in the possession of security forces and other public institutions concerning human rights violations committed in the case at hand.¹⁰⁰ The development of this policy will require the implementation of principles of government transparency and access to information, including a declaration to repeal all rules and regulations that could block declassification of information on the serious human rights violations committed.

F.4. Primary and secondary education

116. The Court orders the State to proceed, within two years, to incorporate “the history of the periods of violence” into the primary and secondary school curriculum, especially the enforcement of the national security doctrine, using dynamic, pedagogically sound, creative approaches.

dissemination and awareness-raising that will encourage civil society to become involved in developing public policies on memory.” These strategies should include public information campaigns and the development of mechanisms and activities to encourage the broadest possible participation, and (c) as possible measures of collective redress for the labor-union sector in Honduras, which has not received reparation for the damage allegedly caused by the enforcement of the national security doctrine: “conduct a general investigation with case studies that illustrate the history of violence against labor-union activists, details the damage done, and recommends measures for collective redress.” They added that the investigation should be conducted by an independent commission empowered to review military and police files and to recommend mandatory measures of redress. The commission should receive advisory assistance from the United Nations High Commissioner for Human Rights (OHCHR). It should also be empowered to recommend transfer of intelligence files to the Special Prosecutor for Human Rights, when such files contain the names of union activists and union organizations targeted for the mere fact of conducting union activities. They requested, moreover, that a campaign be conducted for at least five years to promote and raise awareness on freedom of association for trade unions, under the name of Herminio Deras.

⁹⁹ The representatives asked for the Law on Historical Memory to be established with nationwide coverage and presence in the areas where the most cases occurred; that it reclaim “the symbolic sites and restore them if necessary,” and that it “also cover those victims who are still living in exile” and create “a truth and reparation mechanism to reconstruct the modus operandi practiced in the 1980s and issue a report.” The Court notes, in this regard, that the representatives did not explain how the recovery of “symbolic sites” and their possible restoration was associated with the facts of the instant case, and this Court has no information on the subject. It also notes that it has ordered a law historical memory to include provisions for investigating facts that constitute serious human rights violations during the repression in the context under report. Therefore, the Court will not order these items from the petition.

¹⁰⁰ The Court notes that the State did commit to implement this measure as a policy to preserve archives and sites of conscience, which had not been expressly requested by the representatives. It cautions, however, that the representatives had requested, as part of the development of a law on historical memory, “the inclusion of measures to protect information from manipulation” and “to ensure that the collective memory not forget the events in this particular stage of the country’s history,” making reference to the enforcement of the national security doctrine.

F.5. Other measures requested

117. The **representatives** asked the Court to order Honduras to enact a law for investigation of responsibility along the entire chain of command that was involved in the politically motivated crimes of the 1980s. The **State**, in its acquiescence brief (*supra* para. 111), pledged to enact "A law making it possible to investigate persons in the chain of command who were involved in the politically motivated crimes in the 1980s, and particularly the murder of Herminio Deras, with the coordinated participation of various agents at different levels and hierarchical structures who hold a variety of positions."

118. The **Court** does not have sufficient evidence at hand to examine the relevance of this measure, and moreover, it deems that the delivery of this judgment and the reparations ordered in this chapter are sufficient and appropriate to redress the violations suffered by the victims. Notwithstanding this proviso, the Court takes a positive view of the additional measures the State considers appropriate, in the interest of bringing comprehensive redress to the victims.

G. Compensation

119. The Court will now discuss collective pecuniary and nonpecuniary damages, as the **State** has asked the Court to set the amounts based on its own case law and in consideration of the principles of equity, proportionality, and necessity, as well as resources available to the State, and to set a reasonable term for disbursement.

120. The **representatives** requested an amount of USD 13,280.00 (thirteen thousand two hundred eighty United States dollars)¹⁰¹ to be set in equity for consequential damages,¹⁰² of which USD 3,280.00 (three thousand, two hundred eighty United States dollars) is the amount documented by Otilia Deras Flores.¹⁰³ They also requested that the State be ordered to compensate for lost earnings in the amount of USD 25,000.00 (twenty-five thousand United States dollars) for Domingo Deras Henríquez;¹⁰⁴ USD 1,300.00 (one thousand three hundred United States dollars) each for Marlen García Pineda¹⁰⁵ and Sandra Ivon Hernández Deras;¹⁰⁶ USD 12.50 (twelve United States dollars and fifty cents) each for Consuelo Deras

¹⁰¹ The representatives explained that the amount was calculated on the basis of the alleged raids, detentions, shoot-outs and torture, as well as transportation to search for the persons in detention, filing reports in the courts and non-governmental human rights organizations, and for "mobilizing" the news media.

¹⁰² The representatives said that these expenditures cover: repair of doors and windows, transportation, food, medication, hospitalizations, psychiatric treatment, and funeral expenses.

¹⁰³ The representatives said that these expenditures cover: vehicle repair, repair of doors and windows, transportation and funeral expenses.

¹⁰⁴ According to the representatives, Domingo Deras was a builder. In 1983, he had a business selling cement blocks and ceramic tiles; he had been running a carpentry business since 1981. According to the representatives, when the raids began in the home of his son Herminio Deras García, he began to lose work because he was unable to open his business as he assisted his daughter-in-law Otilia Flores Ortiz in filing reports. They held that such "losses became more visible and severe starting in 1983, after his son Herminio was executed," because "the stigma grew stronger and no one would hire him," and also because of the time he spent on errands in the search for justice. They also said that he "neglected" his business because he was "embarrassed;" and because he had received no "psychological support," he had begun to drink "heavily."

¹⁰⁵ The representatives said that Marlen García Pineda was 21 years old and worked as a sales clerk in a shoe store, earning 180 *lempiras* per month (USD 90). After her detention, and after it was published in 1984, she was fired and was unable to find work for a year. They explained that the amount of lost wages was calculated in view of the wage she was earning at the time she was fired, plus an additional month's wage that, according to Honduran law, all workers received as their yearly thirteenth-month salary.

¹⁰⁶ According to the representatives, Sandra Ivon Hernández Deras worked as a sales clerk in a store, earning 180 *lempiras* per month (USD 90). They explained that she had been fired after she was detained and it was published

García¹⁰⁷ and Julio Cesar Chavarría Banegas;¹⁰⁸ USD 25 (twenty-five United States dollars) for Héctor García;¹⁰⁹ USD 10 (ten United States dollars) for Cristóbal Rufino Hernández,¹¹⁰ and USD 33,508.52 (thirty-three thousand, five hundred eight United States dollars and fifty-two cents) for Herminio Deras García.¹¹¹

121. The representatives also asked the State to return with interest the collective bond that family members of Herminio Deras García were forced to post after the detention on June 8, 1984, calculating the payment at the “rate of the hardest currency,” in keeping with inter-American precedent. They asked the Court to set in equity the amount of USD 1,000.00 (one thousand United States dollars).

122. They then asked the Court to set the amount of money the State should pay in nonpecuniary damages for Herminio Deras García and his family. They added that “the life of Herminio Deras García is worth considering when determining the amounts the State of Honduras should pay,” and therefore asked that “the irreparable loss of the life of Herminio Deras García be included as one of the items to be indemnified, thus giving due recognition to the autonomous value of this loss and setting an amount in equity.”

123. This Court has developed the concept of pecuniary damages in its case law, holding that it covers loss or detriment to the victims’ income, expenses incurred as a result of the facts of the case and the monetary consequences that have a causal nexus with the facts.¹¹² Case law has also asserted repeatedly that damages serve a clearly compensatory purpose, and the nature and amount depend on the injury caused; thus, they may not entail either enrichment or impoverishment for the victims or their successors.¹¹³ It has held that nonpecuniary damages may cover “both the suffering and distress caused to the direct victims and their next of kin, and the impairment of values that are highly significant to them, as well as other sufferings of a nonpecuniary nature in the living conditions of the victims or their families.”¹¹⁴ Case law has asserted repeatedly that damages serve a clearly compensatory purpose, and the nature and amount depend on the injury caused; thus, they may not entail either enrichment or impoverishment for the victims or their successors.¹¹⁵

in 1984. They added that when she returned to her place of work, the owner told her that “it was too dangerous to have a communist in the shop.”

¹⁰⁷ According to the representatives, Consuelo Deras García was a professional dressmaker. Her work provided her with an average income of 150 *lempiras* per month (USD 75) in 1984. She added that when she was detained in June 1984, she lost five days of work.

¹⁰⁸ According to the representatives, Julio Cesar Chavarría Banegas worked as a driver in 1984. When he was detained in June 1984, he missed USD 12.50 in earnings.

¹⁰⁹ The representatives said that Héctor García worked as a builder in 1984, after he lost his job with the Tela Railroad Company because of his union activities. They said that he was earning 300 *lempiras* doing contract work.

¹¹⁰ According to the representatives, Cristóbal Rufino Hernández was working as a security guard in 1984. After his allegedly illegal arrest, he missed work for five days and lost USD 10 in earnings.

¹¹¹ They said that the amount was calculated according to his monthly earnings, the alleged 21 years, 8 months of life remaining to him, and the resulting benefits stipulated under the Honduran labor code: severance pay, vacation pay, and thirteenth- and fourteenth-month salaries.

¹¹² Cf. *Case of Bámaca Velásquez v. Guatemala. Reparations and Costs*. Judgment of February 22, 2002. Series C No. 91, para. 43, and *Case of Guevara Díaz v. Costa Rica, supra*, para. 103.

¹¹³ Cf. *Case of the "White Van" (Paniagua Morales et al.) v. Guatemala. Reparations and Costs*. Judgment of May 25, 2001. Series C No. 76, para. 79; *Case of Ríos Avalos et al. v. Paraguay. Merits, Reparations and Costs*. Judgment of August 19, 2021. Series C No. 429, para. 205, and *Case of Movilla Galarcio et al. v. Colombia, supra*, para. 243.

¹¹⁴ *Case of "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 Guevara Díaz v. Costa Rica, supra*, para. 108.

¹¹⁵ Cf. *Case of the "White Van" (Paniagua Morales et al.) v. Guatemala. Reparations and Costs*. Judgment of May 25, 2001. Series C No. 76, para. 79, and *Case of Movilla Galarcio et al. v. Colombia, supra*, para. 243.

124. The Court recalls that the power to determine measures to guarantee breached rights and redress the consequences of violations (*supra* para. 90) is not conditioned by the amount of resources available to the States. It also cautions that the States Parties to the American Convention may not invoke provisions of constitutional law or other considerations of domestic law to justify their failure to abide by their Convention-based obligations¹¹⁶

125. The representatives did not specify amounts for pecuniary damages, particularly consequential damages, associated with the extrajudicial execution of Herminio Deras García, the raids, and the resulting detentions (*supra* paras. 42, 45, 46, 51, 56 to 61). Although the Court finds it reasonable to assume that such expenses did arise, it does not have sufficient information to determine which family members incurred such expenditures or, if so, what share was covered by each one, with the exception of the outlays claimed for Otilia Deras Flores.¹¹⁷

126. Pecuniary damages include lost wages (income that victims failed to receive due to the declared human rights violations).¹¹⁸ The Court lacks sufficient specific information to determine how much income the victims lost due to the facts of the instant case. It is clear, however, that the human rights violations declared herein inevitably produced material consequences for the victims declared in this judgment, stemming primarily from the detention in June 1984 (*supra* paras. 56 to 61), the resulting stigma (*supra* paras. 61 and 64), and the long-term psychological impact.

127. In view of all this, and considering the kinship of the members of the Herminio Deras García family, the violations declared and the standards established in the Court's settled case law, the Court finds it appropriate to set in equity the following amounts for compensatory payment to each of the victims for pecuniary and nonpecuniary damage, as follows:

- a) USD 135,000.00 (one hundred thirty-five thousand United States dollars) for Herminio Deras García;
- b) USD 74,000.00 (seventy-four thousand United States dollars) for Otilia Flores Ortiz;
- c) USD 51,000.00 (fifty-one thousand United States dollars) for Lorena Deras Flores;
- d) USD 51,000.00 (fifty-one thousand United States dollars) for Herminio Deras Flores;
- e) USD 50,000.00 (fifty thousand United States dollars) for Eustaquia García Alvarado;
- f) USD 85,000.00 (eighty-five thousand United States dollars) for Domingo Deras Henríquez;
- g) USD 50,000.00 (fifty thousand United States dollars) for Alba Luz Deras García;
- h) USD 71,000.00 (seventy-one thousand United States dollars) for Irma Isabel Deras García;
- i) USD 50,000.00 (fifty thousand United States dollars) for Consuelo Deras García;
- j) USD 70,000.00 (seventy thousand United States dollars) for Luis Rolando Deras García;
- k) USD 61,000.00 (sixty-one thousand United States dollars) for Héctor García;

¹¹⁶ Cf. *Case of Baena Ricardo et al. v. Panama. Competence*. Judgment of November 28, 2003. Series C No. 104, para. 83, and *Case of Tarazona Arrieta et al., Canales Huapaya et al., Wong Ho Wing, Zegarra Marín and Lagos del Campo v. Peru. Monitoring Compliance with Judgment*. Order of the Inter-American Court of Human Rights, April 5, 2022, para. 17.

¹¹⁷ *Mutatis Mutandis. Case of Maidanik et al. v. Uruguay, supra*, para. 275.

¹¹⁸ Cf. *Case of Maidanik et al. v. Uruguay, supra*, para. 276.

- l) USD 52,000.00 (fifty-two thousand United States dollars) for Marlen García Pineda;
- m) USD 51,000.00 (fifty-one thousand United States dollars) for José Herminio García;
- n) USD 52,000.00 (fifty-two thousand United States dollars) for Sandra Ivon Hernández Deras;
- o) USD 51,000.00 (fifty-one thousand United States dollars) for Marlon Javier García Barahona;
- p) USD 60,000.00 (sixty thousand United States dollars) for Elba Flores Ortiz;
- q) USD 51,000.00 (fifty-one thousand United States dollars) for Julio Cesar Chavarría Banegas, and
- r) USD 51,000.00 (fifty-one thousand United States dollars) for Cristóbal Rufino Hernández Pérez.

H. Costs and expenses

128. The Court will now analyze costs and expenses, in view of the **State's** request that, "in keeping with the standards of equity, reasonableness and duly documented outlays, taking into account the circumstances of the case, [this Court] determine the amounts for costs and expenses" for COFADEH (the committee of family members of detained and missing persons in Honduras) and International Federation for Human Rights, FIDH.

129. The **representatives** asked the Court to order the State to pay the following amounts in costs and expenses: (i) for the victims, USD 5,218.40 (five thousand two hundred eighteen United States dollars and forty cents), in equity, for expenditures incurred throughout the criminal proceedings, for the four trips to COFADEH offices and the payment of bond for five persons at the time of the 1984 detention; (ii) for FIDH, EUR 2,500.00 (two thousand five hundred euro) for FIDH attorney fees, to be reimbursed to the Federation, and (iii) for COFADEH, USD 44,371.00 (forty-four thousand three hundred seventy-one United States dollars) in professional fees for a psychologist to treat the family, photocopies and administrative expenses (telephone calls, electronic communications, office supplies, paper and printing), and the salary allocated for "legal prosecutors."

130. After the pleadings and motions brief was submitted, the representatives reported a total of USD 7,710.90 (seven thousand seven hundred ten United States dollars and ninety cents) in expenditures incurred by the victims for travel to the hearing; a total of USD 13,031.15 (thirteen thousand thirty-one United States dollars and fifteen cents) for COFADEH, itemized as USD 3,918.96 (three thousand nine hundred eighteen United States dollars and ninety-six cents) for "expenses during the hearing," and USD 8,148.28 (eight thousand one hundred forty-eight United States dollars and twenty-eight cents) for travel, lodging and food, communication and expenditures for preparing the case, and USD 963.91 (nine hundred sixty-three United States dollars and ninety-one cents), as well as a total of EUR 5,316.39 (five thousand three hundred sixteen euro and thirty-nine cents) for FIDH.

131. The **Court** recalls that, pursuant to its case law, costs and expenses are part of the body of reparations because the activities undertaken by the victims to obtain justice both nationally and internationally require outlays that should be covered when the Court judges the State to be internationally responsible. The Court must assess prudently the scope of reimbursement for costs and expenses, which includes expenses incurred before domestic legal authorities, as well as those incurred in the course of the proceedings before the inter-American system, keeping in mind the circumstances of the specific case and the nature of international jurisdiction for the protection of human rights. This assessment can be done on

the basis of the principle of equity and taking into account the expenses declared by the parties, provided the amounts are reasonable.¹¹⁹

132. The Court has held that “the claims of the victims or their representatives in relation to costs and expenses, and the evidence supporting them, must be presented to the Court at the first procedural opportunity granted them, namely, in the brief containing pleadings and motions, without prejudice to those claims being updated subsequently, to include new costs and expenses incurred as a result of the proceedings before this Court.”¹²⁰ The Court also recalls that it is not enough to merely remit probative documents; rather the parties must develop the reasoning linking the evidence to the fact under consideration and, in the case of alleged financial outlays, the items of expenditure and their justification must be described clearly.¹²¹

133. The Court notes, however, that the representatives have not submitted evidence of costs and expenses incurred by the victims, and the arguments presented on this subject are insufficient to provide full justification of the amounts requested. It further cautions that the representatives had made reference to the “victims” when they explained the expenditures, but the breakdown of the total amount did not indicate who had incurred each expenditure, except for the items “legal representation,” “documentation,” and “postal costs.” It notes, finally, that the payment of the bond at the time of the June, 1984 detention was also covered in the amount requested. The Court understands that these procedures necessarily required monetary outlays, and it will therefore set the amounts in equity; the sum will not, however, include the cost of the bond, which was already ordered (*supra* paras. 121 and 127). The Court will accordingly set the costs and expenses as follows:

- a) USD 285.00 (two hundred eighty-five United States dollars) for each of the following: Otilia Flores Ortiz, Lorena Deras Flores, Herminio Deras Flores, Eustaquia García Alvarado, Domingo Deras Henríquez, Alba Luz Deras García, Irma Isabel Deras García, Consuelo Deras García, Luis Rolando Deras García, Héctor García, Marlen García Pineda, José Herminio García, Sandra Ivón Hernández Deras, Marlon Javier García Barahona, Julio Cesar Chavarría Banegas, Elba Flores Ortiz, and Cristóbal Rufino Hernández Pérez, in expenses for “legal representation,” “documentation” and “postal costs;”
- b) USD 540.00 (five hundred forty United States dollars) for each of the following: Otilia Flores Ortiz, Irma Isabel Deras García, Luis Rolando Deras García, and Alba Luz Deras García, in view of specific outlays they made that, according to the representatives, were all in the same amount;
- c) USD 2,850.00 (two thousand eight hundred fifty United States dollars) for Irma Deras García for expenditures incurred by her daughter, Patricia Chavarría Deras, for the public hearing before this Court;

¹¹⁹ Cf. *Case of Garrido and Baigorria v. Argentina. Reparations and Costs*. Judgment of August 27, 1998. Series C No. 39, para. 82, and *Case of Guevara Díaz v. Costa Rica, supra*, para. 112.

¹²⁰ Cf. *Case of Garrido y Baigorria v. Argentina, supra*, para. 79, and *Case of Movilla Galarcio et al. v. Colombia, supra*, para. 252.

¹²¹ 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. 277, and *Case of Movilla Galarcio et al. v. Colombia, supra*, para. 252.

- d) USD 1,750.00 (one thousand seven hundred fifty United States dollars) for Marlon Javier García Barahona for expenditures incurred for the public hearing before this Court, and
- e) USD 285.00 (two hundred eighty-five United States dollars) for Alba Luz Deras García, for expenditures incurred for the public hearing before this Court.

134. The representatives also submitted arguments and vouchers for outlays by COFADEH and FIDH, and the Court will set in equity the payment of USD 46,600.00 (forty-six thousand six hundred United States dollars) for COFADEH and USD 7,560.00 (seven thousand five hundred sixty United States dollars) for FIDH, under the heading of costs and expenses. These amounts must be disbursed directly to the representatives.

135. The Court may also order the State to further reimburse the victims or their representatives for reasonable expenses incurred during the procedural stage of monitoring compliance with judgment.¹²²

I. Means of payment

136. The State must release payment of the compensation for pecuniary and nonpecuniary damages and reimbursement of costs and expenses ordered in this judgment directly to the individuals and organizations specified herein within one year of the date of notification of the judgment, in the understanding that it may also complete the payments sooner, in the terms given below. The State indemnities ordered for Herminio Deras García, Eustaquia García Alvarado, Domingo Deras Henríquez, Consuelo Deras García, Héctor García, and Cristóbal Rufino Hernández, must be paid to their successors, as determined by applicable domestic law, within one year as of the date of notification of this judgment.

137. If beneficiaries should pass away prior to the payment of their due compensation, the money shall be disbursed directly to their successors under the terms of applicable domestic legislation.

138. The State must fulfill all its monetary obligations by means of payment in United States dollars or the equivalent in national currency, calculated according to the exchange rate on the market as published or calculated by a qualified banking or financial authority on the day nearest to the date of payment.

139. If for causes attributable to the beneficiaries of the compensation or their heirs it should prove impossible to pay the amounts established within the required term, the State shall deposit the amounts in their names into accounts or certificates of deposit in a sound Honduran financial institution, in United States dollars, under the most favorable financial conditions allowed by law and by banking practice. If the compensation has not been claimed after ten years, the money shall revert to the State with interest.

140. The amounts allocated under this judgment as compensation for pecuniary and nonpecuniary damage and for reimbursement of costs and expenses shall be disbursed in their entirety to the assigned individuals and organizations, as ordered in this judgment, with no deductions for possible fiscal fees.

¹²² Cf. *Case of Ibsen Cárdenas and Ibsen Peña v. Bolivia*, *supra* para. 291, and *Case of Guevara Díaz v. Costa Rica*, *supra*, para. 113.

141. If the State should fall behind on payments, it must pay interest on the amounts owed, based on overdue interest rates in effect for banks in the Republic of Honduras.

**IX
OPERATIVE PARAGRAPHS**

142. Therefore,

THE COURT

DECIDES,

Unanimously:

1. To accept the State's partial recognition of international responsibility pursuant to paragraphs 15 to 30 of this judgment.

DECLARES,

Unanimously:

2. The State is responsible for violating the right to life, right to personal integrity, freedom of thought and expression, freedom of association, and right to participate in government, as enshrined in Articles 4(1), 5(1), 13(1), 16(1) and 23(1) of the American Convention on Human Rights, read in conjunction with Articles 1(1) and 2 thereof, in injury of Herminio Deras García, in the terms given in paragraphs 78 to 80 of this judgment.

3. The State is responsible for violating the right to personal integrity, right to personal liberty, right to judicial guarantees, right to protection of honor, dignity, and privacy, rights of the family, rights of the child, right to property, and right to judicial protection, set forth in Articles 5(1), 5(2), 7(1), 7(2), 7(3), 8(1), 11(1), 11(2), 17(1), 19, 21 and 25 of the American Convention on Human Rights, read in conjunction with Article 1(1) thereof, in injury of the Deras García family members named above (*supra* para. 94), some of whom were children at the time of the facts, in the terms set forth in paragraphs 81 to 86, 88 and 89 of this judgment.

4. The State is responsible for violating the right to freedom of movement and residence enshrined in Article 22(1) of the American Convention on Human Rights, read in conjunction with Article 1(1) thereof, in injury of Héctor García and Alba Luz Deras García, pursuant to paragraph 87 of this judgment.

AND ORDERS,

Unanimously:

5. This judgment constitutes per se a form of reparation.

6. The State shall proceed, within a reasonable period, to investigate, identify, bring to trial and, if appropriate, sanction all those responsible for the extrajudicial execution of Herminio Deras García and all those responsible for the other human rights violations declared in the instant judgment, pursuant to paragraphs 97 to 101 herein.

7. The State shall permanently close the police record pending against Otilia Flores Ortiz

and Elba Flores Ortiz of November 26, 1981, and the police and judicial records opened against family members of Herminio Deras García on June 8, 1984, pursuant to paragraph 103 herein.

8. The State shall provide medical, psychological and/or psychiatric care as needed by the victims, pursuant to the provisions of paragraph 105 herein.

9. The State shall proceed, within six months, to issue the publications outlined in paragraph 108 of this judgment.

10. The State shall hold a public act of recognition of international responsibility, pursuant to paragraph 109 of this judgment.

11. The State shall build a mausoleum at the grave site of Herminio Deras García, pursuant to paragraph 110 of this judgment.

12. The State shall design and implement a national policy on historical memory, pursuant to paragraph 113 of this judgment.

13. The State shall amend its current criminal code, pursuant to paragraph 114 of this judgment.

14. The State shall create and implement a policy on preservation of archives and sites associated with human rights violations committed from the 1980s until the present, pursuant to paragraph 115 of this judgment.

15. The State shall modify the primary and secondary school curriculum, incorporating lessons on "the history of the periods of violence," pursuant to paragraph 116 of this judgment.

16. The State shall pay the amounts set in paragraphs 127, 133 and 134 of this judgment as compensation for pecuniary and nonpecuniary damage and costs and expenses, pursuant to paragraphs 136 to 141 of this judgment.

17. The State shall, within one year of the date of notification of this judgment, submit to the Court a report on the measures adopted to comply therewith, notwithstanding the provisions of paragraph 108 of this judgment.

18. The Court shall monitor full compliance with this judgment, in exercise of its authority and in compliance with its obligations pursuant to the American Convention on Human Rights, and shall declare this case closed when the State has fully complied with all the measures ordered herein.

Done in Spanish in Brasilia, Brazil, August 25, 2022.

I/A Court HR. *Case of Deras García et al. v. Honduras*. Merits, Reparations and Costs.
Judgment of August 25, 2022. Judgment adopted in Brasilia, Brazil.

Ricardo C. Pérez Manrique
President

Humberto Antonio Sierra Porto

Eduardo Ferrer Mac-Gregor Poisot

Nancy Hernández López

Verónica Gómez

Patricia Pérez Goldberg

Rodrigo Mudrovitsch

Pablo Saavedra Alessandri
Registrar

So ordered,

Ricardo C. Pérez Manrique
President

Pablo Saavedra Alessandri
Registrar